

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL.**

Service Appeal No. 1088/2023

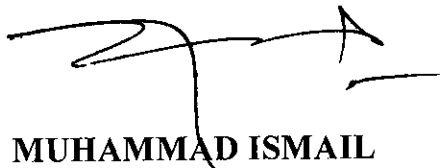
Akhtar Hayat.....Appellant.

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and  
other.....Respondents.

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**MUHAMMAD ISMAIL**  
Superintendent (Lit)  
Law Department  
NIC No. 17301-0876331-9  
Cell# 03459782603

Khyber Pakhtunkhwa Service Tribunal  
Peshawar  
7299  
31/12/23

①

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.1088/2023**

Mr. Akhtar Hayat, District Attorney (BPS-19), District, Upper Chirtal. ....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through the Chief Secretary, Govt. of Khyber  
Pakhtunkhwa, Peshawar & other. ....Respondents.

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.01 & 02**

**Respectfully Sheweth.**

**PRELIMINARY OBJECTIONS:**

1. That no cause of action or locus standi lies with appellant for filing of the instant Service appeal, therefore appeal may be dismissed.
2. That the instant appeal is not maintainable in its present form.
3. That the present appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
4. That the appellant has concealed the material facts from this Hon'ble Tribunal.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the instant appeal.
6. That the appellant is estopped by his own conduct.
7. That the appeal is barred by law and limitation.

**On facts:**

1. Para-01 is correct.
2. Pertains to record.
3. Pertains to record.
4. Para-04 is incorrect. The appellant was upgraded from BPS-17 to BPS-18 vide upgradation notification No. E&A(LD)17-17/AGP/2012 (**Annex-"A"**).
5. Para-05 is correct to the extent that the appellant was transferred to Abbottabad and transferred from Abbottabad to Battagram, and civil servant is under obligation under section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 to serve anywhere in the Province.
6. Para No.06 is correct to the extent that the appellant was transferred to District Shangla vide notification No. SO(G)LD/1511/2019/VOL-11, dated: 24.06.2021 (**Annex-"B"**).
7. Para-07 is correct.
8. Pertains to record.
9. Correct to the extent that the Appellant has been transferred to Chitral Upper against the vacant post. In terms of Section-10 of Civil Servant Act, 1973, a civil servant may be posted anywhere in the Province. Therefore, the instant appeal is liable to be dismissed.
10. Correct. The Departmental Appeal of the appellant has been filed by the Appellate Authority (**Annex-C**).
11. Pertain to record.

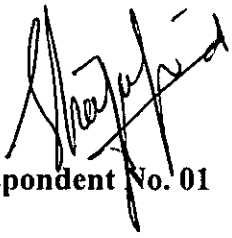
12. In reply to the para it is submitted that the Departmental Appeal of the appellant has been duly filed by the Appellate Authority.

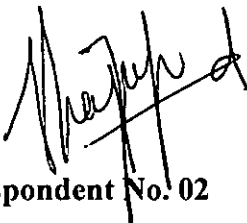
**Grounds:**

- A) Incorrect, hence denied. The Competent Authority has transferred the appellant under Section-10 of the Khyber Pakhtunkhwa Civil Service Act, 1973 in the best public interest.
- B) Incorrect, hence denied. No violation of any para of Posting/Transfer Policy has been committed by the respondents rather the transfer order was issued in order to streamline the court work at District Chitral Upper.
- C) Incorrect, hence, denied.
- D) Incorrect, hence denied. Malafide and arbitrariness cannot be attributed to the Competent Authority. The transfer is in accordance with law, rules and posting/transfer policy of Provincial Government.
- E) Incorrect, hence denied. The impugned notification of transfer has been issued with the approval of the Competent Authority.
- F) Incorrect, hence denied.
- G) Incorrect, hence denied.

**Prayer:**

It is therefore, most humbly prayed that on acceptance of this Parawise comments, the instant appeal being devoid of legal footings and merits may graciously be dismissed with cost.

for   
Respondent No. 01

  
Respondent No. 02



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT

VI  
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NOTIFICATION.

Dated: Peshawar, December, 04/12/2012

No: E&A/LD/17-17/AGP (II)/2012: Consequent upon the one step upgradation of Government Pleaders (BPS-18) and Additional Government Pleaders (BPS-17) to BPS-19 and BPS-18 respectively vide S.No. 1 of this Department Notification No. E&A(LD)17-17/AGP(II)/2012 dated 09.08.2012, the competent authority is pleased to one step upgrade the following Government Pleaders and Additional Government Pleaders with effect from 09.08.2012,

