


FORM OF ORDER SHEET

Court of _____

Appeal No. 1805/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/09/2023	<p>The appeal of Mst. Bibi Sumaira presented today by Mr. Afrasiab Khan Wazir Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR**

APPEAL No. 1805 /2023

MST BIBI SUMAIRA

...VERSUS...

PROSECUTION DEPARTMENT & OTHERS

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	1-3
2.	Affidavit, stay application	4-6
3.	transfer order dated 15.01.2021	A	7
4.	transfer order dated 31.01.2022	B	8-11
5.	impugned transfer order dated 21.07.2023	C	12
6.	writ petition No.952/2023	D	13-17
7.	Departmental appeal and appellate order dated 05.09.2023	E	18-23
8.	Relieving order dated 05.09.2023	F	24
9.	Notification No. F.No2(1)/2023-cord & notification No. SO (Policy)(E&AD)/1-4/2023	G	25
10.	Vakalatnama	26

APPELLANT

THROUGH:

**AFRASIAB KHAN WAZIR
ADVOCATE HIGH COURT**

Office Address:
Room No.6 Afridi Tower,
Government College Chowk,
Faqirabad, Peshawar.
☎ 0312-9888752

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 1805/2023.

Mst. Bibi Sumaira, Deputy Public Prosecutor (BPS-18), District Mansehra, under transfer to District Haripur.

....Appellant.

...VERSUS...

- 1- The Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Home & tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.
- 4- The Deputy Director Administration, Prosecution Department, Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS.

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED TRANSFER ORDER DATED 21.07.2023 & RELINQUISHMENT ORDER DATED 05.09.2023 AND AGAINST APPELLATE ORDER DATED 05.09.2023 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

Prayer:

That on acceptance of this instant service appeal the impugned transfer orders dated 21.07.2023, appellate order dated 05.09.2023 & relinquishment order dated 05.09.2023 may very kindly be set aside and respondents may please be directed not to transfer the appellant from District Mansehra to District Haripur to complete her normal tenure. Any other appropriate relief which this august Tribunal deems fit that may also be awarded in favor of the appellant.

RESPECTFULLY SHEWETH:

ON FACTS:

Brief facts of the appeal are as following:

- 1- That the appellant is the employee of prosecution department and serving as Deputy public prosecutor (BPS-18).
- 2- That appellant was serving in the District Mansehra from where she was transferred by the respondents to district Torghar vide order dated 15.01.2021.

Copy of transfer order dated 15.01.2021 is attached as annexure.....A.

3- That the appellant after spending one year in district Torghar she was transferred to District Mansehra vide order dated 31.01.2022 by the respondents.

Copy of transfer order dated 31.01.2022 is attached as annexure.....B.

4- That astonishingly the respondents again issued impugned transfer order dated 21.07.2023 whereby the appellant is transferred from district Mansehra to District Haripur.

Copy of impugned transfer order dated 21.07.2023 is attached as annexure.....C.

5- That the appellant feeling aggrieved, she filed Writ Petition No.952/2023 before the Peshawar high Court Bench Abbotabad, whereof operative part is reproduced as below:

In view of the above, respondent No.7 is directed to decide the departmental representation of the petitioner within the prescribed period of law, however, till the decision of her representation, the impugned transfer of the petitioner shall remain suspended".

Copy of the writ petition No.952/2023 is attached as annexure.....D.

6- That during the pendency of the aforementioned writ petition the appellant had already preferred departmental appeal against the impugned order dated 21.07.2023 to the appellate authority which is rejected on dated 5.09.2023 on no good grounds by the respondents.

Copy of the departmental appeal and appellate order dated 05.09.2023 is attached as annexure.....E.

7- That in response to the aforementioned rejection of representation the respondents again issued order dated 05.09.2023 through which she has been relieved from the District Mansehra to join her new assignment at district Haripur.

Copy of the relieving order dated 05.09.2023 is attached as annexure.....F.

8- That the appellant further feeling aggrieved and having no other alternate and efficacious remedy but to file this appeal on the following grounds inter alia.

ON GROUNDS:

A- That the issuance of impugned premature transfer order dated 21.07.2023 & Relinquishment order dated 05.09.2023 & appellate order dated 05.09.2023 is against law and rules hence liable to be set aside.

B- That the appellant has not been treated by the respondents in accordance with law, thus violated Article 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973.

C-That the respondents acted in arbitrary and malafide manner by issuing the aforementioned orders, which is against norms of natural justice.

D-That the impugned transfer order 21.07.2023 is against ban notification No. F.No2(1)/2023-cord on all kind of transfer posting imposed by the election commission of Pakistan and also of Government of KPK vide establishment department regulation Wing notification No. SO (Policy)(E&AD)/1-4/2023. Hence the impugned order dated 21.07.2023 & relinquishment order dated 05.09.2023 & appellate order dated 05.09.2023 is not tenable in eye of law.

Copy of Notification No. F.No2(1)/2023-cord & notification No. SO (Policy)(E&AD)/1-4/2023 is attached as annexure.....G.

E- That the appellant before completion of her normal tenure at District Mansehra she has been transferred to District Haripure, is a violation of transfer posting policy in stricto sensu.

