

S.No. of order or proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate, and that of parties where necessary.
1	2	3
	10.02.2014	<p style="text-align: center;"><u>Petition No. 1648/2013</u> <u>(Arif Abbas-vs-Govt. of KPK through Chief Secretary and 6 others)</u></p> <p>Mr.Tehmash Khan, father of the petitioner, on behalf of the petitioner with counsel for the petitioner and Mr.Usman Ghani, Sr.GP for the respondents present. Arguments heard, and file perused.</p> <p>This 'petition under Article 212 of the Constitution of Islamic Republic of Pakistan' (hereinafter referred to as 'the Constitution') 'read with other enabling provisions of service law to the same effect', was referred to the full Bench of the Tribunal on the request and application of the petitioner. Since the petition has been lodged under Article 212 of the Constitution, it would not be out of place to reproduce the provisions of Article 212 of the Constitution:</p> <p style="text-align: center;">"212. Administrative Courts and Tribunals.--- (1)</p> <p>Notwithstanding anything hereinbefore contained the appropriate Legislature may be Act (provide for the establishment of) one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of--</p> <p>(a) matters relating to the terms and conditions of person (who are or have been) in the service of Pakistan, including disciplinary matters;</p> <p>(b) matters relating to claims arising from tortuous acts of Government, or any person in the service of Pakistan, or of any local or other authority empowered by law to levy any tax or cess and any servant of such authority acting in the discharge of his duties as such servant; or</p> <p>(c) matters relating to the acquisition, administration and disposal of any property which is deemed to be enemy property under any law.</p> <p>(2) Notwithstanding anything hereinbefore contained, where any Administrative Court or Tribunal is established under clause (1), no other Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such</p>

Administrative Court or Tribunal extends (and all proceedings in respect of any such matter which may be pending before such other Court immediately before the establishment of the Administrative Court or Tribunal (other than an appeal pending before the Supreme Court), shall abate on such establishment):

Provided that the provisions of this clause shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, (Majlis-e-Shoora (Parliament)) by law extends the provisions to such a Court or Tribunal.

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.”

A perusal of the relevant provisions of Article 212 of the Constitution would reveal that, firstly, one or more Administrative Courts or Tribunals would be established by an Act of appropriate legislature; secondly, the Administrative Courts or Tribunals would exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of persons (who are or have been) in the service of Pakistan, including disciplinary matters; thirdly, after establishment of the Administrative Court or Tribunal, no other Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends; and, fourthly, the provision of clause 2 of Article 212 shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, Majlis-e-Shoora (Parliament) by law extends the provisions to such a Court or Tribunal.

It may be added here that the Majlis-e-Shoora (Parliament) enacted the Provincial Service Tribunals (Extension of provisions of the Constitution) Act, 1974, (Act XXXII of 1974) (hereinafter referred to as Act XXXII of 1974) and thereby extended the provisions of clause 2 of

Article 212 of the Constitution to the Provincial Service Tribunals of the Khyber Pakhtunkhwa, the Punjab and Sindh.

The main stress of the learned counsel for the petitioner was on clause 2 of Article 212 of the Constitution read with Act XXXII of 1974, under the mistaken belief that this Article of the Constitution confers jurisdiction on the Tribunal to grant injunction, notwithstanding prerequisite of filing service appeal under the Service Tribunal Act; whereas, in fact, the plain reading of clause 2 of Article 212 of the Constitution would show that the bar imposed on other Courts to grant injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of the Tribunal extends would come into operation only when at the request of the Provincial Assembly made in the form of a resolution, Majlis-e-Shoora (Parliament) by law extends the provisions of clause 2 of Article 212 of the Constitution to such a Tribunal. The learned counsel for the petitioner was, as such, unable to show that the provision in Article 212 of the Constitution which entitles him to straight away lodge a petition under Article 212 of the Constitution by circumventing or abridging the mandatory provision of filing appeal under the Service Tribunal Act.

On the other hand, section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act. No.1 of 1974), (hereinafter referred to as Act No.1 of 1974), where-under the Khyber Pakhtunkhwa Service Tribunal has been established, clearly provides for filing of appeal and also prescribes period of limitation for filing of appeal and prior to that preferring departmental appeal in the following manner:

“4. Appeal to Tribunals.--- Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him (or within six months of the establishment of the appropriate Tribunal, whichever is later,) prefer an appeal of (to) the Tribunal having jurisdiction in the matter:

Provided that--

(a) where an appeal, review or a representation to a departmental authority as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973, or any rules against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date of which appeal, application or representation was preferred;(....).”

It is an admitted fact, and even not disputed by the learned counsel for the petitioner, that the petitioner has neither preferred a departmental appeal, review or representation to a departmental authority nor has even lodged appeal against a final order, whether original or appellate, in accordance with the mandatory provisions of section 4 of Act No.1 of 1974. Likewise, the judgment in the case titled ‘Munshi Muhammad Azam...Petitioner-versus-A.C etc....Respondents’ reported as PLJ 1996 Lahore 16 (DB) , referred to by the learned counsel for the petitioner, would be of no help to the case of the petitioner unless he shows that no departmental appeal is provided against the impugned transfer order. Moreover, even in that case the appellant would be required to file appeal under the Service Tribunal Act and not a petition under Article 212 of the Constitution.

The learned counsel for the petitioner argued the case at length; and, during his arguments, referred to several provisions of the Constitution and law, including Articles 9 and 199 of the Constitution, posting/transfer policy of the Provincial Government, sections 22,23 and 23(b) of the Khyber Pakhtunkhwa Civil Servants Act, 1973, and also to the ailment/disability of the petitioner together with his service record and the circumstances leading to his transfer; but none of such contentions/ references would lend credence to his otherwise weak case on account of maintainability and jurisdiction, when this Tribunal is, admittedly, not a constitutional forum to entertain petitions under the Constitution.

Undoubtedly, the Tribunal is a creation of the Statute, namely, the Khyber Pakhtunkhwa Service Tribunal Act, 1974, and can only entertain and proceed with appeals instituted/filed there-under.

