

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.1433/2023**

Zahid Habib

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Appellant

**Versus**

Govt of Khyber Pakhtunkhwa  
through Chief Secretary Peshawar & Others

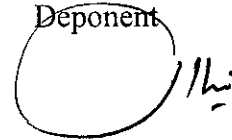
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Respondents

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Deponent



Zahid Ullah  
Section Officer (Litigation)  
C&W Department, Peshawar

①

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

**SERVICE APPEAL NO.1433 OF 2023**

Zahid Habib  
the then Administrative Officer  
O/O Chief Engineer (Centre)  
C&W Peshawar

--- Appellant

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 6417

Dated 12/07/23

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through  
Chief Secretary Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa  
C&W Department, Peshawar
3. Chief Engineer (South-I)  
C&W Peshawar

--- Respondents

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 3**

Respectfully Sheweth!

**PRELIMINARY OBJECTIONS**

1. That the appeal is not maintainable.
2. That the appellant has no cause of action and locus standi.
3. That the appeal is liable to be dismissed on ground of mis-joinder and non-joinder of necessary parties.
4. That the appellant has got no cause of action to invoke the jurisdiction of this Hon'able Tribunal.
5. That the impugned posting/transfer Notification has never violated any of the right of the Appellant, similarly he has got no right whatsoever to claim posting of his choice.
6. That the appellant has suppressed material facts from the Hon'able Tribunal, therefore the appeal in hand is liable for dismissal.

**FACTS**

1. No comments.
2. Pertain to record need no reply.
3. Incorrect. The appellant has since been transferred from the position of Administrative Officer O/O Chief Engineer (Center) C&W Peshawar and directed to report to C&W Secretariat on 20.03.2023 and subsequently posted as Budget & Accounts Officer O/O Chief Engineer (South-I) C&W Peshawar on 31.03.2023 (**Annex-I**). Furthermore, an officer (Mehboob Ali) was posted in his place who has already taken the charge of the post of Administrative Officer O/O Chief Engineer (Center) C&W Peshawar on 22.03.2023 (**Annex-II**). Moreover, the said officer (Mehboob Ali) is also drawing his pay against the referred post.

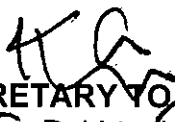
4. Incorrect, Mr. Zahid Habib, while working as Administrative Officer O/O Chief Engineer (Center) C&W Peshawar since **15.12.2022** was not found capable to handle the Establishment matters well in time. Administrative Officer (Center) is an important position. It deals with all the litigation cases pertaining to HIR working under the Chief Engineer (Center) office. The official was unable to attend or respond to court matters well in time, issues were increasing day by day. Hence, he was transferred and directed to report to C&W Secretariat on **20.03.2023** on Administrative grounds. Later on, the department adjusted/posted him as Budget & Accounts Officer O/O CE (South-I) C&W Peshawar on **31.03.2023**. However, as per section 10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973, **“Every Civil Servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government”**. Moreover, Mr. Mehboob Ali has since been complied of the referred order dated **20.03.2023** as he assumed the charge of Administrative Officer O/O Chief Engineer (Center) C&W Peshawar on **22.03.2023**. Besides this, the officer is also drawing his pay from the post of Administrative Officer O/O Chief Engineer (Center) C&W Peshawar. So far, his transfer in the period of ban is concerned, in this regard it is clarified that Election Commission of Pakistan has intimated through letter dated **10.03.2023** to decide matters, including Transfer/Posting of Officers of **BS-17 and below**. However, the copy of such order issued may be shared with the Commission (**Annex-III**), while the transfer notifications of Mr. Zahid Habib has been issued by the Department on **20.03.2023 & 31.03.2023**, thus his transfer notification was issued perfectly in accordance with the above referred notification of Election Commission of Pakistan.
5. Incorrect, the Departmental Appeal of Mr. Zahid Habib received which was properly examined/processed and submitted to Appellate Authority (Chief Secretary Khyber Pakhtunkhwa) for orders. The Appellate Authority has rejected / turned down his Departmental Appeal (**Annex-IV**).
6. Incorrect. As per posting/transfer policy, the Government Servants aggrieved due to orders of posting/transfer, authorities may seek remedy from the next higher authority/the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days, while on the other hand, the appellant submitted departmental appeal to the Appellate Authority (Chief Secretary); rather the Authority has rejected his appeal but he did not wait for the response of Appellate Authority, meaning thereby he filed service appeal in the Service Tribunal without waiting for the outcome of his appeal.
7. As explained in Para-4.