F- That it's clear in the transfer posting policy that no one should be punished on administrative ground and misuse power but the respondents bent to do so in the case of the appellant.

G-That the appellant is having health issues i.e joint pain and doctors advised her to avoid travelling as well as she is a mother of two kids who will suffer a lot, neither she has been provided any accommodation in that area.

H- That the appellant seeks permission to advance any other ground at the time of regular hearing.

It is therefore, most humbly prayed that the appeal of the appellant may very graciously be accepted.

APPELLANT

BIBI SUMAIRA


Through:

Afrasiab Khan Wazir
Advocate High Court

Dated: _____/2023.

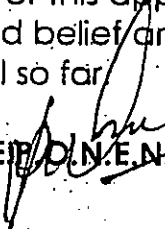
Certificate:

It is to certify that no earlier appeal has been filed between the parties on the same issue.


D.E.P.O.N.E.N.T

Affidavit:

I, Mst BiBi Sumair, Deputy Public Prosecutor District Mansehra, do hereby declare and affirm that the contents of this appeal is true and correct to the best of my knowledge and belief and nothing has been concealed from this August tribunal so far


D.E.P.O.N.E.N.T



5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

C.M No. _____/2023

In Appeal No. _____/2023.

Mst. Bibi Sumaira

....**VERSUS**....

Prosecution Department & Others

APPLICATION FOR SUSPENSION/STOPPAGE OF RELINQUISHMENT ORDER DATED 05.09.2023 & TRANSFER ORDER DATED 21.07.2023 TILL DISPOSAL OF THE AFOREMENTIONED APPEAL.

RESPECTFULLY SHEWETH:

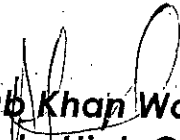
Brief facts of the application are as following:

- 1- That the appeal of the appellants is pending adjudication before this August Tribunal in which date is not yet fixed.
- 2- That the appellants have filed the abovementioned appeals against the impugned premature transfer order dated 21.07.2023 whereby the appellants has been transferred from Mansehra to District Haripur illegally and unlawfully by the respondents.
- 3- That even after premature transfer order the respondents issued another order dated 05.09.2023 whereby the appellant is forcedly relived from Mansehra to District Haripur showing malafide and misuse of power of the respondents.
- 4- That the appellant before completion of her normal tenure transferred to Haripur dated 21.07.2023 which is a blatant violation of transfer posting policy.
- 5- The transfer posting is already banned by the Government of kpk but still the respondents are violating it deliberately and blatantly to create fuss among the civil servants.
- 6- That the appellant is patient (joint pain) and travelling that much distance will cause more health issues as the doctors advised her to avoid travelling.

- 7- That the appellant has not yet submitted her charge relinquishment report neither took charge in the district haripur and the respondents are bent on to take adverse action against her if she don't take charge at Haripur immediately after the aforesaid order of the respondents.
- 8- That all the three ingredient related stay are in favor of the appellants.
- 9- That the valuable rights of the appellant's are attached to this case and will cause irreparable loss if order dated 05.09.2023 and transfer order dated 21.07.2023 is not suspended/stopped timely.

It is therefore, most humbly prayed that on acceptance of this stay application the relieving order dated 05.09.2023 & transfer order dated 21.07.2023 may very kindly be suspended/stopped and respondents may please be directed not to transfer/relive the appellant from the district Mansehra to district Haripur till the disposal of the abovementioned appeals.

APPELLANT

Through: 
Afrasiab Khan Wazir
Advocate High Court

Dated: _____/2023

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar, the 15th January 2021

NOTIFICATION

No.SQ(PRO5)/HD/1-2/Post&Trans/2021 The Competent Authority is pleased to order postings / transfers of the following prosecution officers, with immediate effect, in the public interest:-