S.NO.	NAME OF THE OFFICER	UP GRADED TO	PRESENT POSTING
1.	Mr. Shakeel Asghar Government Pleader (BPS-18)	BPS-19	Deputy Solicitor Law Department, Peshawar.
2.	Mr. Tariq Aziz Government Pleader (BPS-18)	BPS-19	Government Pleader Lakki Marwat
3.	Mrs. Wasima Jamil Government Pleader (BPS-18)	BPS-19	Director Probation & Reclamation, Directorate of Probation & Reclamation, Khyber Pakhtunkhwa.
4.	Mr. Salik Rauf Government Pleader (BPS-18)	BPS-19	Government Pleader Abbottabad.
5.	Mr. Jamshed Khan Government Pleader (BPS-18)	BPS-19	Deputy Secretary (Assembly), Law Department.
6.	Mr. Ghulam Mustafa Government Pleader (BPS-18)	BPS-19	Government Pleader, Labour Court Peshawar.
7.	Mr. Umar Farooq Government Pleader (BPS-18)	BPS-19	Government Pleader Mansehra.
8.	Mr. Muhammad Daud Jan Government Pleader (BPS-18)	BPS-19	Government Pleader Mardan.
	Mr. Hazrat Ali Shah Government Pleader (BPS-18)	BPS-19	Government Pleader Chitral.
10.	Mr. Akbar Ali Government Pleader (BPS-18)	BPS-19	Registrar FCR Tribunal, Peshawar.
11.	Mr. Muhammad Saddique Government Pleader (BPS-18)	BPS-19	Government Pleader Haripur.
12.	Mr. Muhammad Arshad Government Pleader (BPS-18)	BPS-19	Government Pleader Battagram.
13.	Mr. Noor Zaman Government Pleader (BPS-18)	BPS-19	Section Officer, Ministry of Interior, Government of Pakistan.

*Ahmad*  
**SUPERINTENDENT,**  
Govt. Khyber Pakhtunkhwa  
Law Department

	Mr. Imranullah Government Pleader (BPS-18)	BPS-19	Government Pleader Bannu.
15.	Mr. Muhammad Zubair Government Pleader (BPS-18)	BPS-19	Government Pleader Shangla.
16.	Mr. Usman Ghani Government Pleader (BPS-18)	BPS-19	Government Pleader Peshawar.
17.	Mr. Khalid Sarwar Government Pleader (BPS-18)	BPS-19	Government Pleader Nowshera.
18.	Mr. Zahid Karim Government Pleader (BPS-18)	BPS-19	Government Pleader Charsadda.
19.	Mr. Mustafa Kamal Government Pleader (BPS-18)	BPS-19	Government Pleader D.I. Khan.
20.	Mr. Gul Karim Government Pleader (BPS-18)	BPS-19	Director Human Rights, Khyber Pakhtunkhwa.
21.	Mr. Abdul Wakeel Government Pleader (BPS-18)	BPS-19	Government Pleader Kohistan.
22.	Syed Abdul Sami Shah Government Pleader (BPS-18)	BPS-19	Government Pleader Malakand at Batkhela.
23.	Mr. Sikandar Khan Government Pleader on Acting Charge (BPS-18)	BPS-19 on Acting Charge	Law Officer Advocate General Office, Khyber Pakhtunkhwa.
24.	Mr. Masood-ul-Hassan Government Pleader on Acting Charge (BPS-18)	BPS-19 on Acting Charge	Section Officer (Assembly), Law Department.
25.	Mr. Jamat Abdul Nasir Government Pleader on Acting Charge (BPS-18)	BPS-19 on Acting Charge	Government Pleader Buner.
26.	Mr. Noorullah Government Pleader on Acting Charge (BPS-18)	BPS-19 on Acting Charge	Section Officer (Litigation), Establishment Department.
27.	Mr. Mohammad Kamran Qureshi Government Pleader on Acting Charge (BPS-18)	BPS-19 on Acting Charge	Government Pleader Swabi.
28.	Mr. Farhaj Sikandar Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader D.I. Khan.
29.	Mr. Tahir Iqbal Additional Government Pleader (BPS-17)	BPS-18	Section Officer (Litigation) Planning & Development Department.
30.	Mr. Azmatullah Khan Additional Government Pleader (BPS-17)	BPS-18	Section Officer (Opinion) Law Department.
31.	Mr. Abid Jamal Additional Government Pleader (BPS-17)	BPS-18	Law Officer Advocate, General Office, Khyber Pakhtunkhwa.
32.	Mr. Samad Khan Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Mardan.
33.	Mr. Muhammad Rasheed Additional Government Pleader (BPS-17)	BPS-18	Deputy Director Human Rights, Khyber Pakhtunkhwa.

