

FORM OF ORDERSHEET

Court of _____

Case No. _____

796/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.04.2023	As per direction of the Worthy Chairman the present appeal is fixed for preliminary hearing and decision on office objections before Single Bench at Peshawar on 10-04-2023. <p style="text-align: right;">REGISTRAR</p>


Sir,

The objection of this office and
reply of counsel for the appellant is
Submitted for order please.

Haible Chauran


4/14/2023

PH 1070 be filed


10/4/23

This is an appeal filed by Mian Gul Khan today on 04/04/2023 against the Impugned Transfer order 27.03.2023 against which he made/preferred departmental appeal/ representation on 29.03.2023 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority report as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 1066 /ST,

Dt. 04/04 /2023.

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Rashid Rauf Swati Adv.
High Court Peshawar.

Respectfully Submitted.

That impugned order was issued on 27.03.2023. Appellant filed "Departmental Appeal to Secretary, Government of K.P.K, PHE, Peshawar on 29.03.2023, which is Annexure "E", at page 14 and 15 of file.

The Appellate Authority has dismissed the departmental Appeal vide order dated 29.03.2023 which is Annexure "F" and is on page 16 of the file. Thereafter appellant has preferred the instant Appeal.

Therefore it is humbly prayed that matter being emergent in nature may be fixed before the bench please.

04.04.23. Rashid Rauf Swati Adv
Counsel for Appellant

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 796 of 2023

**Engr. Mian Gul Khan Vs. Govt. of Khyber Pakhtunkhwa etc
Service Appeal**

S#	Description of Documents	Annexure	Page Numbers
1.	Service appeal with Civil Misc. Application	---	1 - 9
2.	Copy of the posting order of petitioner at District Shangla	A	10
3.	Copy of the Notification dated 11.11.2022	B	11
4.	Notification No. SO(Estt)/ PHED/ 1-45/ 2022 dated 15.12.2022	C	12
5.	Notification No. SO(Estt)/PHED/ 1-45/2022 dated 27.03.2023	D	13
6.	Copy of the departmental appeal	E	14 - 15
7.	Copy of the refusing note dated 29.03.2023 of respondent No.2 as to refusal of departmental appeal / representation	F	16
8.	Vakalatnama	---	17

Yours Humble Appellant


(Engr. Mian Gul Khan)
Through Counsel

Dt. 04 .04.2023


Rashid Rauf Sawati
Advocate High Court, Peshawar

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 796 of 2023

Engr. Mian Gul Khan, Executive Engineer, Public Health Engineering
Division, Tank.

APPELLANT

VERSUS

1. **Government of Khyber Pakhtunkhwa**, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. **Secretary** to Govt. of Khyber Pakhtunkhwa, Public Health Engineering Department, Peshawar.
3. **Chief Engineer South**, Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
4. **Superintending Engineer**, Public Health Engineering Department, D.I.Khan Circle, D.I.Khan.
5. **Abdur Rehman**, SDO Public Health Engineering Department, sub-Division Tank.

RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF THE K.P.
SERVICE TRIBUNALS ACT, 1974, AGAINST THE
NOTIFICATION BEARING NO. SO(ESTT)/PHED/1-
45/2022 DATED 27.03.2023 ISSUED BY THE
RESPONDENT No.2.**

PRAYER:

On acceptance of present Service Appeal and by
setting aside/cancelling Notification bearing No.
SO(Estt)/PHED/1-45/2022 dated 27.03.2023, the

impugned transfer of appellant from the post of Executive Engineer PHE Division Tank to the post of Deputy Director Lab/Projects PHE Department, may graciously be cancelled and as result thereof the posting of appellant as XEN PHE Division Tank, may graciously be restored.