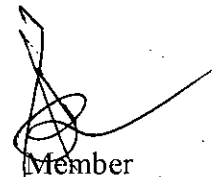
After realizing his difficulty to convince the Bench on the questions of maintainability and jurisdiction, the learned counsel prayed for treating the petition as departmental appeal and referring the same to the departmental authority, while extending the order of status-quo granted in favour of the petitioner by the learned Member Bench on 16.01.2014. However, once it is held that the petition is not maintainable and this Tribunal lacks jurisdiction to entertain the constitutional petition under Article 212 of the Constitution, any order passed thereafter would be without jurisdiction, and not sustainable in law.

As a sequel to the foregoing discussion, the petition is dismissed in limine, with costs.

ANNOUNCED
10.02.2014

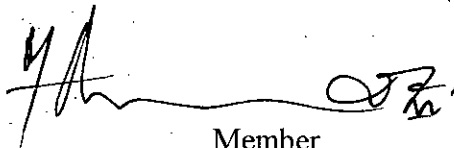

Member

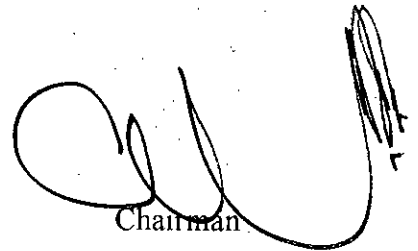

Chairman

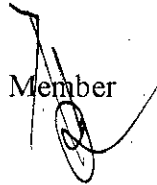

Member

6.2.2014

Mr. Tehmash Khan, father of the petitioner, on behalf of the petitioner with counsel and Mr. Usman Ghani, Sr. GP for the respondents present. Arguments of both the learned counsel for the petitioner and learned Sr. GP heard till 6.00 P.M; but the learned counsel for the petitioner stated that he is yet to conclude arguments, particularly on the question of disability of the petitioner. Though the case has been referred to full bench at the stage of preliminary arguments on the request of the learned counsel for the petitioner, and arguments have been heard twice, firstly, partly on 31.01.2014 and, secondly, exhaustively today till 6.00 P.M; but in order to provide ample opportunity to the learned counsel for the petitioner to present his case, and in order to dispel the impression that opportunity of hearing has not been provided to the petitioner to the entire satisfaction of his learned counsel, the petition is fixed for concluding arguments on 8/9 A.M on 7.2.2014 so that the case is concluded. Since operation of the impugned order has been suspended vide order dated 16.01.2014, a last chance is given for conclusion of arguments and order on 7.2.2014.


Member

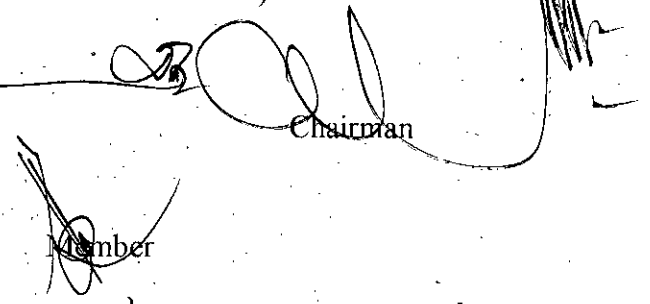

Chairman


Member

7.2.2014

Mr. Tehmash Khan, father of the petitioner, on behalf of the petitioner and Mr. Usman Ghani, Sr. GP for the respondents present. Application for adjournment has been moved on behalf of learned counsel for the appellant/petitioner due to his pre-occupation in the august Supreme Court of Pakistan, Islamabad. The learned Sr. GP raised objection to the continuous of the order of status-quo/suspension of the impugned order without first determination of the question of jurisdiction of the Tribunal. The learned Sr. GP requested for arguments and disposal of application for interim relief. The petitioner was given last chance for conclusion of arguments today but application for adjournment has again been received on behalf of learned counsel for the petitioner. Therefore, another last chance is given for conclusion of arguments and order, otherwise the question of jurisdiction of the Tribunal will be decided on the basis of available record and exhaustive arguments of the parties, on 10.2.2014.


Member


Chairman


Member

28.1.2014

Case file received from learned Bench-II with order sheet dated 27.01.2014 of the learned Member (Judicial). In view of urgency involved in the case, as order of status-quo has been issued and extended, the case is fixed before full Bench, comprising the undersigned and learned both the Members (Executive and Judicial) for hearing on 31.01.2014.

Noted as the appellant, Counsel for the appellant & learned

Chairman

31.01.2014

Counsel for the appellant/petitioner and Mr. Usman Ghani, Sr. GP for the respondents present. Arguments partly heard. On the request of learned counsel for the appellant/petitioner, to come up for further arguments on 6.2.2014.

[Signature]
Member

[Signature]
Chairman

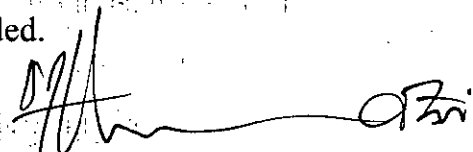
[Signature]
Member

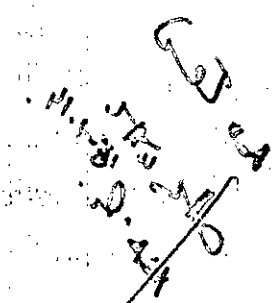
27.1.2014

Counsel for the appellant and M/S Usman Ghani, Sr.GP and Muhammad Jan, GP with M/S Noor Afzal Khan, DPWO and Muhammad Aleem, Deputy Director for the respondents present.

Counsel for the appellant submitted an application for referring the instant appeal filed under Article 212 of the Constitution of Islamic Republic of Pakistan for hearing before the full bench of this Tribunal. The learned Sr.GP and GP have no objection for referring the case to full bench.

Since the matter-in-question involves interpretation of Constitution, therefore, it would be appropriate that it should be heard by full bench. Hence, the instant case is sent to the learned Chairman for constitution of full bench. Case to come up for further proceedings on 13.2.2014. Till then, status quo as before, is extended.


MEMBER


MEMBER

1648/2013

16.1.2014

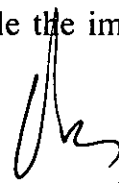
Counsel for the appellant present. Preliminary arguments partly heard and case file perused.

The instant appeal has been filed under Article 212 of the constitution of Islamic Republic of Pakistan r/w other enabling provisions of service laws. In the instant appeal, the appellant has impugned various orders passed by the respondents which the learned counsel for the appellant contends to be based on malafide. Counsel for the appellant argued that the appellant is a disable person and the respondents are victimizing the appellant by posting him to far flung areas, hence they may be restrained from victimizing him.