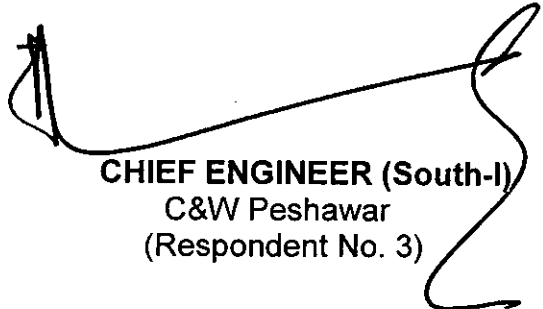
### GROUNDS

- A. Incorrect. As per section 10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973, **“Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government”**.
- B. Incorrect, as explained in Para-4 of the Facts.

- C. Incorrect, as explained in Para-5 & 6 of the Facts
- D. Incorrect, as explained in Para-4 of the Facts.
- E. Incorrect, Establishment Department of Khyber Pakhtunkhwa has clarified through letter dated 26.07.2013 that the Posting/Transfer of the officers upto BS-18 may be made at the level of the department concerned in consultation with Minister In-charge (Annex-V).
- F. Incorrect, as explained in Para-4 of the Facts. Furthermore, there is no mala-fide intension of the respondents, no discriminatory action and no violation of the rights of the appellant has been made. The action taken by the respondents are strictly in accordance with law/regulations and under the existing rules.
- G. Incorrect, as explained in Para-4 of the Facts.
- H. Incorrect, as explained in Para-4 of the Facts. The impugned posting/transfer Notification has never violated any of the right of the Appellant, similarly he has got no right whatsoever to claim posting of his choice

In view of the above, it is submitted that the Appeal may kindly be dismissed with cost.

  
**SECRETARY TO**  
Govt of Khyber Pakhtunkhwa  
Communication & Works Department  
(Respondents No. 1 & 2)

  
**CHIEF ENGINEER (South-I)**  
C&W Peshawar  
(Respondent No. 3)

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.1433/2023**

Zahid Habib

---

Appellant

**Versus**

Govt of Khyber Pakhtunkhwa  
through Chief Secretary Peshawar & Others

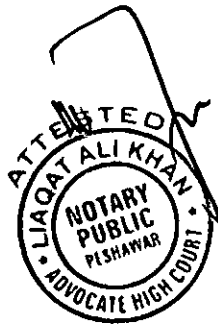
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Respondents

**AFFIDAVIT**

I, Zahid Ullah, Section Officer Litigation (BS-17) C&W Department, Peshawar hereby affirm and declare that all the contents of the Joint Parawise Comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

It is further stated on oath that in this appeal, the answering respondent neither has been placed ex-party nor their defence has been struck off. /cost.



12 JUL 2023

Deponent

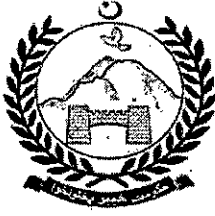
*(Signature)*

Zahid Ullah  
Section Officer (Litigation)  
C&W Department, Peshawar

CNIC # 14203-2044698-7

Mob No# 0340-5012785

5




**GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT**

NO. SO (Lit.)C&W/3-483/2023  
Dated Peshawar, the July 12, 2023

**AUTHORITY LETTER**

Mr. Zahid Ullah, Section Officer Litigation (BS-17), C&W Peshawar having CNIC 14203-2044698-7 is hereby authorized to file the Joint Parawise Comments in case titled "**Service Appeal No.1433/2023 -Zahid Habib Vs Govt of Khyber Pakhtunkhwa & others**" on behalf of Secretary C&W Department.

  
**SECRETARY**  
to Govt of Khyber Pakhtunkhwa  
C&W Peshawar.

**Service Appeal No.1433/2023**

Zahid Habib

---

Appellant

**Versus**

Govt of Khyber Pakhtunkhwa  
through Chief Secretary Peshawar & Others

---

Respondents

**APPLICATION FOR VACATION OF STATUS-QUO/INTERIM RELIEF  
ORDER DATED 06/07/2023 PASSED BY THIS HON'BLE TRIBUNAL IN THE  
ABOVE TITLED SERVICE APPEAL**