Respectfully Sheweth,

1. That the appellant is serving in the Public Health Engineering Department (PHED) as Executive Engineer (XEN) at District Tank; and addresses of parties as given above are correct & sufficient for the purpose of service.
2. That the appellant was promoted to the post of Executive Engineer on 22.07.2022 and was posted as Executive Engineer Public Health Engineering Division, District Shangla. Copy of the posting order of petitioner at District Shangla is enclosed as **Annexure A.**
3. That, thereafter, within a period of four (04) months, the petitioner was transferred to the post of Design Engineer (East) Office of Chief Engineer (East), Public Health Engineering Department, Peshawar vide Notification- dated 11.11.2022. Copy of the Notification dated 11.11.2022 is enclosed as **Annexure B.**
4. That, just after a month of previous transfer, again the appellant stood transferred to the post of Executive Engineer Public Health Engineering Division, District Tank, vide Notification No. SO(Estt)/PHED/1-45/2022 dated 15.12.2022 (**Annexure C.**)
5. That yet another time, within a period of four (04) months, petitioner received another transfer Notification No. SO(Estt)/PHED/1-

45/2022 dated 27.03.2023. **(Annexure D)** has been received to petitioner vide which the petitioner stood transferred to the post of Deputy Director Lab/Projects PHE Department Peshawar.

6. That in-fact the transfer of appellant without completing his ordinary tenure, in a premature manner, has made the appellant a rolling stone as it is his fourth transfer, within a period of nine (09) months, and these rapid transfers are not allowing the petitioner to work with the peace of mind rather these transfers are negative effecting the performance of petitioner as well as his mental state.
7. That discontented with his transfer vide Notification bearing No. SO(Estt)/PHED/1-45/2022 dated 27.03.2023, the appellant preferred a departmental appeal **(Annexure E)** to the respondent No.2. The respondent No.2 vide his note dated 29.03.2023 **(Annexure F)** submitted to the Minister for PHE Khyber Pakhtunkhwa, recommended the rejection of the appeal/representation of petitioner, which amounts refusal on the part of respondent No.2.
8. That now, therefore, the appellant has been left with no option but to file present service appeal before this Honourable Tribunal for cancellation of his transfer Notification dated 27.03.2023 on, inter alia, the following grounds:

GROUND:

- i. That the impugned Notification bearing No. SO(Estt)/PHED/1-45/2022 dated 27.03.2023 is the outcome of malafide, result of political victimization, without jurisdiction, without lawful authority and having no binding effect upon rights of appellant.
- ii. That appellant has been made a rolling stone by official respondents just because of the political influence as it is his fourth transfer within the span of nine months. These rapid transfers of petitioner are negative effecting the rights of

petitioner. Reliance with regard to completion of ordinary tenure can be placed on 2018 SCMR 1411.

- iii. That the impugned transfer Notification is not in the public interest rather on the basis of mala-fide and political victimization as copy of the said notification has also been forwarded to the **Minister** for PHE Khyber Pakhtunkhwa; therefore, the same is having no legal sanctity and not worth to be maintained. In this context, the worthy Supreme Court in the case of '**Muhammad Ilyas Khan vs. Senior Member, Board of Revenue, N.-W.F.P. Peshawar**' [2011 PLC (CS) 935 Supreme Court] was pleased to held:

Constitution of Pakistan, Art.212(3)---Successive transfers---Scope---Respondent was Patwari who was transferred to three stations within a span of eight months---Service Tribunal accepted appeal filed by respondent Patwari and set aside his transfer orders---Validity---Successive transfers of respondent to three stations within a span of eight months were against posting/transfer policy of Provincial Government, which indicated that a government servant should not be transferred in ordinary circumstances, prior to completion of a period of three years at one place of posting---Transfer order of respondent was passed during ban period, prematurely under political influence, as copy of the same was sent to private secretary to Provincial Minister for Revenue---tenure of posting of an officer or official of Government to a District Government was provided in S.30(3) of North-West Frontier Province Local Government Ordinance, 2001, as three years but any officer could be transferred earlier due to exigency of service or in public interest---Dispute raised in petition for leave to appeal related to an individual grievance and no

substantial question of law of public importance was involved to warrant interference by Supreme Court under Art.212 (3) of the Constitution---Supreme Court did not find any illegality or infirmity in the judgment passed by Service Tribunal so as to justify interference by Supreme Court under Art.212(3) of the Constitution---Petition was dismissed.