Sr	Name of Officer / Designation with BS	From	To
1	Mr. Waheed Ullah Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Barau	Assistant Public Prosecutor D.I.Khan vice 3
2	Mr. Zafar Ali Khan Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor D.I.Khan	Assistant Public Prosecutor Tank vice 4
3	Mr. Aftab Jahan Bhatti Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor D.I.Khan	Assistant Public Prosecutor Karak vice 10
4	Muhammad Ishaq Khan Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Tank	Assistant Public Prosecutor D.I.Khan vice 2
5	Mr. Kamran Asim Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor Barau	Assistant Public Prosecutor Karak vice 7
6	Mr. Asad Amwar Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor Lakki Marwal	Assistant Public Prosecutor Karak vice 8
7	Muhammad Jisrar Ahmad Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor Karak	Assistant Public Prosecutor Barau vice 5
8	Mr. Zaid Ullah Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor Karak	Assistant Public Prosecutor Lakki Marwal vice 6
9	Mr. Shad Muhammad Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor Kohat	Assistant Public Prosecutor Marau against vacant post
10	Mr. AbdulQasim Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Karak	Assistant Public Prosecutor Barau vice 1
11	Mr. Zafar Ullah Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Karak	Assistant Public Prosecutor Kohat vice 9
12	Ms. Sobia Raheed Raja Deputy Public Prosecutor (BS-18)	Deputy Public Prosecutor Abbottabad	Deputy Public Prosecutor Manselva vice 13
13	Ms. Bibi Sumera Deputy Public Prosecutor (BS-18)	Deputy Public Prosecutor Manselva	Senior Public Prosecutor Torghar CPS against vacant post
14	Ms. Mahjabeen Deputy Public Prosecutor (BS-18)	Deputy Public Prosecutor Manselva	Deputy Public Prosecutor Abbottabad vice 12
15	Ms. Farid Gill Deputy Public Prosecutor (BS-18)	Deputy Public Prosecutor Abbottabad	Deputy Public Prosecutor Manselva against vacant post
16	Mr. Haris Hlyn Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Abbottabad	Assistant Public Prosecutor Manselva against vacant post
17	Ms. Bushra Ahsan Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Abbottabad	Assistant Public Prosecutor Mar sehra against vacant post
18	Syed Ahsan Syed Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor Manselva	Assistant Public Prosecutor Abbottabad vice 19
19	Muhammad Nasseem Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor Abbottabad	Assistant Public Prosecutor Manselva vice 18
20	Ms. Ardesh Chaboor Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Manselva	Assistant Public Prosecutor Torghar vice 21
21	Mr. Amjad Ali Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Torghar	Assistant Public Prosecutor Abbottabad vice 16
22	Ms. Zobia Ullah Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Haripur	Assistant Public Prosecutor Abbottabad vice 23
23	Muhammad Usaf Khan Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Abbottabad	Assistant Public Prosecutor Haripur vice 22
24	Ms. Kotlic Ak Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Balingrain	Deputy Public Prosecutor (BPS) Manselva vice 14
25	Muhammad Tauseem Zeb Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor Torghar	Assistant Public Prosecutor Kohistan (Lower) vice 26
26	Muhammad Usman Ali Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor Kohistan (Lower)	Assistant Public Prosecutor Torghar vice 25
27	Mr. Amjad Khan Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Buner	Assistant Public Prosecutor Swat vice 29
28	Mr. Faridhadi Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Buner	Assistant Public Prosecutor Swat vice 30
29	Mr. Nuhar Ahmad Assistant Public Prosecutor (BS-17)	Assistant Public Prosecutor Swat	Assistant Public Prosecutor Buner vice 27

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2021

~~ATTACHED~~



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT**

Dated Peshawar the 31st January, 2022

NOTIFICATION

No.SO(Pros:)/HD/2-3/Post & Trans/2022. The Chief Minister Khyber Pakhtunkhwa is pleased to order postings/transfers of the following Prosecution Officers with immediate effect, in the best public interest:

S#	Name With Designation	From	To
1.	Mr. Usman Zaman Senior Public Prosecutor (BPS-19)	Deputy Secretary Administration, Establishment Department on deputation.	Senior Public Prosecutor, Mardan against vacant post
2.	Muhammad Changaz Senior Public Prosecutor (BPS-19)	Deputy Public Prosecutor Haripur.	District Public Prosecutor, Kofai Palas against vacant post
3.	Mr. Qamar Zeb Senior Public Prosecutor (BPS-19)	Deputy Public Prosecutor Charsadda.	Senior Public Prosecutor, Peshawar vice Sr No.22
4.	Mr. Waqas Ashraf Senior Public Prosecutor (BPS-19)	Deputy Public Prosecutor Manshera	Senior Public Prosecutor, Kofai Palas against vacant post
5.	Mr. Zia ul Qamar Saif Senior Public Prosecutor (BPS-19)	Deputy Director Administration Directorate of Prosecution	Senior Public Prosecutor, Peshawar Anti-Corruption Court vice no 24
6.	Mr. Rafi Ullah Senior Public Prosecutor (BPS-19)	Deputy Public Prosecutor Swat	District Public Prosecutor, Upper Dir against vacant post
7.	Muhammad Muzafar Senior Public Prosecutor (BPS-19)	Deputy Public Prosecutor Nowshera	Senior Public Prosecutor, Lower Dir against vacant post
8.	Mr. Bakht Haider Senior Public Prosecutor (BPS-19)	Senior Public Prosecutor (BPS- 19) (OPS) at ATC Court Swat at camp Court Huner	Senior Public Prosecutor, Swat at Anti-Terrorism camp court Huner against vacant post
9.	Mr. Anwar Khan Senior Public Prosecutor (BPS-19)	Deputy Public Prosecutor, Peshawar	Senior Public Prosecutor, ATC Peshawar, vice Sr No 31
10.	Muhammad Zaib Khan Senior Public Prosecutor (BPS-19)	Deputy Public Prosecutor Charsadda	Senior Public Prosecutor, Mardan against vacant post
11.	Muhammad Ilyas Senior Public Prosecutor (BPS-19)	Deputy Public Prosecutor Haripur	Senior Public Prosecutor, Torghar vice Sr No. 104
12.	Syed Asghar Asad Senior Public Prosecutor (BPS-19)	On Deputation as SO Police Home Department	Senior Public Prosecutor, Dir Lower for one day to actualize his promotion and then report to Home Department for further posting.
13.	Muhammad Inam Senior Public Prosecutor (BPS-19)	Deputy Public Prosecutor Mardan	Senior Public Prosecutor, Dir Lower against vacant post