**Respectfully Sheweth,**

1. That the above titled service appeal is pending adjudication before this Hon'able Tribunal.
2. That the appellant was transferred and directed to report to C&W Secretariat on 20/03/2023 on Administrative Grounds and subsequently posted as Budget & Accounts Officer o/o the Chief Engineer (South-I) C&W Peshawar on 31/03/2023. Furthermore, an Officer (Mr. Mehboob Ali) was posted in his place, who has already been taken the charge of the post of Administrative Officer o/o the Chief Engineer (Centre) C&W Peshawar on 22/03/2023, the order was fully implemented. Moreover, the said Officer (Mr. Mehboob Ali) is also drawing his pay against the referred post.
3. That this Hon'able Tribunal vide order dated 06/07/2023 has suspended this Department's Notification dated 20/03/2023.
4. The Appellant has neither any prima facie case nor balance of convenience lying in his favour.
5. That it is in the interest of justice that the order dated 06/07/2023, whereby interim relief granted in favour of appellant, may kindly be vacated for the purpose of smooth running of the affairs of this Department.
6. That apart from the above mentioned submission, respondents may kindly be allowed to arise additional grounds during course of arguments with the permissible of this Hon'able Tribunal.

It is therefore, humbly prayed that on acceptance of this application, the order dated 06/07/2023 passed by this Hon'able Tribunal whereby interim granted, may graciously be vacated in the interest of justice.

Secretary to Govt of Khyber Pakhtunkhwa,  
C&W Department, Peshawar.  
**(Respondent No.1&2)**

Chief Engineer (South-I),  
C&W, Peshawar.  
**(Respondent No.3)**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the March 31, 2023

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**NOTIFICATION:**

**No.SOE/C&WD/24-60/2023 A.O:** The Competent Authority (Secretary C&WD) is pleased to transfer Mr. Zahid Habib A.O/B&AO (BS-17) C&W Department, presently waiting for posting and post him as Budget & Accounts Officer O/O Chief Engineer (South-I) C&W Peshawar against the vacant post, with immediate effect, in the best public interest.

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Chief Engineer (Centre) C&W Peshawar
3. Chief Engineer (South-I) C&W Peshawar
4. PS to Additional Director General (Elections-I) Election Commission of Pakistan Islamabad
5. PS to Minister for C&W Department Khyber Pakhtunkhwa, Peshawar
6. PS to Secretary, C&W Department Peshawar
7. PA to Additional Secretary (Admn), C&W Department Peshawar
8. PA to Deputy Secretary (Admn), C&W Department Peshawar
9. Officer concerned
10. Office order File/Personal File

*Mam*  
31.03.2023  
SECTION OFFICER (Estb)

*attested*  
*hi*  
Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

Scanned with CamScanner



(8) 27

ASSUMPTION OF CHARGE

In pursuance of the Secretary to Government of Khyber Pakhtunkhwa C&W Department Notification No.SOE/C&WD/24-60/2023, AO dated 20.03.2023 I, Mehboob Ali, Administrative Officer/B&AO (BS-17), hereby assumed the charge of the post of Administrative Officer O/O Chief Engineer (Centre) C&WD Peshawar, today the A/Noon of 22/03/2023.

AS/A)  
SO.E  
27/3/23  
28.3.23

Diary No: 2529  
Date: 27/3/2023  
Secretary C&W Deptt.

(Mehboob Ali)  
Administrative Officer  
O/O Chief Engineer (Centre)  
C&W Department Peshawar

No. 192 /PF

Dated Peshawar, the 22/ 03/ 2023

Copy forwarded to the: -

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Chief Engineer (North) C&W Department Saidu Sharif at Swat
3. Section Officer (Estab) C&W Department Peshawar.
4. PS to Minister for C&W Department Khyber Pakhtunkhwa.
5. PS to Secretary C&W Department Peshawar.
6. PA to Chief Engineer (Centre) C&W Department Peshawar.
7. PA to Additional Secretary C&W Department Peshawar.
8. PA to Deputy Secretary (Admn) C&W Department Peshawar.
9. Personal file.

*Mehboob Ali*  
(Mehboob Ali)  
Administrative Officer  
O/O Chief Engineer (Centre)  
C&W Department Peshawar

attested  
Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

9

No.F.10 (1)/2023-Elec-II  
**ELECTION COMMISSION OF PAKISTAN**  
\*\*\*\*\*



"Secretariat"  
Constitution Avenue, G-5/2,  
Islamabad, the 10<sup>th</sup> March, 2023.

To,  
The Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: GRANT OF PERMISSION FOR TRANSFER/POSTING AND ALL KIND OF LEAVES.

Dear Sir,

I have the honor to state that the Hon'ble Commission has been pleased to decide that following matters may be dealt at your own level:

- i. All kind of leaves.
- ii. Transfer/Posting of Additional Secretaries of BS-19 & below working in the Secretariat.
- iii. Transfer/Posting of officers/ officials of BS-17 and below of all other Departments besides officers/ officials of Police (posted in field or Head Quarters) and Administration. However, the copy of such orders issued against Para-iii, may be shared with this Commission.