Hence, the appellant's pre-mature, politically motivated transfer is liable to be recalled.

iv. That the public officers and public functionaries are bound to obey the law, rules, procedure and being public servant, they are required to serve the public and it is not in their duties to bow heads before the politicians. Impugned Notification is therefore nullity in the eyes of law and, rights of appellant are required to be protected from the influence of political figures.

v. That it has been held by the superior courts that when the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

Moreover, the august Supreme Court of Pakistan in the case of Anita Turab, reported as "PLD 2013 SC 195" was pleased to condemn premature transfers of Civil Servants and copy of the said judgment was delivered to all the administrative heads of Pakistan for compliances. Even otherwise, per mandate of Article 189 of the Constitution of Islamic Republic of Pakistan, 1973, said verdict of the Apex Court are binding on all the Courts and other organs of the state including respondents. On this score, the impugned transfer Notification is nullity in the eyes of law & constitution, and as such, the same is liable to be cancelled.

Court are binding on all the Courts and other organs of the state including respondents. On this score, the impugned transfer Notification is nullity in the eyes of law & constitution, and as such, the same is liable to be cancelled.

- vi. That the appellant has not yet completed his ordinary tenure of the service and his transfer through the impugned notification is based on malafide and is due to the political victimization, based on favouritism and also there are no compelling circumstances for the impugned transfer of appellant before completion of his ordinary tenure. Hence, a great, great injustice is being done to the appellant.
- vii. That under the Khyber Pakhtunkhwa Posting & Transfer Policy normal tenure of service is three years and transfer in the violation of such policy is simply to be recalled. Reliance is placed on 2001 PLC (CS) 172.
- viii. That the counsel for appellant may be allowed to raise additional grounds at the time of arguments.

It is therefore, humbly prayed that the present service appeal may graciously be allowed as prayed for and thereby the impugned transfer of appellant may kindly be cancelled and as result thereof the posting of appellant as XEN PHE Division, District Tank, may kindly be restored.

Yours Humble Appellant

(Engl. M. A. Zuberi)
Through Counsel

Rashid Rauf Sawati

Advocate High Court, Peshawar

Dt. GL 04.2023

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. _____ of 2023

Engr. Mian Gul Khan
Versus.
Govt. of Khyber Pakhtunkhwa etc
Service Appeal

VERIFICATION:

I, the appellant, on this day of April-2023, herein mentioned above, do hereby verify that all the contents of this appeal are true & correct and also that it is the first appeal on the subject matter and no such appeal has earlier been filed.


Appellant

AFFIDAVIT:

I, the appellant; do hereby solemnly affirm and declare on oath that all the Para-wise contents of above **Service Appeal** are true & correct to the best of my knowledge, belief and information; and that, nothing has been deliberately concealed from this Honourable Tribunal.

Identified by Counsel:


Rashid Rauf Sawati
Advocate High Court, Peshawar


Deponent


24/04/2023

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Civil Misc: Petition No. _____ of 2023

In Service Appeal No. _____ of 2023

Engr. Mian Gul Khan
Versus.
Govt. of Khyber Pakhtunkhwa etc
Service Appeal

APPLICATION FOR SUSPENSION OF THE OPERATION OF
IMPUGNED NOTIFICATION BEARING No.
SO(ESTT)/PHED/1-45/2022 DATED 27.03.2023 ISSUED
BY THE RESPONDENT No.2, TILL FINAL DECISION OF
SERVICE APPEAL AND IN THE MEANWHILE RESPONDENTS
MAY ALSO BE ABSTAINED FROM TAKING ANY ACTION
DETRIMENTAL TO THE SERVICE CAREER OF APPELLANT.

Respectfully Sheweth.