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

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67.	Mr. Asfandyar Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Khyber	Deputy Public Prosecutor, Mohmand against vacant post
68.	Mr. Naeem Ullah Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Directorate of Prosecution as Assistant Director Complaint	Deputy Director Monitoring, Directorate of Prosecution against vacant post
69.	Muhammad Yasar Deputy Public Prosecutor, (NPS-18)	Assistant Public Prosecutor, South Waziristan	Deputy Public Prosecutor, South Waziristan against vacant post
70.	Mr. Irfan Ullah Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Dir Lower	Deputy Public Prosecutor, Dir upper against vacant post
71.	Mr. Razaullah Haq Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Bajaur	Deputy Public Prosecutor, Bajaur against vacant post
72.	Mr. Imtiaz Ahmad Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Duner	Deputy Public Prosecutor, Office of the Regional Director Prosecution Malahand against vacant post
73.	Mr. Sheema Ayub Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, On deputation to PEDO	Deputy Public Prosecutor, Abbottabad against vacant post
74.	Mr. Umar Saiful Jall Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Chitral Lower	Deputy Public Prosecutor, Lower Chitral against vacant post
75.	Mr. Muzhar Ali Shah Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Swat	Deputy Public Prosecutor, Swat against vacant post.
76.	Mr. Zahid Gul Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Duner	Deputy Public Prosecutor, Malahand against vacant post
77.	Ms. Illia Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Khyber	Deputy Public Prosecutor, Office of the Regional Director Prosecution Maland against vacant post
78.	Mr. Imtiaz Ali Deputy Public Prosecutor (NPS-18)	Deputy Public Prosecutor, Mansehra (OP5)	Deputy Public Prosecutor, Mansehra against vacant post on regular base
79.	Ms. Shabana Maqsood Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Khyber	Deputy Public Prosecutor, Nowshera vice Sr No. 62
80.	Mr. Farooq Hayat Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Dir Lower	Deputy Public Prosecutor, Dir Lower against vacant post
81.	Mr. Kifayat Ullah Harbi Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, South Waziristan	Deputy Public Prosecutor, South Waziristan against vacant post
82.	Mr. Ibram Ullah Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, On deputation to Anti-corruption	Deputy Public Prosecutor, Chitral for one day to attend his promotion and Anti Corruption Establishment Deputy Public Prosecutor, Dir Lower against vacant post
83.	Mr. Waheed Ullah Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Swat	Deputy Public Prosecutor, Swat against vacant post
84.	Ms. Uzma Noor Deputy Public Prosecutor (NPS-18)	Assistant Public Prosecutor, Peshawar	Deputy Public Prosecutor, Peshawar against vacant post

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

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85.	Mr. Zulfiqar Ali Deputy Public Prosecutor (BPS-18)	Deputy Public Prosecutor, Mardan (OPS)	Deputy Public Prosecutor, Swabi against vacant post
86.	Mr. Sadeeq Anjum Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor (BS-17) On deputation to Anti-corruption	Deputy Public Prosecutor, Office of the Regional Director Prosecution Peshawar for one day to actualize his promotion and then report to Directorate of Anti-Corruption Establishment.
87.	Mr. Kamran Ullah Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, On deputation to CM Sectt.	Deputy Public Prosecutor, Charsadda vice Sr No. 90
88.	Mr. Haroon Khan Sani Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Swat	Deputy Public Prosecutor, Mardan vice Sr No. 85
89.	Mr. Sikandar Zaman Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Nowshera	Deputy Public Prosecutor, Malakand against vacant post
90.	Mr. Shah Saud Deputy Public Prosecutor (BPS-18)	Deputy Public Prosecutor, Charsadda (OPS)	Deputy Public Prosecutor, Peshawar vice Sr No. 103
91.	Mr. Zeeshan Taj Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Mansehra	Deputy Public Prosecutor, Haripur vice Sr No. 02
92.	Ms Andulceb Shahir Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Torghar	Deputy Public Prosecutor, Mansehra vice Sr No. 04
93.	Mr. Attaullah Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Battagram	Deputy Public Prosecutor, Kohistan Upper, against vacant post
94.	Muhammad Ali Shah Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Malakand	Deputy Public Prosecutor, Mardan vice Sr No. 99
95.	Mr. Umer Mahmood Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Swabi	Deputy Public Prosecutor, Swabi against vacant post
96.	Mr. Mukhtiar Ahmad Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Shangla	Deputy Public Prosecutor, Dir Upper against vacant post
97.	Mr. Zohab Ahmad Sher Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Hangu	Deputy Public Prosecutor, Office of the Regional Director Prosecution Kohat against vacant post
98.	Mr. Imran Khan Deputy Public Prosecutor (BPS-18)	Assistant Public Prosecutor, Swabi	Deputy Public Prosecutor, Swabi against vacant post
99.	Mr. Taimur Khan Assistant Public Prosecutor (BPS-17)	Deputy Public Prosecutor, Mardan (OPS)	Assistant Public Prosecutor, Mardan vice Sr No. 58
100.	Mr. Sardar Ali, Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor, Charsadda	Assistant Public Prosecutor, Khyber against vacant post
101.	Mr. Amjad Ali, Assistant Public Prosecutor (BPS-17)	Assistant Public Prosecutor, Malakand	Assistant Public Prosecutor, Charsadda vice Sr No. 100