*A. H. A. J.*

**SUPERINTENDENT**

Govt: Khyber Pakhtunkhwa

Law Department

	Mr. Amir Qadar Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Swat.
	Mr. Nazir Khan Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Abbottabad.
36.	Mr. Anwar-ul-Haq Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Swat.
37.	Mr. Maqbool-ur-Rehman Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Bannu.
38.	Mr. Arshad Alam Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Service Tribunal, Khyber Pakhtunkhwa.
39.	Miss. Bushra Bibi Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Haripur.
40.	Muhammad Jan Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Peshawar.
41.	Mrs. Syeda Yusra Aman Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Nowshera.
42.	Mr. Khurshed Ahmad Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Mardan.
43.	Muhammad Bilal Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Abbottabad.
44.	Muhammad Tahir Aurangzeb Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Haripur.
45.	Mr. Shakir Ullah Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Service Tribunal, Khyber Pakhtunkhwa.
46.	Mr. Akhtar Hayat Khan Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Battagram.
47.	Mr. Zubair Muhammad Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Kohat.
48.	Mr. Noor Ali Additional Government Pleader (BPS-17)	BPS-18	Waiting for posting in Law Deptt.
49.	Mr. Zia Ullah Additional Government Pleader (BPS-17)	BPS-18	Deputy Director Human Rights, Khyber Pakhtunkhwa.
50.	Mr. Asif Masood Ali shah Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Peshawar.
51.	Mr. Aamir Mehmud Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Bannu.
52.	Mr. Hayat Ullah Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Charsadda.
53.	Mr. Noor Ilahi Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Peshawar.
54.	Miss. Shazia Mughal Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Abbottabad.
55.	Mr. Faheem Afzal Khan Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Mansehra.

Ad. S. A.

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**SUPERINTENDENT**  
Govt. Khyber Pakhtunkhwa  
Law Department

56.	Mr. Sikandar Khan Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Charsadda.
57.	Miss. Bibi Amna Additional Government Pleader (BPS-17)	BPS-18	Additional Government Pleader Malakand.

(6)

Secretary to Govt. of Khyber Pakhtunkhwa  
Law, Parliamentary Affairs and  
Human Rights Department

Endst: No. & date even.

NO. 19747-19885.

Copy forwarded to the:-

- 1- All Administrative Secretaries in Khyber Pakhtunkhwa, Peshawar.
- 2- Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
- 3- Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar.
- 4- All Divisional Commissioners in Khyber Pakhtunkhwa.
- 5- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 6- All the District Coordination Officers, in Khyber Pakhtunkhwa.
- 7- All District Accounts Officers in Khyber Pakhtunkhwa.
- 8- Advocate General Khyber Pakhtunkhwa, Peshawar.
- 9- Additional Advocate General, Khyber Pakhtunkhwa Services Tribunal Peshawar.
- 10- Director Human Rights, Khyber Pakhtunkhwa.
- 11- Director Information, Khyber Pakhtunkhwa.
- 12- P.S to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 13- P.S to Secretary Establishment Department Khyber Pakhtunkhwa, Peshawar.
- 14- Officers concerned.
- 15- Controller, Government Printing Press, Khyber Pakhtunkhwa, Peshawar.
- 16- Chairman, FCR, Tribunal, Peshawar.

(SAJJAD UR REHMAN)  
Section Officer (General)  
Law Department

*A. H. S. A.*  
**SUPERINTENDENT**  
Govt. Khyber Pakhtunkhwa  
Law Department



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT

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NOTIFICATION

SO(G)LD/15-11/2019-Vol-II/

12/3-71

Dated: Peshawar the 24<sup>th</sup> June, 2021

The Competent Authority is pleased to order the posting/transfer of the following officers of Law, Parliamentary Affairs & Human Rights Department, in the interest of public service, with immediate effect:-

S.#	Name & Designation	From	To
1.	Mr. Amir Qadar, Deputy District Attorney (BS-18)	District Attorney Shangla (OPS), relieving additional charge of Kolai Palas	Deputy District Attorney Swat against the vacant post
2.	Mr. Akhtar Hayat Khan, Deputy District Attorney (BS-18)	Deputy District Attorney Abbottabad	District Attorney Shangla (OPS) vice Sr. No. 01 He is also authorized to look after the work of District Attorney Kolai Palas in addition to his own duties:

Secretary to Govt: of Khyber Pakhtunkhwa  
Law, Parliamentary Affairs & Human  
Rights Department

Encls. No. & Date Even:

Copy forwarded to the:-

1. Director General, Law and Human Rights Khyber Pakhtunkhwa.
2. District Attorney Offices Shangla, Swat, Abbottabad and Kolai Palas.
3. District Account Officers Shangla, Swat, Abbottabad and Kolai Palas.
4. Officers Concerned.
5. PS to Minister Law, Khyber Pakhtunkhwa.
6. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
7. PA to Deputy Secretary (Admn), Law Department.
8. Personal files.