1. That a Service Appeal is being filed before this august court and the grounds of same may please be considered as an integral part of this Petition.
2. That the petitioner/appellant has got a good prima case on law as well as on facts and there is every likelihood of the success of Service Appeal; hence, balance of convenience tilts in favour of the appellant.
3. That the petitioner has been transferred prematurely on the basis of nepotism and favouritism; therefore, in case of non-suspension

of impugned Notification of transfer, the petitioner/appellant will suffer an irreparable loss.

Moreover, the appellant is still holds the post of XEN PHE Division, District Tank.

It is, therefore, humbly prayed that on acceptance of the present Civil Misc. Petition, the operation of impugned Notification may please be suspended and respondents may please be desisted from taking any action detrimental to service career of appellant, till decision of Service Appeal, and in the meanwhile, status quo may graciously be ordered to be maintained.

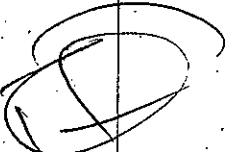
Yours Humble Appellant


(Engr. Mian Gul Khan)
Through Counsel


Rashid Rauf Sawati
Advocate High Court, Peshawar

Dt. 04.04.2023

AFFIDAVIT I, the petitioner; do hereby solemnly affirm and declare on oath that all the Para-wise contents of above **Misc. Application** are true & correct to the best of my knowledge, belief and information; and that, nothing has been deliberately concealed from this Honourable Tribunal.


Identified by Counsel:
Rashid Rauf Sawati
Advocate High Court


Deponent



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

Dated Peshawar, the July 27, 2022

NOTIFICATION

No.SO(Estt)/PHED/1-45/2022/01: In continuation of this department notifications No.SO(Estt)/PHED/1-17/2022 dated 22-07-2022, the competent authority is pleased to order the postings/transfers of the following officers of Public Health Engg: Department in the interest of public service, with immediate effect:-

S #	Name	From	To
1.	Sardar Khalid Asmat Gandapur	Executive Engineer (OPS) PHE Division Dir Lower at Timergara	Executive Engineer (BPS-18) PHE Division Dir Lower at Timergara on regular basis
2.	Mr. Muhammad Abbas	Assistant Director (BS-17) Gravity-based Water Supply Scheme Matta Swat (on deputation)	Executive Engineer (BPS-18) PHE Division Kurram on acting charge basis
3.	Mr. Mian Gul Khan	Executive Engineer (OPS) PHE Division Shangla	Executive Engineer (BPS-18) PHE Division Shangla on acting charge basis
4.	Mr. Salim Javid	Design Engineer (BPS-18) O/O the C.E (Center) PHED Peshawar	Executive Engineer (BPS-18) PHE Division Buner. He will assume the charge after relieving of present incumbent.

**SECRETARY
PHE DEPARTMENT**

No.SO(ESTT)/PHED/1-45/2022/01:

Dated Peshawar, the July 27, 2022

Copy forwarded for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. All Chief Engineers PHE Department Khyber Pakhtunkhwa
3. Superintending Engineer PHE Circle concerned.
4. Director Technical PHE Department Peshawar.
5. Executive Engineer PHE Division concerned.
6. District Accounts Officer concerned.
7. All Section Officers PHE Department Peshawar
8. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar
9. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar
10. PA to Additional Secretary PHE Department Khyber Pakhtunkhwa Peshawar
11. Officers concerned.
12. Office Order / Personal Files.

SECTION OFFICER (ESTT)

Attested

 04-04-23

Annexure - B //



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

Dated Peshawar, the November 11, 2022

NOTIFICATION

No.SO(Estt)/PHED/1-45/2022:

The competent authority is pleased to order the postings/transfers of the following officers of Public Health Engg: Department in the interest of public service, with immediate effect:

S #	Name	From	To
1.	Engr. Junaid Hafeez, BPS-18	Executive Engineer PHE Division, Mardan	Deputy Director Lab/ Projects PHED Peshawar Vice S. No. 02
2.	Engr. Shah Nawaz, BPS-18	Deputy Director Lab/ Projects PHED Peshawar	Executive Engineer PHE Division, Mardan Vice S. No. 01
3.	Engr. Mian Gul Khan, BPS-18	Executive Engineer PHE Division, Shangla	Design Engineer (East) PHED Peshawar
4.	Mr. Zia-Ur-Rahman, BPS-17	SDO PHE Sub Division, Sheringal Dir-Upper	Executive Engineer PHE Division, Shangla in his own pay & scale Vice S. No. 03

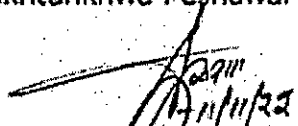
**SECRETARY
PHE DEPARTMENT**

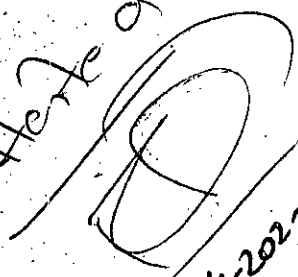
No.SO(ESTT)/PHED/1-45/2022:

Dated Peshawar, the November 11, 2022

Copy forwarded for information & necessary action to the:

1. All Chief Engineers PHE Department Khyber Pakhtunkhwa
2. Superintending Engineer PHE Circle Swat/Mardan/Timergara.
3. Director Technical PHE Department Peshawar
5. Executive Engineer PHE Division Mardan/Shangla/Dir Upper.
6. District Accounts Officer Mardan/Shangla/Dir Upper.
7. Deputy Director Lab/Projects, PHE Department Peshawar.
8. All Section Officers PHE Department Peshawar
9. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
10. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar.
11. PA to Additional Secretary PHE Department Khyber Pakhtunkhwa Peshawar
12. Officers concerned.
13. Office Order / Personal Files.


(SHER AZAM KHAN)
SECTION OFFICER (ESTT)

Attended

04-04-2023



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

Dated Peshawar, the December 15, 2022

NOTIFICATION

No. SO (Estt) / PHED / 1-45 / 2022: The competent authority is pleased to order the postings/transfers of the following officers of Public Health Enng: Department in the interest of public service, with immediate effect:


S #	Name	From	To
1.	Engr. Gul Ajab (BPS-18)	Executive Engineer PHE Division, D.I Khan.	Executive Engineer PHE Division, Abbottabad.
2.	Engr. Zeeshan Khan (BPS-18)	Executive Engineer PHE Division, Tank.	Executive Engineer PHE Division, D.I Khan.
3.	Engr. Mian Gul Khan (BPS-18)	Design Engineer (East) PHED Peshawar	Executive Engineer PHE Division, Tank.

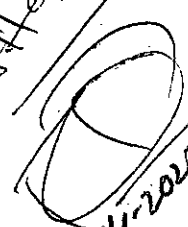
**SECRETARY
PHE DEPARTMENT**

ENDST: NO & DATE AS ABOVE:

Copy forwarded for information & necessary action to the:

1. Accountant General, Khyber Pakhtunkhwa.
2. All Chief Engineers, PHE Department, Khyber Pakhtunkhwa
3. Superintending Engineer PHE Circle, Kohat/Bannu/Hangu/Abbottabad.
4. Director Technical PHE Department Peshawar
5. Executive Engineer PHE Division Tank/Abbottabad/D.I Khan.
6. District Accounts Officer Tank/Abbottabad/D.I Khan.
7. All Section Officers PHE Department Peshawar
8. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
9. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar
10. PA to Additional Secretary PHE Department Khyber Pakhtunkhwa Peshawar
11. Officers concerned.
12. Office Order / Personal Files.


 15/12/22
(SHER AZAM KHAN)
SECTION OFFICER (ESTT)

Attended

 04-04-2023

Annexure - D 13



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

Dated Peshawar, the March 27, 2023

NOTIFICATION

No. SO(Estt)/PHED/1-15/2022:

In consultation with the Election Commission of Pakistan letter No.F.10(1)2023-Elec-II dated 21.03.2023, the competent authority is pleased to transfer Engr.Mian Gul Khan (BPS-18), Executive Engineer PHE Division, Tank against the vacant post of Deputy Director Lab/Projects PHE Department, with immediate effect, in the interest of public service.

