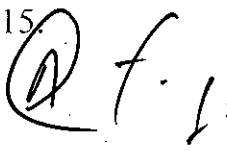



Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1.	2	3
1.	26.08.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Service Appeal No. 61/2015</p> <p style="text-align: center;">Ghani-ur-Rahman, Vs. The Addl. Chief Secretary (FATA) FATA Sectt. Peshawar.</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.</u>- Counsel for the appellant (Mr. Khalid Rahman, Advocate) and Sr. Government Pleader (Mr. Usman Ghani) for the respondents present.</p> <p>2. Arguments heard and record perused.</p> <p>3. The appellant has already completed his tenure at Government Degree College, Landi Kotal. Further that vide impugned order dated 30.09.2014 the appellant was not transferred but directed to report to Directorate of Education (FATA) Peshawar for further posting. There is no merit in the appeal, which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record.</p> <p><u>ANNOUNCED</u> 26.8.2015</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  (ABDUL LATIF) MEMBER </div> <div style="text-align: center;">  (PIR BAKHSH SHAH) MEMBER </div> </div>

23.07.2015

Appellant with counsel, Assistant AG with Daud Jan, Supdt. for the respondents present. Counsel for the parties jointly requested for adjournment, which is granted. To come up for arguments on 26.08.2015, but this will be the last opportunity. Status quo is extended till the date fixed.


MEMBER


MEMBER

20.05.2015

Appellant with counsel and Mr. Daud Jan, Supdt. alongwith Muhammad Jan, G.P for respondents present. Learned counsel for the appellant requested for adjournment. To come up for arguments on 19.6.2015. Till then status-quo be maintained.



Member



Member

19.06.2015

Appellant with counsel and Mr, Daud Jan, Supdt. alongwith Assistant A.G for respondents present. Learned counsel for the appellant submitted rejoinder, copy whereof supplied to learned Assistant A.G. Learned counsel for the appellant requested for adjournment due to misconception, he could not prepare the case. Therefore, case is adjourned to 14.7.2015 for arguments. Till then status-quo is extended.



Member



Member

14.07.2015

Appellant in person and Asstt: AG for respondents present. Appellant stated before the Court that his counsel while feeling indisposed is not available today. He requested for adjournment. On the other hand Lenard Asstt: AG submitted that since status-quo order has been issued in this case therefore the appeal may be saved from being lingered on and further that the short date be fixed hence to come up for arguments on 23-07-2015. Till then status-quo is extended.



Member



Member

09.03.2015

Counsel for the appellant and Mr. Daud Jan, Supdt. for respondents alongwith Addl: A.G present. Learned Addl: A.G requested for adjournment for submission of written reply/comments. To come up for written reply/comments as well as reply to application for stay application on 27.3.2015 before S.B. Status-quo be maintained till then.


Chairman


27.03.2015

Appellant with counsel and Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 27.4.2015. Till then status-quo be maintained.


Chairman

27.04.2015

Clerk of counsel for the appellant and Mr. Daud Jan, Supdt alongwith Mr. Ziaullah, GP for the respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 20.05.2015 before D.B. Till then status-quo be maintained.



Member

29.1.2015

Appellant with counsel present. Counsel for the appellant submitted that the appellant has been transferred from the post of Principal, Government Degree College, Landi Kotal in violation of the rules and posting/transfer policy with malafide as the appellant was not obliging the relevant authority for issuing work completion certificate to the contractor (Tekadar). It was further submitted that tenure of the appellant was not yet completed and no rules regulations and policy was taken into account for the subject transfer and that the impugned order was also not passed by the competent authority. Reference was made to PLD 2003 page 195. It was also submitted that the appellant has not yet relinquished charge of the post of Principal, Govt. Degree College, Landi Kotal. Points raised need consideration. The appeal is admitted for regular hearing, subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 09.3.2015. Counsel for the appellant also submitted an application for suspending the operation of impugned order dated 30.09.2014. Notice of application should also be issued to the respondents for reply/arguments on the date fixed. Till then status quo be maintained subject to notice.