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Date

ATTACHED



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

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102	Mr. Tahir Ali, Assistant Public Prosecutor (IPS-17)	Senior Public Prosecutor, Mardan (OPS)	Assistant Public Prosecutor, Mardan against vacant post
103	Muhammad Imran, Assistant Public Prosecutor (IPS-17)	Deputy Public Prosecutor Peshawar, (OPS)	Assistant Public Prosecutor, Peshawar against vacant post
104	Ms. Sumaira Ibbi, Deputy Public Prosecutor (BPS-18),	Senior Public Prosecutor, Torghar, (OPS)	Deputy Public Prosecutor, Manselra against vacant post
105	Muhammad Ullai Qureshi, Senior Public Prosecutor (BPS-19)	Senior Public Prosecutor, Haripur	Senior Public Prosecutor, Abbottabad vice Sr No. 106
106	Mr. Asim Mahmood, Senior Public Prosecutor (BPS-19)	Senior Public Prosecutor, Abbottabad	Senior Public Prosecutor, Haripur vice Sr No. 105

Secretary
Home Department

Endst: No. and date even:

Copy forwarded to: -

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.
4. All Regional Directors Prosecution, Khyber Pakhtunkhwa.
5. All District Public Prosecutors, Khyber Pakhtunkhwa.
6. All District Accounts Officers, Khyber Pakhtunkhwa.
7. Officers Concerned.
8. P.S to Secretary, Home Department, Khyber Pakhtunkhwa.

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Deputy Secretary (Judicial)

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Amir RUP C 27

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

Dated Peshawar the 21st July, 2023

NOTIFICATION

No.SO(prosecution)/HD/1-2/Post &Trans/2023: The competent authority (Chief Minister, Khyber Pakhtunkhwa is pleased to order the following postings/transfers of Deputy Public Prosecutors (BS-18), with immediate effect, in the public interest:

S#	Name with Designation	From	To
1.	Ms. Beenish Gul, Deputy Public Prosecutor (BS-18)	Deputy Public Prosecutor, Haripur	Deputy Public Prosecutor, Mansehra
2.	Ms. Bibi Sumaira, Deputy Public Prosecutor (BS-18)	Deputy Public Prosecutor, Mansehra	Deputy Public Prosecutor, Haripur

**SECRETARY
HOME & TRIBAL AFFAIRS
DEPARTMENT**

Endst: No. and date even:

Copy forwarded to:

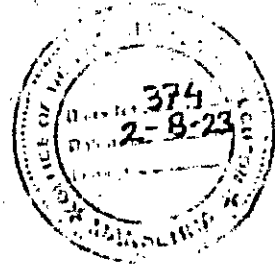
1. The Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
2. The Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
3. The Director General Prosecution Khyber Pakhtunkhwa.
4. The Regional Director Prosecution Hazara Division, Abbottabad.
5. The District Public Prosecutors Haripur/Mansehra.
6. The District Accounts Officers Haripur/Mansehra
7. The officers concerned.
8. PS to Secretary Home Department, Khyber Pakhtunkhwa

(Muhammad Israr)

SECTION OFFICER (PROSECUTION)

Madam Beenish pl

2/8/23



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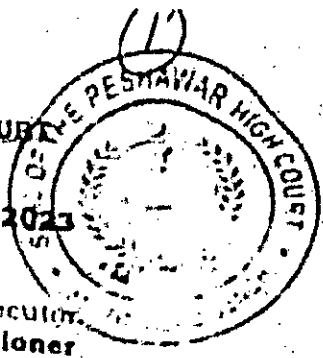
ANNEX

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13

**BEFORE THE PESHAWAR HIGH COURT
BENCH ABBOTTABAD**

W.P. No. 212 of 2023



Bibi Sumaira, Deputy Public Prosecutor,
Manshra.....Petitioner

Versus

- 1) Assistant Director (Admin) Directorate of Prosecution Civil Secretariat Peshawar
- 2) Deputy Director (Admin) Directorate of Prosecution Civil Secretariat Peshawar
- 3) Director (Admin) Directorate of Prosecution Civil Secretariat Peshawar
- 4) Director General (Prosecution) Directorate of Prosecution Civil Secretariat Peshawar
- 5) Secretary Home KPK Civil Secretariat Peshawar
- 6) Chief Secretary KPK Civil Secretariat Peshawar
- 7) Government of KPK through Chief Secretary, Civil Secretariat Peshawar.....Respondents

u be true Copy
11/7/23
2023

TODAY
REGISTRAR
HIGH COURT
ABBOTTABAD
26/7/23

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WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973 TO
THE EFFECT THAT THE PETITIONER
HAS BEEN TRANSFERRED FROM
MANSEHRA TO DISTRICT HARIPUR
VIDE ORDER NO. (SO
PROSECUTION)/HD/1-2/POSTING AND
TRANSFER/2023 DATED 21ST JULY,
2023, VIDE WHICH THE TRANSFER
ORDER IS AGAINST THE LAW,
ARBITRARY, FANCIFUL,
DISCRIMINATORY, POLITICAL
INFLUENCE AND AGAINST THE

REGISTRAR
HIGH COURT
ABBOTTABAD
27/7

~~ATTSTED~~

FUNDAMENTAL RIGHTS OF THE PETITIONER.