2. Subsequently, Mr. Abdur Rehman (BPS-17), SDO PHE Sub Division Tank is authorized to hold additional charge of the post of Executive Engineer PHE Division, Tank.

**SECRETARY
PHE DEPARTMENT**

ENDST: NO & DATE AS ABOVE:

Copy forwarded for information & necessary action to the:

1. Accountant General, Khyber Pakhtunkhwa.
2. Chief Engineer (South), PHE Department, Khyber Pakhtunkhwa
3. Superintending Engineer PHE Circle, DIKhan.
4. Executive Engineer PHE Division, Tank.
5. District Accounts Officer, Tank.
6. PS to Minister, PHE Department.
7. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar.
8. PA to Additional Secretary PHE Department Khyber Pakhtunkhwa Peshawar
9. Officers concerned.
10. Office Order / Personal Files.

Attended
04-04-23
Azam
27/3/23
**(SHER AZAM KHAN)
SECTION OFFICER (ESTT)**

To,

The Secretary,
Govt. of Khyber Pakhtunkhwa,
Public Health Engineering Department, Peshawar.

Through Proper Channel

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED TRANSFER NOTIFICATION NO.SO(ESTT)/PHED/1-45/2022 DATED PESHAWAR THE MARCH 27,2023.WHEREBY THE APPELLANT HAS BEEN PREMATURELY TRANSFERRED FROM THE POST OF EXECUTIVE ENGINEER PHE DIVISION TANK WITHOUT ANY LAWFUL AUTHORITY, IN UTTER VIOLATION OF LAW, RULES AND TRANSFER/POSTING POLICY OF THE PROVINCIAL GOVT.

Prayers:

On Acceptance of this Departmental Appeal the impugned premature, illegal transfer posting Notification Dated 27/03/2023, may graciously be set aside and the appellant may kindly be posted on his previous place of posting i.e Executive Engineer PHE Division Tank

Dear Sir,

The appellant submits as under:

1. That the appellant was appointed as Sub Divisional Officer in BPS-17 through public service commission KP and joined this Department on dated 28-4-2014. On dated 22-07-2022 the undersigned was promoted to the BPS-18 as Executive Engineer and posted as Executive Engineer PHE Division District Shangla.
2. That the appellant was transferred and posted as Design Engineer (East) O/o Chief Engineer (East) PHE Department Peshawar by competent authority on dated 11-11-2022.
3. That the appellant was again transferred and posted as Executive Engineer PHE Division District Tank on dated 15-12-2022 (copy of transfer/posting notification dated 15/12/2022 is annexed as **(Annex-A)**).
4. That the appellant has been transferred from Tank and posted as Deputy Director Lab/Projects PHE Department vide Secretary PHE Office letter No.SO (East) /PHED/1-45/2022 Dated Peshawar the March 27,2023, due to unknown reasons and in a short period of only three months (copy of transfer/posting notification dated 27/03/2022 is annexed as **(Annex-B)**).
5. That the appellant has no other adequate remedy hence filing the instant Departmental Appeal on the following grounds:

GROUND:

- A. That the impugned Notification dated 27/03/2023 is against the law, rules, principles of natural justice hence void ab initio not sustainable under the law.
- B. That as per transfer posting policy of provincial Government normal tenure on a post of civil servant is two years however the appellant has been made a rolling stone and after serving for almost three Months the appellant was frequently transferred prematurely in utter violation of the ibid policy.