MEMBER

*Appellant deposited process fee
S. Security.*

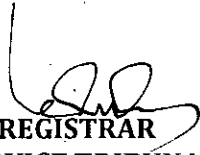


The appeal of Mr. Ghani-ur-Rehman Principal Govt. Degree College Landi Kotal received to-day i.e. on 19.01.2015 is incomplete on the following score which is returned to the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant
- 2- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

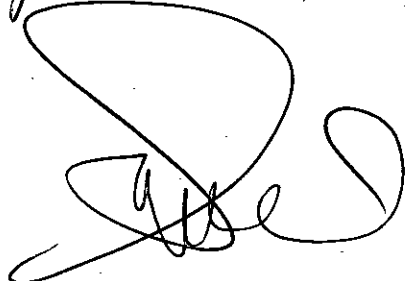
No. 68 /S.T.

Dt. 22/1 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khaled Rehman Adv. Pesh.

- ① No objection has been received
- ② Copy has been submitted


22/1/15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 61 /2015

Ghani-ur-Rahman
.....Appellant

Versus

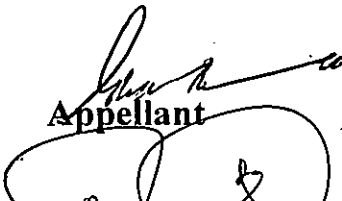
The Addl: Chief Secretary
FATA and others
.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
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4.	Official Letter of appellant to Directorate of Education FATA	25.09.2014	B	0-9
5.	Impugned Notification	30.09.2014	C	0-10
6.	Departmental Representation	17.10.2014	D	11-12
7.	Transfer/Posting Policy		E	13-16
8.	Wakalat Nama			

Through

Appellant


Khaled Rahman
Advocate, Peshawar
3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: 19 /01/2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 61 /2015

Ghani-ur-Rahman,
Principal, Govt. Degree College, Landi Kotal
under transfer for further postingAppellant

W.P. No. 36
19-1-2015

VERSUS

1. The Additional Chief Secretary (FATA)
FATA Secretariat, Warsak Road, Peshawar.
2. The Secretary (Admn. Infra: & Coord)
FATA Secretariat, Warsak Road, Peshawar.
3. The Director Education,
FATA Secretariat, Warsak Road,
Peshawar.Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS
ACT, 1974 AGAINST THE IMPUGNED
NOTIFICATION DATED 30.09.2014 WHEREBY
APPELLANT WAS UNLAWFULLY TRANSFERRED
FROM GOVT. DEGREE COLLEGE, LANDI KOTAL,
KHYBER AGENCY AND DIRECTED TO REPORT TO
THE DIRECTORATE EDUCATION FATA FOR
FURTHER POSTING AGAINST WHICH APPELLANT
FILED DEPARTMENTAL REPRESENTATION TO
THE APPELLATE AUTHORITY ON 17.10.2014 BUT
THE SAME WAS NOT DISPOSED OF WITHIN THE
STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned
Notification dated 30.09.2014 may graciously be
suspended till the final disposal of the instant appeal.

19/1/15

23/1/15

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant is the employee of the Education Department serving as Associate Professor in English and posted at Govt. Degree College, Landi Kotal, Khyber Agency as Principal. He has served the Education Department for more than 28 years and it would also be relevant to mention that the son of the appellant namely Zia-ur-Rahman is also admitted as regular student of the same college under Roll No.521 (2nd Year, Pre-Engineering) (Certificate *Annex:-A*).
2. That the appellant served as a Principal in the subject college for about 15 months and recently has got commenced the classes in the 2nd Shift as well as BS Program in the College, which is a big achievement as the said College is the only college throughout the FATA where such initiative has been undertaken for the first time in the education history of FATA. It is also added here that the Classes in 2nd Shift as well as BS Program have not yet started in many Colleges of the settled areas. Due to the devoted efforts of the appellant, the number of students has mushroomed from 1000 to 1842 in short span of time.
3. That before the issuance of the impugned transfer Notification, the Agency Education Officer, Khyber Agency namely Mr. Muhammad Attique was pressing hard for the issuance of Work

Completion Certificate worth 8.4 Million to the Constructor/Thekadar for minor repair of defective and incomplete work and was openly using the name of Political Agent for such demand. On much insistence, the appellant had no other alternative save to bring the matter into the notice of the high-ups therefore, he issued an official letter dated 25.09.2014 (*Annex:-B*) to the Directorate of Education FATA explaining the entire position. The copies of the letter were also endorsed to the office of Respondents No.1&2 as well as to Political Agent Khyber Agency for information but to no avail.