Perusal of the case file reveals that no departmental appeal has been preferred in this respect which is mandatory requirement under the Khyber Pakhtunkhwa Service Tribunal Act, 1974, however, the learned counsel for the appellant argued that under Article 212 of the Constitution of Islamic Republic of Pakistan this Tribunal has got the jurisdiction to adjudicate upon the matter even without following the procedure laid down in the Act.

No Ted
As per
14.1.14

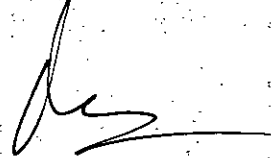
Since the matter-in-issue requires further assistance, therefore, the learned AAG be put on notice to assist the Tribunal on the point. To come up for further preliminary arguments on 27.1.2014. In the meanwhile the impugned order is suspended till the date fixed.



MEMBER

10.01.2014

Case file received from the learned Chairman and order dated 1.01.2014 of the learned Chairman perused. To come up for preliminary hearing on 16.01.2014.





Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1648/2013


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26/12/2013	<p>As per direction of the worthy Chairman the present appeal filed by Mr. Arif Abbas through Mr. Muammad Muazzam Butt Advocate may be entered in the Institution Register and put up to the Primary Bench for preliminary hearing</p> <p style="text-align: right;"> REGISTRAR</p>
2	30-12-2013	<p>To come up for preliminary hearing on <u>10-1-2014</u>. Notice shall be issued to appellant and his counsel.</p> <p style="text-align: right;"> MEMBER</p>

The appeal of Mr. Arif Abbas son of Tehmas Khan received today i.e. on 24.12.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

The relevant section of law under which the appeal is maintainable before this hon'ble Tribunal has not been mentioned in the memorandum of appeal therefore, the petition is not in proper form in order to fulfill the requirements of the relevant law.


No. 1824 /S.T.

Di. 24/12 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

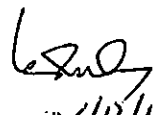
Mr. Muhammad Muazzam Butt Adv. Pesh.

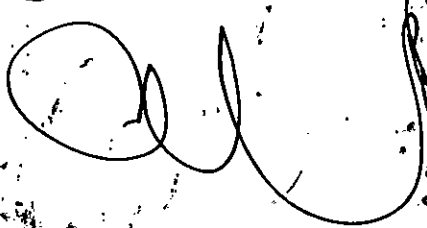
Re-submitted with the request to place it before the Tribunal, as the petition is submitted under the Art. 202 of the constitution which clearly indicates the matter relating to impunities etc. further the Article begins with the legal term "Notwithstanding", ordinance is also placed on PLU 1996(L) 16 along with other enabling case law to the same effect.


26/12/2013

On the observation of this office and reply of the h/counsel for the appellant is submitted for orders please.

Hon'ble,
the Chairman.


26/12/13

Be placed before
Board Primary
Bench.

26/12/13

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

In Ref to Petition No. 1648 /2013

Arif Abbas.....**Petitioner**

V E R S U S

Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others.....**Respondents**

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Grounds of Petition		1-6
2.	Application for suspension with affidavit		7-8
3.	Copy of office order F-No.1(2)/2013/Admn dated 11.11.2013, copy of order dated 08.11.2013	A, A/1	9-10
4.	Copy of office order F-No.1(2)/2013/Admn Peshawar dated 20.11.2013	B	11
5.	Copy of office order F-No.1(2)/2013/Admn Peshawar dated 22.11.2013, copy of order dated 06.12.2013	C, C/1	12-13
6.	Copy of appreciation letters	D, D/1,	14-15
7.	Copy of Performance Annual Report	E&E/1	16-19
8.	Copies of the transfer orders of respondent No.7	F&F/1	20-23
9.	Wakalat Nama		

Petitioner
Through

Muhammad Muazzam Butt
Advocate, Peshawar

Date:24.12.2013

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

In Ref to Petition No. 1648 /2013

1680
24-12-13

Arif Abbas son of Tehmas Khan

Resident of 18 Race Course Garden.....**Petitioner**

V E R S U S

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary, Population Welfare Department, Khyber Pakhtunkhwa.
3. Director General, Population Welfare Department, Khyber Pakhtunkhwa, F.C Trust Building Peshawar.
4. Assistant Director (Admn), Population Welfare Department, Khyber Pakhtunkhwa, F.C Trust Building Peshawar.
5. P.S to Minister for Population Welfare Department, Khyber Pakhtunkhwa.
6. District Population Welfare Officer, Peshawar
7. Zafar Ali, Office Assistant, DPW Office Kohat through Director General, Population Welfare Department, Khyber Pakhtunkhwa, F.C Trust Building Peshawar.

.....**Respondents**

**Petition Under Article 212 of the
Constitution of Islamic Republic of Pakistan
Read with other enabling provisions of
service law to the same effect.**

24/12/13

Respectfully Sheweth:

1. That the petitioner is serving as Office Assistant in the District Population Welfare Office Peshawar.
2. That the petitioner is a disable citizen of the country and is regarded as a special citizen.
3. That the office order F-No.1(2)/2013/Admn dated 11.11.2013 was handed over to the petitioner whereby he was relieved office duties w.e.f 11th November 2013. (Copy enclosed as Annexure A), without any prior letter or endorsement of his transfer to another destination, for which the petitioner obtained the copy of the office order dated 08.11.2013 on his own from the Directorate. (Copy is Annexure A/1).
4. That the petitioner was yet retained in the same office for the continuation of his work, however mechanically and through unfair means another office order F-No.1(2)/2013/Admn Peshawar dated 20.11.2013 was issued in vacuum holding that the petitioner would performed his duty in the Director General KPK Peshawar till further order. (Copy enclosed as Annexure B).

5. That on 22.11.2013 the Director General cancelled the transfer order dated 08th November, 2013 vide office order F-No.1(2)/2013/Admn Peshawar. (Copy enclosed as Annexure C).

6. That now all of sudden the petitioner has been given today the office order F-No.1(2)/2013/Admn Peshawar dated 06.12.2013 and again in pursuance of office orders dated 08.11.2013, 20.11.2013 and 22.11.2013 the petitioner has been transferred to Kohat by replacing with Respondent No.7. It is necessary to mention that neither this office order has been endorsed to the petitioner nor any reliving order in this regard has been handed over to him. (Copy of order dated 06.12.2013 is Annexure C/1).