See

29/06/2021  
Dadil & hash  
Mishail  
Further necessary  
from. Jp

Aurangzeb  
(AURANGZEB)  
Section Officer (General)

Received  
SUPERINTENDENT  
Govt: Khyber Pakhtunkhwa  
Law Department  
Mishail



8

17

Annex

To

The worthy Chief Secretary, ISSUES BRANCH  
Khyber Pakhtunkhwa. CHIEF SECRETARY  
Govt. of Khyber Pakhtunkhwa  
Peshawar.

Govt. of Khyber Pakhtunkhwa  
File No. 338 of E-2  
Date: 26-1-2023

Subject: **DEPARTMENTAL APPEAL/ REPRESENTATION AGAINST TRANSFER  
ORDER VIDE NOTIFICATION NO. SO (E)LD/15-11/2022/19440-55  
DATED PESHAWAR 19-01-2023.**

Respected sir,

Annex E

Facts in brief are as under for just and sympathetic consideration

1. That the Petitioner is District Attorney and posted as such in District Battagram.
2. That in the year 2009 Petitioner was initially appointed as additional Govt pleader vide Notification No. E&A(LD)9-2/AGP/04 dated 22-06-2009 in District Battagram.
3. That through Notification No. E&A(LD)17-17/AGP (ii) 2012, Petitioner assumed the charge of Govt Pleader BPS-18 at District Battagram.
4. That vide Notification No. E&A/LD/17-17/ 20106251-6311 dated 18-04-2013 petitioner was transfer and posted as Govt pleader at District Abbottabad
5. That vide Notification No. E&A/LD/17(1)/2010 dated 22-10-2013 petitioner was transfer and posted as Govt pleader at Battagram.
6. That vide Notification No. So(G)LD/15-11/2019. Vol,11/12868 was Transfer and posted as Deputy District Attorney Abbottabad.
7. That vide Notification No. SO(G)LD/15-11/2019 Vol, 11 dated 24-06-2021 Petitioner was transfer and posted as Deputy District Attorney Shangla
8. That vide Notification No. So(G)LD/15-11 / 2022/ PSB / 2296-2312 31-05-2022 the petitioner was promoted in BPS-19 and transfer as District Attorney Battagram
9. That Vide Notification No SO(E) LD /15-11/2022/19440-55dated 19th January 2023 petitioner is transferred & posted as District Attorney Chitral Upper. That feeling aggrieved by last 19<sup>th</sup> January 2023 posting transfer order petitioner Humbly submit as under:-

- A. That the petitioner has obeyed all transfer posting orders and have spent almost all 13 years of service in hard area Battagram and Shangla.
- B. That petitioner father is about 80 years old and is paralyze and mother is 70 years old and diabetic patient and there is no one to look after them except the petitioner.
- C. Petitioner has hardly served for eight months in the present post.
- D. That petitioner children are school going and admitted at Abbottabad.
- E. That in above situation it is almost difficult for the undersigned to leave my ailing parents.

Prayers.

It is, therefore, most humbly requested that please by accepting this present review/representation application, transfer order may kindly be set aside on humanitarian grounds.

Yours faithfully,

Dated: 26-01-2023

*Akhtar Hayat*  
(AKHTAR HAYAT)  
District Attorney Battagram

*Akhtar Hayat* o/c  
*A. Khan*

*Akhtar Hayat*  
**SUPERINTENDENT**  
Govt. of Khyber Pakhtunkhwa  
Law Department



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT

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Dated: 27.07.2023

**AUTHORITY LETTER**

Mr. Muhammad Ismail Khalil, Superintendent (Lit) (BPS-17), of this Department is hereby authorized for filing of Parawise Comments in Service Appeal No.1088/2023 Akhtar Hayat, District Attorney District Upper Chitral Versus Government of Khyber Pakhtunkhwa through Chief Secretary and others on behalf of Respondents No.01 and 02 before the Service Tribunal Khyber Pakhtunkhwa, Peshawar.

SECRETARY TO  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.**

Service Appeal No. 1088/2023

Akhtar Hayat.....Appellant.

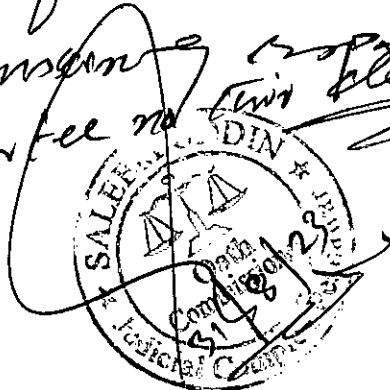
VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and other.....Respondents.

**AFFIDAVIT**

I, Muhammad Ismail Khalil, Superintendent (Lit) (BPS-17), Law Department, do hereby solemnly affirm and declare on oath that contents of Parawise Comments on behalf of Respondents No. 1 and 2 are true to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Tribunal.

*It is further stated on oath that in this appeal, the original respondents have neither been placed ex-parte nor their names have been struck off.*



Deponent

NIC No. 17301-0876331-9  
Cell# 03459782603