2. Moreover, all other cases of transfer/posting of BS-20 and above of the officers of Secretariat & all BS-18 and above officers of the field including Police and Administration should be sent to this Commission for concurrence and approval.

*attached*

Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

Yours sincerely,

10/3/2023  
(Syed Nadeem Haider)  
Additional Director General (Elections-I)

Copy forwarded for information to:

The Provincial Election Commissioner, Khyber Pakhtunkhwa.

10/3/2023  
(Syed Nadeem Haider)  
Additional Director General (Elections-I)



**NOTE FOR CHIEF SECRETARY**

Subject: **APPEAL REGARDING CANCELLATION OF TRANSFER ORDER**

An appeal dated 30.03.2023 addressed to Chief Secretary KPK has been received from Mr. Zahid Habib Administrative Officer C&WD (Annex-I). In the appeal, he has mentioned that while working as Administrative Officer O/O Chief Engineer (Centre) C&W Peshawar was transferred and directed to report to C&W Secretariat Peshawar on 20.03.2023 without any reason. Therefore, he has requested that said transfer order dated 20.03.2023 may be cancelled and allowed him to continue work as Administrative Officer O/O CE (Centre) C&W Peshawar.

2. It is submitted that Mr. Zahid Habib has been working as Administrative Officer O/O Chief Engineer (Centre) C&W Peshawar since 15.12.2022. However, he was not found capable to handle the Establishment matters well in time. Administrative Officer (Centre) is an important position. It deals with all the litigation cases pertaining to HIR working under the Chief Engineer (Centre) office. The official was unable to attend or respond to court matters well in time, issues were increasing day by day. Hence, he was transferred and directed to report to C&W Secretariat on 20.03.2023 on administrative grounds (Annex-II). Later on, the department adjusted/posted him as Budged & Accounts Officer O/O CE (South-I) C&W Peshawar on 31.03.2023 (Annex-III). However as per section 10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973, "Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government".

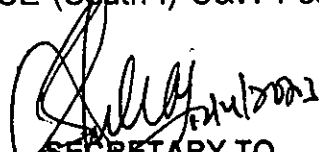
3. From perusal of the aforementioned position, it is quite clear that the plea taken by the Mr. Zahid Habib in his appeal is not justified nor based on facts. Hence, the appeal having no substance and is required to be filed/rejected.

4. In view of above, C&W Department proposes that the departmental appeal dated 30.03.2023 filed by Mr. Zahid Habib, the then Administrative Officer O/O CE (Centre) C&W Peshawar, now posted as Budged & Accounts Officer O/O CE (South-I) C&W Peshawar may be rejected, please.

MINISTER FOR C&WD

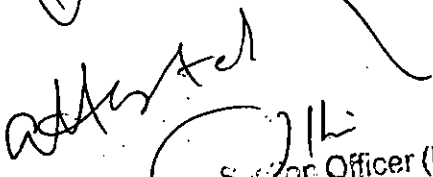
CHIEF SECRETARY

Sec: Estt: Deptt.

  
SECRETARY TO  
Govt of Khyber Pakhtunkhwa  
Communication & Works Department

  
MINISTER  
COMMUNICATION & WORKS  
Government of Khyber Pakhtunkhwa

  
CSO to Chief Secretary  
Govt. of Khyber Pakhtunkhwa

  
SO (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

MINISTER FOR C&WD  
Diary No: 348  
1021  
11-4-23  
19-4-2023  
Date: 28/4/23

11

Subject: APPEAL REGARDING CANCELLATION OF TRANSFER ORDER

10. Pl grant him personal hearing in my absence  
furnish report.

A.S./S.Coff

2/6/2012

CHIEF SECRETARY  
Govt. of Khyber Pakhtunkhwa

2/6/2012

*[A long diagonal line drawn across the page]*

*[Handwritten signature]*

Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

P. T.O

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05. Note for Chief Secretary Khyber Pakhtunkhwa regarding departmental appeal of Mr. Zahid Habib, Administrative Officer (BS-17) Communication & Works Department has been examined.

06. Mr. Zahid Habib was posted as Administrative Officer (BS-17) O/O Chief Engineer (Center) C&W on 15-12-2022 and subsequently he was again transferred and posted as Budget & Account Officer O/O Chief Engineer (South-I) C&W Peshawar on 31-03-2023 (Annex-III). The officer submitted departmental appeal to Chief Secretary Khyber Pakhtunkhwa with the request to set aside the said transferred order being premature as he has not completed the normal tenure at the present post. (Annex-I).