7. That the petitioner is disable person, is a special citizen and was inducted in the office having been found eligible for the job. He has been accorded report excellence in the annual confidential reports alongwith the appreciation letter as well. (Copies are enclosed as Annexure D, D/1, E & E/1).

8. That the respondent No.7 has politically influenced the concerned respondents for his posting at

- i. Date of Appointment No.7 as LDC BS-5 at Peshawar on 07.04.1983.
 - ii. Remained at Peshawar till 30 years.
 - iii. Was transferred to Bannu against a vacant post of Office Assistant in BS-14 on 30.05.2013.
 - iv. Without his joining at Bannu, he was favoured and by modifying w.e.f 30.05.2013, he was posted in District Kohat against the vacant post of Office Assistant BS-14.
 - v. Now he has managed to get himself posted at Peshawar in place of the petitioner on 08.11.2013.
 - vi. On the cancellation of his order on 22.11.2013, he has now again managed to be adjusted and posted at Peshawar. (Copies of the transfer orders of respondent No.7 are Annexure F & F/1).
9. That the petitioner being aggrieved in the circumstances submits this petition Under Article 212 of the Constitution of Islamic Republic of Pakistan 1973 and other enabling law to the same

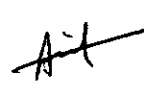
effect submit this petition on the following amongst other grounds:

GROUND S:

- A. That the petitioner uses walker/zeemer frame for movement and it is much painful for him to go upstairs or travel to a far destination and is also performing his job in the greater public interest which has already been appreciated by the Commanding/ Reporting Officer as evident from the documents enclosed. Whereas the respondent No.7 who has served at Peshawar for a continuous undisturbed period of 30 years and has not even completed 3 years out of Peshawar, has managed by prevailing upon the administration through political influence which he has generated in the office and from the political ruling circles to seek appointment at Peshawar by replacing the petitioner.
- B. That the order of transfer of the petitioner is malafide.
- C. That the consequence of the impugned transfer order would result in causing the injury to the life and person of the petitioner.

D. That the exclusive jurisdiction in the matter in the spirit of Article 212 of the Constitution of Pakistan 1973 lies with this tribunal in the circumstances.

It is, therefore, most humbly prayed that on acceptance of this petition the impugned order dated 06.12.2013 may please be declared not maintainable and it may please consequently be dismissed and set aside


Petitioner
Through


Muhammad Muazzam Butt
Advocate, Peshawar

Date: 24.12.2013



BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

In Ref to Petition No. _____/2013

Arif Abbas.....**Petitioner**

V E R S U S

Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others.....**Respondents**


Application for suspension of the impugned order dated 06.12.2013, till the final decision of the petition.

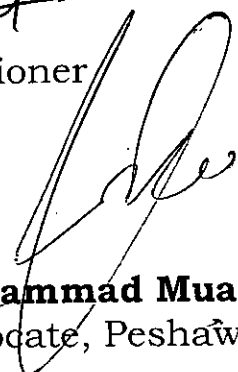
Respectfully Sheweth:

1. That the above noted petition is being filed before this Hon'ble Court, in which no date of hearing has yet been fixed.
2. That the petitioner has got a good prima facie case in his favour, and is sanguine about its success.
3. That the balance of convenience also lies in favour of the petitioner.
4. That if the order dated 06.12.2013 is not suspended, then the petitioner will suffer irreparable loss.

5. That the facts and grounds of the petition may kindly be read as an integral part of this application.

It is, therefore, respectfully prayed that on acceptance of this application, the impugned office order dated 06.12.2013 may kindly be suspended, till the final decision of the case.

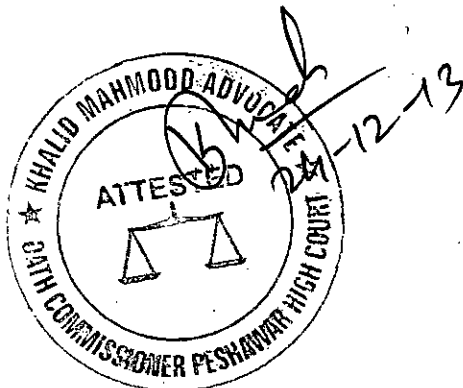

Petitioner
Through

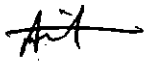

Muhammad Muazzam Butt
Advocate, Peshawar

Date: 24.12.2013

AFFIDAVIT

I, Arif Abbas son of Tehmas Khan Resident of 18 Race Course Garden, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




Deponent

Govt. of Khyber Pakhtunkhwa
Population Welfare Department
Office of the District Population Welfare Officer, Peshawar.
House No.4501, Street.3 Sikandar Town Peshawar.

~~Annex 9~~

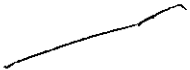
Annexure - A

F.No:1(1)/Admn-2013

Dated: 11/11/2013.

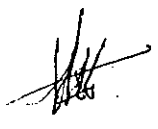
OFFICE ORDER

In pursuance to Director General, Population Welfare Department, Government of Khyber Pakhtunkhwa Office Order No.1(2)/2013/Admn dated 8th November, 2013. Mr. Arif Abbas, Office Assistant, BPS-14 is hereby relieved of his duties w.e.f 11th November, 2013(A.N).


DPWO, Peshawar

Copy to:-

1. Accountant General, Khyber Paktunkhwa, Peshawar.
2. District Account Officer Kohat.
3. District Population Welfare Officer, Kohat.
4. Assistant Director (Admn) Population Welfare Department, Peshawar.
5. PS to Special Assistant to Chief Minister Khyber Pakhtunkhwa for Population Welfare Department.
6. PS to Director General, Population Welfare Department, KPK, Peshawar.
- ✓ 7. Arif Abbas, Office Assistant with the direction to handover charge to Mustaq Saeed, UDC, DPW-Office Peshawar.
8. Personal File of the Official concerned.


(Noor Afzal)
DPWO, Peshawar

D/Office work (2)

(Kashif Fida)
Assistant Director (Admn)

[Handwritten signature]

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director (Admn. & Coord.) PWD, Peshawar.
3. District Population Welfare Officers, Kohat & Peshawar.
4. District Accounts Officer, Kohat.
5. PS to Special Assistant to Chief Minister, Khyber Pakhtunkhwa.
6. PS to Director General, PWD, Peshawar.
7. Officials concerned.
8. Master File.