4. That resultantly vide impugned Notification dated 30.09.2014 (*Annex:-C*), appellant was unlawfully transferred and directed to report to the Directorate of Education FATA for further posting in pursuance of Political Agent Khyber Agency letter No.4469/AG/Schools dated 25.09.2014. Being aggrieved, appellant preferred a Departmental Representation (*Annex:-D*) on 17.10.2014 to Respondent No.1, but the same was not disposed of within the statutory period of 90 days.
5. That being aggrieved of the impugned Notification and non-disposal of the Departmental Representation, appellant challenges the same through this Service appeal inter-alia on the following grounds:-

Grounds:


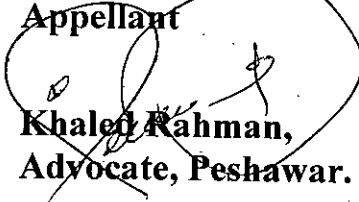
- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That the impugned Notification in view of the facts and figures mentioned above is the outcome of an explicit malafide, bias, ill-will, based on ulterior motives, result of abusive exercise of power and therefore, is not sustainable in the eye of law.
- C. That under the Transfer/Posting Policy (*Annex:-E*) a transfer can be effected in the public interest or in exigency of service but the impugned Notification has been issued not only in oblivion of the two but rather has been issued for serving the considerations opposite to the public interest and good service order. Virtually, the same has been procured due to the malafide approach of the incumbent Agency Education Officer, Khyber Agency, therefore, the impugned Notification is illegal, unwarranted and hence not sustainable.
- D. That the impugned Notification has been issued in violation of the tenure policy mandated by the law and on that score alone the order is liable to be brushed aside.

- E. That the impugned Notification is not only without jurisdiction but is also without lawful authority as the authority issuing the same is not competent to issue the same.
- F. That the impugned Notification has also been issued during the period of ban and no relaxation of ban has been obtained, hence the same is also not sustainable on that score.
- G. That well-set instructions and Policy guidelines issued by the Government from time to time have been violated while issuing the impugned Notification which is against the ethics of good governance.
- H. That while issuing the impugned Notification, the Judgments of the Hon'ble Supreme Court of Pakistan on the subject matter have been offended.
- I. That the son of the appellant is also under education in the same College and by transfer of the appellant his studies will definitely be affected equally reflecting upon the appellant.
- J. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through


Appellant

Khaled Rahman,
Advocate, Peshawar.

Dated: _____ / 01/ 2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2015

Ghani-ur-RahmanApplicant

Versus

The Addl: Chief Secretary FATA and others.....Respondents

Application for suspending the operation of the impugned order Notification 30.09.2014 till the final disposal of the instant appeal.

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of applicant/ appellant.
3. That the balance of convenience also lies in favour of applicant/appellant and in case the impugned Notification is not suspended the applicant/appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned Notification dated 30.09.2014 may graciously be suspended till the final disposal of the main appeal.

Through

[Signature]
Applicant

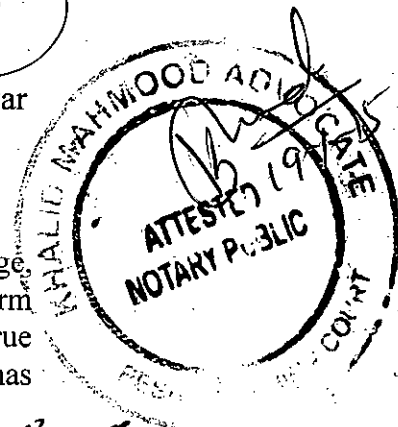
[Signature]
Khaled Rahman,
Advocate, Peshawar

Dated: ___/01/2015

Affidavit

I, Ghani-ur-Rahman, Principal, Govt. Degree College, Landi Kotal under transfer for further posting, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

[Signature]
Deponent



Annex "B"

9

OFFICE OF THE PRINCIPAL

GDC LANDI KOTAL KHYBER (A)
No 1349-5 DATED 25-9-2014

To

The Director of Education
(FATA) warsak, Road Peshawar.

Subject;- INCOMPLETE AND DEFECTIVE REPAIR-WORK.