07. In this regard Para-xiv of posting / transfer policy stipulates (Annex-IV): -

"Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posting/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds".

08. It is pointed out that the appeal of the Officer falls under Para-7(i) ante. However, the Administrative Department in Para-2 of the Note is of the view that the Officer was not found capable to handle the important nature litigation and HR cases, hence, transferred from the office of Chief Engineer (Center) on administrative grounds and posted him as Budget & Accounts Officer O/O Chief Engineer (South-I) (Annex-III). Further stated that the appeal of the Officer is neither justified nor based on facts therefore, may be rejected.

09. Proposal of the Administrative Department contained in Para-4 of the Note read with Para-8 ante, is submitted for orders of the Chief Secretary Khyber Pakhtunkhwa being competent authority under Rule-4 (b) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 (Annex-V) as deemed appropriate.

PS/Secy E&AW TF  
Diary No. 1021  
FTS No. 24/5/23  
Date

(Akhtar Saeed Turk)  
Secretary Establishment  
24 May, 2023

Chief Secretary, Khyber Pakhtunkhwa

Admitted  
Session Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department.

13

11. Vide Para-10/N of the Note, the undersigned was directed to afford an opportunity of personal hearing to Mr. Zahid Habib Budget & Accounts Officer, Office of Chief Engineer (South-I) C&W, Peshawar in connection with disposal of his appeal for cancellation of transfer. Background of the case is that officer was transferred from the post of Administrative Officer, O/O Chief Engineer (Centre) C&W Peshawar as Budget & Accounts Officer, O/O Chief Engineer (South-I) C&W Peshawar being found incompetent to handle/run the affairs of the said post.

12. Pursuant to the direction of the Chief Secretary, Khyber Pakhtunkhwa, the concerned officer was heard at length on 08.06.2023 in presence of departmental representatives (Annex-VI). During the course of personal hearing, the official was cross examined. The contention of the department holds merit in the sense that posting and transfer on administrative grounds is duly covered under Civil Servant Act and no official can claim <sup>a</sup> right to a posting for which the competent authority does not consider him competent enough.

13. Foregoing in view, it is recommended that the appeal of the officer for cancellation of his transfer may be turned down, please.

No. 50 C&W 7  
Date: 20.6.23

Chief Secretary

Additional Secretary (Staff)  
Additional Secretary (Staff)  
to Chief Secretary  
Khyber Pakhtunkhwa, Peshawar.

15/53/133  
12/06/23

4. As proposed.

*[Signature]*  
17/6/23

Secretary Establishment

CHIEF SECRETARY  
Govt. of Khyber Pakhtunkhwa

16  
P/S/Secy E&AD/KF  
Diary No. 1021  
FTS No. 19/6/23  
Date: 19/6/23

Secretary C&W

So(E)

*[Signature]*  
20/6

19/6/23

attached

Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department



14

# Simplification of Rules, Policies & Procedures - A Step Towards Good Governance

*Abbas Ali*

Section Officer (Litigation)  
Khyber Pakhtunkhwa  
& NW Department

Establishment & Administration Department  
Government of Khyber Pakhtunkhwa

14-508

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved/prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the Khyber Pakhtunkhwa Govt Servants (Conduct) Rules 1987 shall be proceeded against under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance 2000. As required under the Khyber Pakhtunkhwa Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

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13

(Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007)

**POSTING/TRANSFER**

I am directed to refer to the subject noted above and to state that the Competent Authority has been pleased to direct that the posting/transfer of the officers upto BPS-18 may be made at the level of the Department concerned in consultation with Minister Incharge. However, the posting/transfer of the officers of BPS-19 and above may be made after seeking prior approval of the Chief Minister, Khyber Pakhtunkhwa.

I am, further, directed to request that the above directions of the competent authority should be strictly complied with.

No. SO(O&M)E&AD/3-15/2007 Dated Peshawar, the 26<sup>th</sup> July, 2013

**Officers transferred from their positions to properly brief the incoming officers.**

It has been brought to notice that officers transferred from their posts usually relinquish the charge without proper briefing the incoming officer which is not desirable.

I am accordingly directed to clarify that all officers shall properly brief the incoming transferred officers while vacating their position in future.

(Authority; No. SOR-VI/E&AD/1-4/2010/Vol-VII dated 18.06.2014

*attested*  
Section Officer (Litigation)  
Khyber Pakhtunkhwa  
&W Department