Copy forwarded to the:-

(Director General)
Population Welfare Deptt:

S.No	Name	Designation	From	To	Remarks
1	Mr. Zahir Ali	Officer, (BPS-14)	DPW Office, Kohat	DPW Office, Peshawar	Vice No. 2
2	Mr. Aft Abbas	Officer, (BPS-14)	DPW Office, Peshawar	DPW Office, Kohat	Vice No. 1

interest.
hereby, ordered with immediate effect and till further order in the public
[F.No.1(2)/2013/Admn:- The following postings/transfers amongst officials are

OFFICE ORDER

Dated Peshawar the 8 / 11 / 2013

Government of Khyber Pakhtunkhwa
Directorate General Population Welfare
Post Box No. 235
FC Trust Building Sunehri Masjid Road, Peshawar Cantt. Ph: 091-9211536-38

Page No-10
Annexure

[Handwritten signature]

A1

1

GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Post Box NO. 235
FC TRUST BUILDING SUNEHRI MASJID ROAD
2ND FLOOR PESHAWAR CANTT.

Page - ~~101~~ 11

Annexure - B

F.No.1 (2)/2013/Admn

Peshawar, the 20/11/2013

OFFICE ORDER

In partial modification of this office order of even number dated 8,11,2013, Mr. Arif Abbas Assistant BPS-14 DPWO Office Kohat is directed to perform duty in the Directorate General KPK Peshawar till further order.

DIRECTOR GENERAL, PWD

Copy to:-

1. The District Population Welfare Officer Kohat.
2. PS to Director General, PWD KPK, Peshawar.
3. Official concerned.


(Kashif Fida)
Assistant Director (Admn)

GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Post Box NO. 235
FC TRUST BUILDING SUNEHRIMASJID ROAD
2ND FLOOR PESHAWAR, CANTT.

Annexure - C

F.No.1 (2)/2013/Admn

Peshawar, the 22/11/2013

OFFICE ORDER

Office order issued vide order of even number dated 8th November, 2013 regarding transfer / posting of Mr. Zafar Ali, Office Assistant (BS-14) and Mr. Arif Abbas, Office Assistant (BS-14) is hereby cancelled.

DIRECTOR GENERAL, PWD

Copy to:-

1. The Accountant General, Khyber Pakhtunkhwa Peshawar.
2. The Director (A&P), PWD Peshawar.
3. District Population welfare officer Kohat & Peshawar.
4. District Accounts Officer Kohat.
5. PS to Special Assistant to CM for Population Welfare Peshawar.
6. PS to Director General, PWD KPK, Peshawar.
7. ✓ Officials concerned.
8. Master file.


Deputy Director (Admn)

GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENTPost Box NO. 235
FC TRUST BUILDING SUNEHRI MASJID ROAD
2ND FLOOR PESHAWAR CANTT.

Annexure - c - 1

F.No.1(2)/2013/Admn

Peshawar, the 06/12/2013OFFICE ORDER

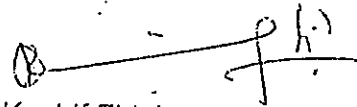
In supersession of this office orders of even number dated 8.11.2013, 20.11.2013 and 22.11.2013, the following posting / transfers amongst office Assistants are hereby ordered, with effect from 22.11.2013 on administrative grounds.

S.No.	Name of O/Assistant	From	To	Remarks
1.	Mr. Zaffar Ali	DPW Office Kohat	DPW Office Peshawar	Vice No.2
2.	Mr. Arif Abbas	DPW Office Peshawar	DPW Office Kohat	Vice No.1

DIRECTOR GENERAL, PWD

Copy to:-

1. The Accountant General, Khyber Pakhtunkhwa Peshawar.
2. The Director (A&P) PV/D Peshawar.
3. District Population Welfare Officers Kohat & Peshawar.
4. District Accounts Officer Kohat.
5. PS to Special Assistant to Chief Minister for Population Welfare Khyber Pakhtunkhwa Peshawar.
6. PS to Director General, PWD KPK, Peshawar.
7. Officials concerned.
8. Master file.


(Kashif Fida)
Assistant Director (Admn)

DD PWD (CPT)

6/12/2013

Government of Khyber Pakhtunkhwa
 Population Welfare Department
 Office of the District Population Welfare Officer
 House No. 4501, St.3, Sikandar Town Peshawar.

Annexure - D

F.No:5(3)/C&T-2008

Dated, Peshawar the 05/06/2012.

To

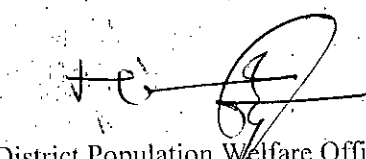
⇒ Mr. Arif Abbas
 Office Assistant.
 DPW Office Peshawar.

Subject:- APPRECIATION:

Profound appreciation for your admirable efforts to establish eleven new Family Welfare Centers under ADP Project 2012-13 in district Peshawar. It has been noted by the undersigned that all the tasks assigned to you were completed in truly professional manner. You put great efforts while hiring the accommodation for these new family welfare centers at a very reasonable ratio of monthly rent including "the 2 free places, not only free buildings but also free electricity, gas & water facilities in it". Always safeguarding the benefit of this department, your performance shows the hard work & indefatigable efforts by you.


The undersigned believes that, despite being a disable person, your work is beacon of light for others. Your punctuality in disposal of official work and your computer drafting skills are very envious. The undersigned expects that you will contribute in a more formidable way in the future times to come.

I wish you Godspeed.


 District Population Welfare Officer
 Peshawar

Copy to:-

1. P.S to Minister for Population Welfare Department Govt. of Khyber Pakhtunkhwa, Peshawar.
2. P.S to Secretary, Population Welfare Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
3. P.S to Director-General, Population Welfare Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
4. P/F of the Official concerned.


 District Population Welfare Officer
 Peshawar

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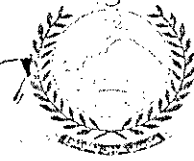
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Population Welfare Department
Office of the District Population Welfare Officer, Pesh.
Govt. of Khyber Pakhtunkhwa
House no.4501, St#3, Sikandar Town, Pesh.