Respectfully Showeth

Brief facts leading to the instant writ petition are arrayed as follows: -

1). That, the petitioner is working as Deputy Public Prosecutor (BPS-18) in District Manshra where the petitioner was transferred ~~into~~ hard area of District Torghar on 15.01.2021 vide Notification No. SO(PROSP)/HD/1-2/Post&Trans/2021 after serving more than 1 year in hard district of Torghar, *transferred to*

Manshra. d/r 31 Jan 2022

(Copy of the Notification ~~is~~ annexed as Annexure "A").

2) That, petitioner is residing in her own house at Manshra, as no official residence is provided to the prosecutors alongwith petitioner two kids one school going aged about 4½ hears and 2½ -hears respectively, through which petitioner has been transferred from Manshra to Haripur vide Notification No. (SO Prosecution)/HD/1-2/Posting and Transfer/2023 Dated 21st July, 2023.

(Copy of the Notification is annexed as Annexure "B").

That, feeling aggrieved petitioner invokes the jurisdiction of this Honourable Court *inter-alia* on the following grounds: -

True Copy
MINI
2023
Sd/-
Seal

REGISTRAR
MANSRA
2023

~~ATTSTED~~

15

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET



Date of Order of Proceedings

26.07.2023

Order or other Proceedings with Signature of Judge

Interim relief in WP No. 252-1/2023

Present: Petitioner in-person.

...

At the very outset petitioner states that she has preferred departmental appeal, however, the same is not available on file and she requested for some time.

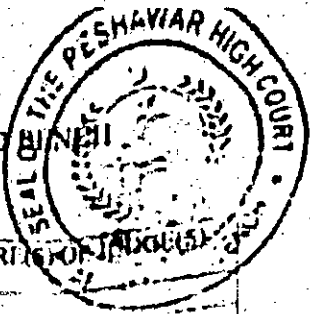
Adjourned for tomorrow i.e 27.07.2023.

JUDGE

Certified to be True Copy
EXAMINED
27 JUL 2023
Peshawar High Court as Bench
Authorized Under the Seal of the Court

~~ATTSTED~~

16



PESHAWAR HIGH COURT, ABBOTTABAD
FORM 'A'
FORM OF ORDER SHEET

Order of the Court in Proceedings

ORDER OR PROCEEDINGS WITH SIGNATURES FOR JUDICIAL OFFICERS

27.07.2023

IR in WP No. 953-A/2023

Present:- Petitioner in person.

MUHAMMAD HAZ KHAN, J. Through the instant petition filed under Article 199 of The Constitution of Islamic Republic of Pakistan, 1973, the petitioner has challenged her transfer order dated 21.07.2023.

2. Today at the very outset when the petitioner was confronted that since she is a civil servant and the dispute involved in the instant writ petition relates to one of her terms and conditions, therefore, this court has no jurisdiction to entertain the instant petition in view of the bar contained in Article 212 of The Constitution of Islamic Republic of Pakistan, 1973 so thereafter she stated that she would be satisfied if her this petition is transmitted to the departmental authority for treating it as a representation or to direct the departmental authority to decide her representation already filed before it in line with the law laid down by the Apex Court in case titled "Muhammad Akram vs. DCO Rahim Yar Khan" reported as 2017 SCMR 56. She also relied on a judgment in the case titled "Muhammad Sikandar vs. District Collector/DCO Rajanpur" reported as 2016 P. L. C (C.S.) 306.

153

Q. By Her Majesty's Justice Muhammad Jaz Khan

Certified to be true copy
7 JUL 2023
Particulars of the Court of
Authorised Signatory Officer

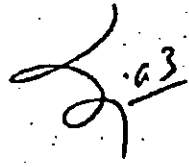
~~ATTSTED~~

whereby till the decision of the representation, the operation of the impugned transfer order was suspended. Similarly, she also produced copy of writ petition No. 117-M/2020 decided on 21.01.2020 whereby an identical relief was extended to the aggrieved person.

3. In view of the above, respondent No.7 is directed to decide the departmental representation of the petitioner within the prescribed period of law, however, till the decision of her representation, the impugned order of the petitioner shall remain suspended.

4. With above observations and direction, this writ petition is hereby disposed of.

Announced.
17.07.2023.



JUDGE

be True Copy
MINES
JUL 2023
177- Court of Justice
1777 St. 200. 2023

(S. H) Hon'ble Mr. Justice Abdul Samad (Retd.)

~~ATTACHED~~

ANNEX

- E

**BEFORE THE HONOURABLE CHIEF
SECRETARY, KHYBER PAKHTUNKHWA
PESHAWAR**

18

Through: - PROPER CHANNEL

Subject: - DEPARTMENTAL REPRESENTATION/
APPEAL AGAINST THE NOTIFICATION NO.
SO(PROSECUTION)/HD/1-2/POST AND
TRANS/2023 DATED 21.07.2023 VIDE
WHICH THE APPELLANT TRANSFERRED
FROM DISTRICT MANSEHRA TO
DISTRICT HARIPUR.

Respectfully Sheweth!