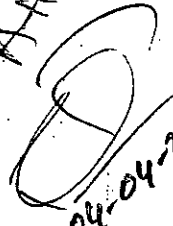
Attested
04-04-23

- C. That as per judgment of superior courts the authority given to any official shall be exercised as a public trust and in accordance with law and rules however the impugned order is an example of colorful exercise of powers in violation of law and rules.
- D. That the impugned notification has not been issued in the public interest but for facilitating a blue-eyed which is not sustainable under the law.
- E. That the appellant is entitled to be treated equally in accordance with transfer posting policy however the appellant has been discriminated by transferring him prematurely which is violation of Article 4 and 25 of the constitution of Pakistan 1973.
- F. As per reported judgment of Supreme Court of Pakistan **2018 SCMR 1411(b)**, Section 10 of the Balochistan Civil Servant Act 1974 did not prescribe a minimum period during which a civil servant must serve at his post, it did not mean that the Government without assigning any reason could move a civil servant from the place he was posted to after a month or subject the civil servant to repeated postings in a short period of time because that would amount to punishing him while such postings also adversely affected the public interest and resulted in the wastage of scarce resources and constituted bad Governance.
- G. That the impugned order seems to be political motivated because it is premature transfer without any reasons like, no complaint, no slackness in duty, no explanation or any other action under E & D Rules by the Department rather purely on Political basis.

It is therefore requested that the appeal may kindly be accepted as prayed for in the heading of the instant appeal.

Your's Faithfully


Engr. Mian Gul-Khan (BPS-18)

Attested

04-04-23

Annexure F 16



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGINEERING DEPARTMENT

NOTE FOR MINISTER PHE

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED TRANSFER
NOTIFICATION DATED 27-03-2023.

Engr. Mian Gul Khan, Executive Engineer (BPS-18) has submitted departmental appeal against the impugned transfer notification dated 27.03.2023 with the submission that (F/A):




- 3571
25-03-2023
- The appellant has been prematurely transferred from the post of Executive Engineer PHE Division, Tank without any lawful authority, violation of law, Rules and Transfer/Posting Policy of the provincial Government.
 - That the appellant has been transferred from Tank and posted as Deputy Director Lab/Projects PHE Department vide Secretary PHE Office letter No.SO (East) /PHED/1-45/2022 Dated Peshawar the March 27,2023, due to unknown reasons and in a short period of only three months (copy of transfer/posting notification dated 27/03/2022 is annexed as (F/B).
 - That as per transfer posting policy of Provincial Government normal tenure on a post of a Civil Servant is 02 years. However, the appellant has been made a rolling stone and after serving almost three months the appellant was frequently transferred prematurely in utter violation of the ibid policy
 - That the impugned order seems to be political motivated because it is premature transfer without any reasons like, no complaint, no slackness in duty, no explanation or any other action under E&D Rules by the Department rather purely on Political basis.
 - The appellant has therefore requested that his appeal may be accepted and his premature transfer without any reason may be cancelled and liable to be set aside.

2. It is to inform that the appellant Engr. Mian Gul Khan was posted as Executive Engineer PHE Division, Tank on 15-12-2022 and has rendered service for 03 months only at the said station.

3. As per transfer posting / policy of Provincial Government the officer has not completed his normal tenure at present place of posting, however, the department makes posting / transfer in the interest of public service, therefore, it is proposed that the appeal/representation of the applicant may be rejected, please.

29/3/23
(MUHAMMAD IDREES KHAN)
SECRETARY PHED

Minister for PHE,
Khyber Pakhtunkhwa

50 روپے	88192			
ایڈویکٹ:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر: 10-3017				
رابطہ نمبر: 0333-8222243				

بعدالت جناب: Khyber Pakhtunkhwa Service Tribunal

منجانب: Appellant	دعویٰ: Service Appeal
صالحہ گل خان بنام حکومت خیبر پختونخوا، جنرل	علت نمبر: / مورخہ: / جرم: / تھانہ: /
باعث تحریر آنگہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
آن مقام لیسٹرار کے لیے رسید کو سوانہ - نظر پار (پروسیجر) کو
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا جحد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رجسٹر

المقوم: 22/05/2024 | 04/05/2024

العبد العبد

مقام کے لیے منظور ہے۔