F.No:5(3)/C&T-2008

Dated, Peshawar the 21/11/2012.

To


Mr. Arif Abbas
Office Assistant
DPW Office, Peshawar.

Subject:- APPRECIATION:

Profound appreciation for timely disposal of your official work. You are lauded for your commitment related to your professional duties. The undersigned found you intelligent, hard working and having good head on your shoulders. Whenever you have been assigned a task, you have done it in a very professional manner.

The undersigned believes that, despite being a disable person, your work is beacon of light for others. Your punctuality in disposal of official work and your computer drafting skills are very envious.


You can be an asset to any organization and undersigned wish you success in your future endeavors.


DDPWO(C&T)
O/C DPWO Office, Peshawar.

Copy to:-

1. P.S to Minister for Population Welfare Department Govt. of Khyber Pakhtunkhwa, Peshawar.
2. P.S to Secretary, Population Welfare Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
3. P.S to Director General, Population Welfare Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
4. P/F of the Official concerned.

Dispatch No 2041-46
Date 21/11/12
Signature
DPWO Peshawar.


DDPWO(C&T)
O/C DPWO Office, Peshawar.

APPENDIX 'C'

APPENDIX-VI

CONFIDENTIAL

Form 'G' Revised
Assistant and Clerk

GOVERNMENT OF N.-W.F.P.

POPULATION WELFARE DEPT : DEPARTMENT
GOVERNMENT OF KHYBER PAKHTUNKHWA
CONFIDENTIAL REPORT PESHAWAR.

For the period from 01-05-2010 To 31-12-2010

PART-I

1. Name ARIF ABBAS
2. Designation OFFICE ASSISTANT, BPS-14
3. Date of Birth 15-08-1978
4. Date of entry into Government Service 08-05-2009
5. Branches in which employed during the year, with period DISTRICT POPULATION WELFARE OFFICE, FROM 01-05, 2010 TO 31.12-2010

PART-II

A	PERFORMANCE	A1	A	B	C	D
(1)	Referencing, paging of notes and correspondence.	LS				
(2)	Movement of files and record of suspense cases.	LS				
(3)	Keeping files and papers in tidy condition.		LS			
(4)	Promptness and accuracy in disposing of work.	LS				
B PERSONAL TRAITS						
(5)	Intelligence.		LS			
(6)	Knowledge of procedure and regulations.		LS			
(7)	Punctuality.	LS				
(8)	Cooperation and tact.	LS	LS			
(9)	Amenability to discipline	LS				
(10)	Skill in drafting.		LS			

Assessment

- (11) Integrity: ---
- (i) Incorruptible **Yes**
 - (ii) Reported to be corrupt
 - (iii) Believed to be corrupt, because of :
 - (a) Monetary condition
 - (b) Other considerations
- (12) Knowledge of typing **Yes**
- (13) Trust worthiness in confidential and secret matters. **Yes**
- (14) Any disciplinary action taken during the period under report. **Yes**

PART-III

	By Reporting Officer	By Corresponding Officer
(a) Recommended for accelerated promotion.	<input type="checkbox"/> Yes	<input type="checkbox"/>
(b) Fit for promotion.	<input type="checkbox"/> Yes	<input type="checkbox"/>
(c) Recently promoted / appointed — consideration for promotion pre-mature.	<input type="checkbox"/> No	<input type="checkbox"/>
(d) Not yet fit for promotion.	<input type="checkbox"/> No	<input type="checkbox"/>
(e) Unfit for further promotion.	<input type="checkbox"/> No	<input type="checkbox"/>

PART-IV

General Assessment	By Reporting Officer	By Countersigning Officer
(i) Very Good	V. Good	
(ii) Good		
(iii) Average		
(iv) Below Average		
(v) Poor		

PEN PICTURE

He is a disable person but- He has proved himself an hard working, Perseverant, intelligent- and obedient- worker. Wish him success in all future endeavors.

Reporting Officer's Signature



Name (in Block Letters)

NOOR JABEEN

Dated:

05-01-2010

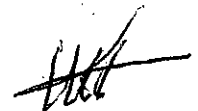
Designation

Dep. Demographer.

General Remarks by higher officers:

His performance during the period was out standing

Countersigning Officer's Signature



Name (in Block Letters)

NOOR AFZAL

Dated:

Designation

DPWO, Peshawar

District Population Welfare Officer
Peshawar.

APPENDIX 'C'

Form 'C' (Revised)
Assistant and Clerks

APPENDIX-VI

CONFIDENTIAL

GOVERNMENT OF KHYBER PAKHTUNKHWA

Population Welfare

DEPARTMENT

CONFIDENTIAL REPORT

For the period from 1/1/2012 To 31/12/2012

PART-I

1. Name Arif Abbas
2. Designation Office Assistant BPS-14
3. Date of Birth 15/8/1978
4. Date of entry into Government Service 8/5/2009
5. Branches in which employed during the year, with period Distt: Population Welfare office Peshawar.

PART-II

A	PERFORMANCE	A1	A	B	C	D
(1)	Referencing, paging of notes and correspondence.	G				
(2)	Movement of files and record of suspense cases.		G			
(3)	Keeping files and papers in tidy condition.		G			
(4)	Promptness and accuracy in disposing of work.	G				
B	PERSONAL TRAITS					
(5)	Intelligence.	G				
(6)	Knowledge of procedure and regulations.	G				
(7)	Punctuality.	G				
(8)	Cooperation and tact.		G			
(9)	Amenability to discipline		G			
(10)	Skill in drafting.	G				

(11) Integrity:--

Assessment

(i) Incorruptible.....

(ii) Reported to be corrupt.....

(iii) Believed to be corrupt, because of :

(a) Monetary condition.....

(b) Other considerations.....

YES NO

(12) Knowledge of typing

(13) Trust worthiness in confidential and secret matters.

(14) Any disciplinary action taken during the period under report.

PART-III

(a) Recommended for accelerated promotion.

By Reporting Officer

By Corresponding Officer

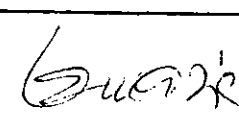
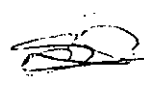
(b) Fit for promotion.

(c) Recently promoted / appointed consideration for promotion pre-mature.

(d) Not yet fit for promotion.

(e) Unfit for further promotion.