Brief facts leading to the instant appeal are arrayed as follows: -

- 1) That, the appellant is working as Deputy Public Prosecutor (BPS-18) in District Mansehra where the appellant was transferred from hard area of District Torghar on 31.01.2022 vide Notification No. SO(PROSP)/HD/2-3/Post&Trans/2022 after serving more than 1 year in hard district of Torghar.
- 2) That, appellant is residing in her own house at Mansehra, as no official residence is provided to the prosecutors alongwith appellant two kids one school going aged about 4½ hears and 2½ hears respectively, through which appellant has been transferred from Mansehra ^{realme} to Haripur.

ATTACHED

(19)

HD/1-2/Posting and Transfer/2023
Dated 21st July, 2023.

The appellant submitted a representation against the impugned Notification on the basis of following grounds: -

GROUND: -

- A) That, there is complete ban upon all kinds of posting/transfer by Election Commission of Pakistan vide Notification No. F.No. 2(1)/2023-Cord. and the impugned Notification is against the law. Hence liable to be set-aside.
- B) That, there is also complete ban on the posting/transfer of officials imposed by the Government of KPK vide Establishment Department Regulation Wing vide Notification No. SO(Policy)(E&AD)/1-4/2023 due to the fragile fiscal position of the Provincial Government.
- C) That, no official accommodation provided to the prosecutors, therefore almost all of the lady prosecutors have been posted either at their choice station or their home stations. In the case of appellant, the appellant has been badly discriminated.

~~ATTACHED~~

D) That, the appellant have been indulged in litigation with the department due to her valuable rights and recently unable KPK Service Tribunal has suspended operation of prosecution rules framed against the rights of appellant and her colleagues. Due to this reason, appellant was victimized and transferred to the far-flung district from her presently residing district.

E) That, the appellant served in hard area for more than 1 year and in the year 2022 has been transferred to district Mansehra where the tenure is less than 1½ year. This is also discrimination and malafide on the part of respondents.

F) That, there was no urgency in the matters of transfer of the appellant and the Notification seems to be discriminatory on the face of it.

G) That, appellant is having joints pain and this problem and doctors advised not to travel for a long time.

H) That, there are about 500 other prosecutors working in KPK hundred of them completed their

~~ATTSTED~~

tenure and they have not been transferred, only 6 prosecutors including petitioner have been transferred which is discrimination pure and simple.

1) That, time and again prosecution department/respondents have been directed by Honourable Peshawar High Court that no discrimination should be done in the posting/transfer of prosecutors but respondents ignored this direction and appellant had been badly discriminated.

recline
J)

That, it is not possible for the appellant to travel from one district to 3rd district after changing 4 to 5 vehicle through public transport and the appellant has no personal vehicle available with the appellant.

It is, therefore, most humbly prayed and requested that on acceptance of the instant appeal the impugned posting/transfer Notification may graciously be set-aside upto the extent of appellant.

Dated 25/07/2023

Bibi Sumaira
Deputy Public Prosecutor
Mansehra (Appellant)

~~ATTACHED~~

22

The
District Prosecution
Manshra

No. 1834-35 /2023/DPP/MA.
Dated Manshra 26-07-2023

The Worthy Director General,
Directorate of Prosecution,
Home & T.A Department,
Khyber Pakhtunkhwa, Peshawar.

DEPARTMENTAL APPEAL IN RESPECT OF MRS. BI
SUMAIRA DY PP MANSEHRA.

I have the honour to enclose herewith departmental appeal in
is self-explanatory alongwith enclosures of Mrs. Bibi Sumaira
Prosecutor, Manshra for further necessary action please.

regime

District Public Prosecutor
Manshra

/DPP/MA/23 Dated Manshra the 26-07-2023.
to file:-
Public Prosecutor concerned.

FOR Andleeb

District Public Prosecutor
Manshra

~~RECEIVED~~

23



DIRECTORATE OF PROSECUTION
GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

No. DP/ F. H. I. PF/ 11000 - 01
Dated Peshawar the 05/09/2023
Office Landline#091-9212559

To: District Public Prosecutor,
Manselura.

Attention: Ms. Bibi Sumaira, Deputy Public Prosecutor (BPS-18).

Subject: - DEPARTMENTAL REPRESENTATION/APEAL AGAINST THE NOTIFICATION SO (PROS/MID/ 1-3/POST AND TRANS/2023 DATED: 21-07-2023 VIDE WHICH THE APPELLANT WAS TRANSFERRED FROM DISTRICT MANSEHRA TO DISTRICT HARIPUR.

Dear Sir,

I am directed to refer to your letter No. 1834-35/2023/DPP/MA dated: 26-07-2023 on the subject and to enclose herewith a copy of self-explanatory order bearing No. SO(Prosecution)/HD/1-2/2023 (Postings/Transfers) dated: 05-09-2023 received from Home Department and to state that the Competent Authority has filed the representation of Ms. Bibi Sumaira, Deputy Public Prosecutor (BPS-18), Manselura.