PART-IV

General Assessment:	By Reporting Officer	By Countersigning Officer
(i) Very Good		
(ii) Good		
(iii) Average		
(iv) Below Average		
(v) Poor		

ANNEX E/1

Page No 19

3

PEN PICTURE

He is an experienced and devoted
Person

Reporting Officer's Signature Uzma Zia

Name (in Block Letters) DR UZMA ZIA

Designation DDPWO (T)

Dated: _____

Dy: District Population Welfare Officer (T)
Peshawar.

General Remarks by higher officers:

Agree

Countersigning Officer's Signature Shahi Nawab

Name (in Block Letters) SHAHI NAWAB

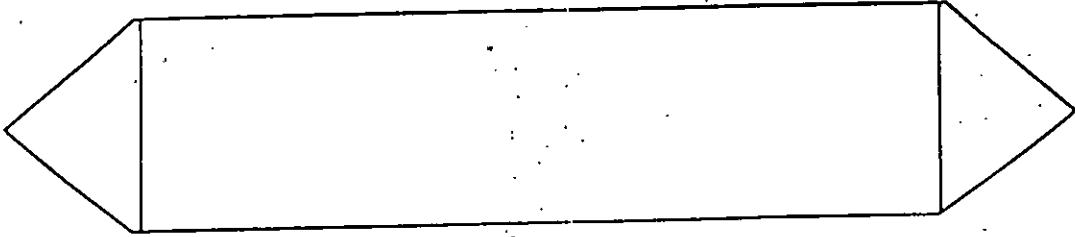
Designation DPWO PESHAWAR

Dated: _____

District Population Welfare Officer
Peshawar.

Annexure - E - 1
Page No - 19

بعدالت



2ء خانہ
بنام

موزخه
مقدمه
دعوى
جرم

Page No - 20

40

Annexure - F

Government of Khyber Pakhtunkhwa
Directorate General Population Welfare
Post Box No. 235

PC Post Building, Suroohi Marg, Peshawar, P.O. Box No. 235, F-11, Peshawar

Dated Peshawar the 30/5/2013.

OFFICE ORDER

F.No.1(2)/2010/Admn:- The following posting / transfers of official are hereby ordered as mentioned against each with immediate effect in the best interest of public service,

S.No	Name of Official with Designation	From	To	Remarks
1	Mr. Tehseen Mehmood Qureshi, Projectionist BPS-12 Adjusted against the post of FTO.	DPW Office Peshawar	DPW Office Peshawar	Against S.No 2 being senior to vacate the FTO post
2	Mr. Nasrat Ullah Projectionist BPS-12	DPW Office Peshawar	DPW Office Lakki Marwat	Against the vacant post
3	Mr. Zaffar Ali Khan Office Assistant BPS-14	DPW Office Peshawar	DPW Office Bannu	Against the vacant post

(Director General)
Population Welfare Department

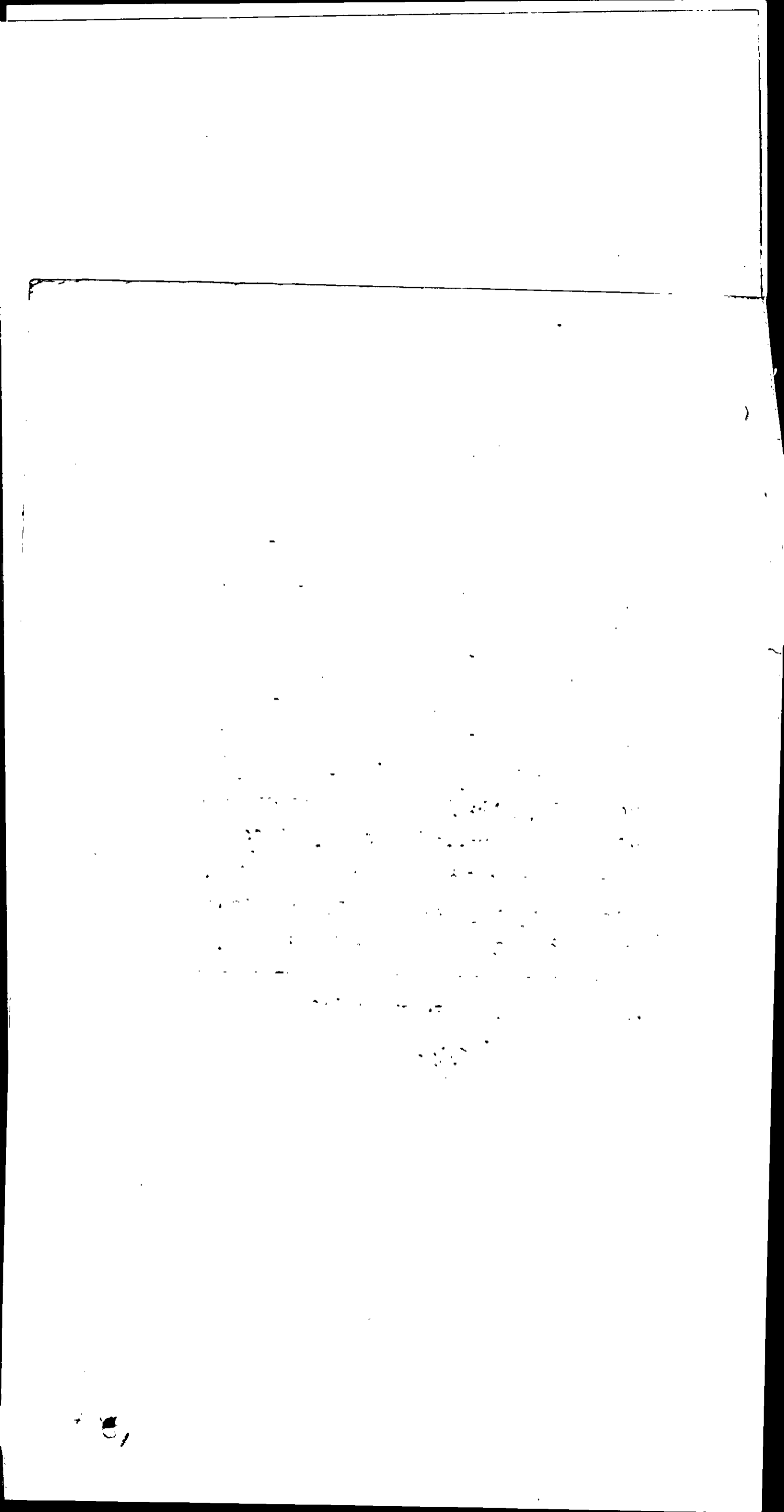
Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. DPW Officer Peshawar, Lakki Marwat and Bannu.
3. DAO Peshawar, Lakki Marwat and Bannu.
4. P.S To Director General PWD, Peshawar.
5. Official Concerned for compliance.
6. Master File.

(Kashif Fida)

Assistant Director (Admn)

D/O Office work (2)



BEFORE THE CHAIRMAN
KPK, SERVICES TRUST, BANGALORE

Member (Supervisors)
for the
Chairman

~~the undersigned~~
APPLIANT
18/01/2014

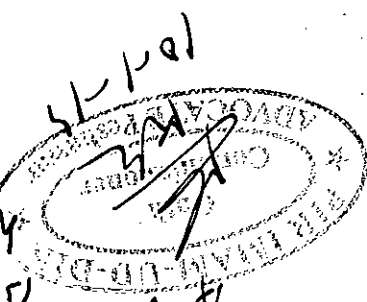
PRABHAKAR
FEDERAL
APPLIANT
18/01/2014
SOME REQUIRES
PROTECTION OF THE PETITION SUBM-
MITTED UNDER ART. 212 OF THE
CONSTITUTION OF INDIA 1973

Request very much
1. That the title of petition is fixed
the pro-animary hearing to day
on 18.1.2014

2. That as submitted in the heading
of the application intimation is
required, so it would be in the
interest of justice in the
is done by the Hon'ble member

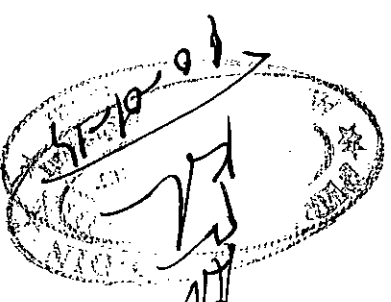
having processed of application
back ground of my relation
is the matter

It is hereby requested that
be allowed to be processed
may be allowed



18/1/14

M. S. Rao
Chairman
Services Trust
Bangalore



Date 10.1.2014
Prasanna

M. MURTHY
The Advocate

As per my discussion with you, the contents of the application are true & correct, the facts are stated in my discussion and I am not aware of any other facts which are not mentioned in the application. The facts stated in the application are true & correct, the facts are stated in my discussion and I am not aware of any other facts which are not mentioned in the application.

Advocate

Sd/- M. M. Murthy

v/s

Prasanna

Prasanna
Prasanna
Prasanna

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Arif AbbasPetitioner

V E R S U S

1. The State
2. Others
.....Respondents

**APPLICATION PRAYING FOR
REFERRING THE PETITION UNDER
ARTICLE 212 OF THE
CONSTITUTION OF PAKISTAN FOR
HEARING BY THE FULL BENCH OF
THE TRIBUNAL, BEING THE CASE
OF FIRST IMPRESSION**

Respectfully submitted as under:

1. That the above captioned Constitutional petition in view of Article 212(2) of the Constitution of Islamic Republic of Pakistan is the first petition on which the Government has been issued notice, and that the Tribunal has to decide that whether the assumption of jurisdiction by the Tribunal would be

lawful in a transfer matter where as per the Government policy a civil servant is otherwise required compliance forthwith and waiting for 30 days would render the matter anfractuous and a malafide act resulting in the impugned order will result into the non-redresal of the grievance of the petitioner.

2. That the Tribunal would also have to examine the scope of article 212(2) of the constitution, whereas article 212(1) has already granted the exclusive jurisdiction to the Service Tribunal.
3. That the Tribunal would also examine the applicability of the code of civil procedure 1908, in ascertaining the applicability of the powers relating to the grant of injunction. In such context it would also require ascertainment and applicability as well as the scope of the term "Injunction" in comparison and in consonance with the term "Writ" while exercising the jurisdiction under the constitution of Pakistan.
4. That this honorable Tribunal may also examine the circumstances of the case of petitioner where as per Government policy in view of the article 129 of the constitution read with the provisions of the Esta-Code on transfer to another District, the civil servant has to assume charge within 7 days and the entire life given to a civil servant for the purpose of transfer is confined to 7 days only then, whether the Khyber Pakthunkhwa service tribunal would be attracted to the case of petitioner or the relevant provision would

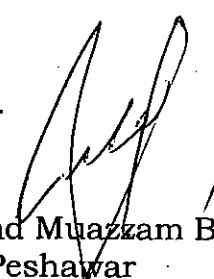
be under the constitution of Pakistan under article 212(2) read with article 212(1).

5. That in the case of petitioner whereas his fundamental rights guaranteed under article 9 of the constitution of Pakistan read with other enabling provisions of the statutory laws to the same effect while considering the fact that the petitioner is a disabled person and is a patient of Cari-Spine disease which means Tuberculosis of Spinal Cord and his transfer may cause injury to his life, his transfer would be in the interest of justice or on administrative grounds and that in the context of the concerned provisions of civil servant act due conditions have been provided in the terms and conditions of the service of the petitioner and if not what would be its effect?
6. That the Service Tribunal may also consider the comparative study of article 212 read with article 199 of constitution of Pakistan in view of the perspective that article 199 clearly provides its applicability "subject to constitution" whereas article 212 provides the exclusive jurisdiction to the service tribunal to decide the cases of every nature of service matters exclusively and as such the tribunal may ascertain that in the service cases where no other remedy is provided/available, the Service tribunal would be competent to provide/grant a relief to the petitioner.
7. That all the above mentioned questions relating to the assumptions of jurisdiction has been raised for the time before the tribunal therefore proprietary of

law and for the safe administration of justice and to provide an exhaustive judgment, it would be appropriate if the matter is referred for constituting a full bench hearing of the members of the tribunal to grant the hearing of the petitioner and a decision in consequence thereof.

It is, therefore, most humbly prayed that on acceptance of this application, the above captioned case may be referred to the Chairman for the constitution of full bench of members of the Service Tribunal Khyber Pakhtunkhwa.

Petitioner
Through


Muhammad Muazzam Butt
Advocate Peshawar