Yours sincerely,

[Signature]
Deputy Director Administration

Copy forwarded for information to:

1. Section Officer (Prosecution), Khyber Pakhtunkhwa.
2. PA to Director General Prosecution, Khyber Pakhtunkhwa

[Signature]
Deputy Director Administration



Supdt
PD refer to hand PP
Sumaira madam for info of
07/09/23

ATTSTED

ANNEX

F
20

ORIGINAL

FAC ID: 19293330011111111111111111111111 14 Aug 2023 21:23:41 PL



**DIRECTORATE OF PROSECUTION
GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

No. DP/ _____
Dated Peshawar the 19/8/23
Office Landline #091-9212559

ORDER:

No. DP/E&A/11-2023-99 :- Consequent upon filing of representation by the Competent Authority, Ms. Bibi Sumaira, has been relieved from the post of Deputy Public Prosecutor (BPS-18), Mansehra, to join her new assignment as Deputy Public Prosecutor (BPS-18), in the office of District Public Prosecutor, Haripur, in compliance with Notification No. SO (ProsYHD/1-2/Post and Trans 2023 dated: 21-07-2023, with immediate effect in the public interest:-

-Sd-
Director General Prosecution
Khyber Pakhtunkhwa.

Endst : of even No. dated:
Copy forwarded for information to the:

1. Regional Director Prosecution, Hazara Division.
2. District Account office, Mansehra & Haripur.
3. District Public Prosecutor, Mansehra & Haripur.
4. Officer concerned.
5. PA to Director General Prosecution, Khyber Pakhtunkhwa.

Deputy Director Administration

~~TESTED~~

ANNEX

9



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

25

No. SO (Policy) (E&AD) 1-4/2023
Dated Peshwar, the 29th May, 2023

To

1. Additional Chief Secretary P&D Department Govt. of Khyber Pakhtunkhwa
2. Senior Member Board of Revenue, Govt. of Khyber Pakhtunkhwa
3. Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
4. All Divisional Commissioners in Khyber Pakhtunkhwa
5. All Heads of Attached Departments in Khyber Pakhtunkhwa
6. All Deputy Commissioners in Khyber Pakhtunkhwa

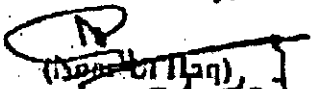
Subject: -
Dear Sir,

BAN ON POSTINGS AND TRANSFERS IN KHYBER PAKHTUNKHWA

I am directed to refer to the above cited subject and to convey that in view of the fragile fiscal position of the Provincial Government, the Hon'ble Chief Minister Khyber Pakhtunkhwa has been pleased to impose ban on inter-district posting and transfers of officers and officials under the Government of Khyber Pakhtunkhwa as per the following:

- i. There shall be complete ban on inter-district transfers in all the departments;
- ii. This ban shall not apply on transfers within the districts and within the Secretariat and Directorates. However, while proposing such transfers of officers/officials within the district, Directorates or the Secretariat, as the case may be, due diligence must be observed and tenure, suitability of the officers/officials for the posts and past performance must be taken into account;
- iii. In cases posting and transfer is necessitated due to some court orders or some administrative exigencies, ban relaxation will be obtained from Chief Minister through summary. For such posting/transfers, departments will put forth sound justifications. Subsequently in cases where NOC from Election Commission is required, cases will be taken up with ECP for ban relaxation by the concerned Administrative Departments.
- iv. This ban shall not apply on filling of vacant posts through recommendations of the Khyber Pakhtunkhwa Public Service Commission as Election Commission of Pakistan has already granted exemption in such cases.

Yours sincerely,


(Deputy Secretary)
Deputy Secretary 16/05/23

ENDST: NO. & DATE EVEN

Copy is forwarded for information to:

1. Principal Secretary to Governor, Khyber Pakhtunkhwa
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. CSO/PSO to Chief Secretary to Govt. of Khyber Pakhtunkhwa.
4. All Additional Secretaries/Deputy Secretaries/Section Officers in Establishment & Administration Department


Section Officer (Policy)

~~ATTACHED~~

POWER OF ATTORNEY/VAKALATNAMA

26

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Uet- Bibi Sumair

VERSUS

Prosecution Deptt & Others

In Appeal No. _____ -P/2023

On behalf of Petitioner/Appellant No.

I/ we the petitioners/appellant hereby appoint Mr. Afrasiab Khan Wazir Advocate in the above-mentioned case, to do all or any of the following acts, deeds things.

1. To appear, act, sign, record Statement and plead for me/us in the above-mentioned case in this court /Tribunal or any other Court /Tribunal in which the same may be tried or heard, and other proceedings arising out of or connected therewith.
2. To sign, verify compromise and file or withdraw all proceedings, petitions, appeals, affidavits, and any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at its stages.
3. To receive payments of, and issue receipts for, all money that may be or become due and payable to us during the course or on the conclusion of the proceedings.
4. To do all other acts and things which may be deemed necessary or advisable during the proceedings.

AND HEREBY AGREE:

- a. To ratify whatever the said advocate may do in the proceedings.
- b. Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of absence from the Court/Tribunal when it is called for hearing.
- c. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof, I/We have signed this power of Attorney/ Vakalatnama hereunder, the contents of which have been read/ explained to me/us and fully understood by me/ us.

Terms Accepted

Signatures

Accepted & Attested

Afrasiab Khan Wazir

Advocate Peshawar High Court, Peshawar.

Office Address:

Room No.6 Afridi Tower, Government College Chowk,
Faqirabad, Peshawar.

☎ 0312-9888752