Memo;

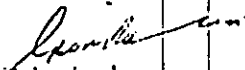
It is submitted for your kind information that in 2012, and 2013, a repair work was undertaken. The fund for repair work was 8.4 million rupees. The repair work done by Tekadar has been incomplete and defective. The Tekadar has been demanding for a 'work completion certificate' which has not been issued by the undersigned till todate.

Endst No; _____

Principal
GDC Landi Kotal
Khyber Agency

Copy forwarded for information to the;-

1. Political Agent Khyber Agency at Peshawar.
2. Assistant Political Agent Landi Kotal Khyber Agency
3. Agency Education Officer Khyber Agency at Peshawar.
4. Executive Engineer C&W Khyber Division at Hayat Abad Peshawar.


Principal
GDC Landi Kotal
Khyber Agency

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FATA SECRETARIAT
(ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)
WARSAK ROAD PESHAWAR

Annex "C" (10)

NOTIFICATION:-

No.FS/E/100-96 (Vol-3)/15271-74

In pursuance of Political Agent Khyber Agency letter No.4469/AG/Schools dated 25-09-2014, Mr. Ghani-ur-Rehman Principal Government Degree College Landi Kotal Khyber Agency is hereby transferred with immediate effect and he is directed to report to Directorate of Education (FATA) Peshawar for further posting.

2- Consequent upon above, Mr. Shaukat Ali (BS-19) Associate Professor, Government Degree College Landi Kotal Khyber Agency is authorized to hold additional charge of the post of Principal of the said College in addition to his own duties till further orders.

SECRETARY (ADMN, INFRA: & COORD)

Dated 30/9/2014

Copy to:-

1. Director Education (FATA)
2. Additional Accountant General (PR) Sub Office Peshawar
3. Political Agent Khyber Agency
4. Deputy Directress (Colleges) Directorate of Education (FATA)
5. Agency Education Officer Khyber Agency
6. Principal, GDC Landi Kotal Khyber Agency
7. Agency Accounts Officer Khyber Agency
8. PS to Secretary A,I&C Department FATA Secretariat
9. Officers concerned

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(JIBREEL RAZA)
Section Officer (Estab)

To

Annex "D"

11

The worthy Additional Chief Secretary,
FATA Secretariat.
Warsak road Peshawar

Subject: Departmental Appeal/Representation against the order dated:30/09/2014 issued by the Secretary Administration, Infrastructure & Coordination Department vide which he transferred the appellant from Government degree college Landi kotal Khyber Agency and directed the Appellant to report directorate of Education(FATA) Peshawar for further posting .


Respected sir,

I have the honor to submit this Departmental Appeal/Representation for your kind consideration and favorable action on the following facts and ground:

1. That the applicant is the employee of Education Department serving as Associate Professor of English posted at Government Degree College Landi Kotal Khyber Agency as principal and has got more than 28 years of service at his credit.
2. That the Appellant has an unblemished service of more than 28 years in the department. Appellant has so far performed his duties efficiently and to the best of his abilities during service and always earned good reports.
3. That the Appellant served as principal in this college for about 15 months and recently the commencement of classes in the second shift and B.S Program in the college is the big achievement appellant. Government Degree college Landi Kotal Khyber Agency is the only college in FATA for such like achievement. It is further added that classes in the second ship in the BS have not yet been commenced/ started in many many colleges of the settle side even. It is further Submitted that the number of students raised from 1000 to1842 in such short Span of time
4. That before the issuance of the impugned transfer order, the A.E.O namely Mr. Attique was pressing hard for issuance of Completion certificate worth of 8.4 million to the constructor/Thekeder for minor repair of defective and incomplete work. It is worth mentioning that A.E.O was expressly using the name of political agent for such demand. The Appellant issued an official letter to the Directorate of Education FATA regarding the matter

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ACS DNo. 10350
dt 17-10-14

S/A/EC 

and copies whereof were sent to this august office and worthy secretary FATA as well as political agent Khyber agency for information but even then the impugned transfer order was issued in pursuance of Political Agent of Khyber Agency letter NO.4469/AG/Schools dated 25/9/2014, apparently the impugned order was issued for unknown reasons but infect is the result of biased ,ill will and malafide approach of the A.E.O Khyber.

5. That the impugned transfer was issued during the midsession, ban and before the completion of tenure of the appellatant for which no relaxation was obtained from the authority concerned so far.

6. That the appellatant is a cardiac patient.

7. That the Appellant is aggrieved of the impugned notification hence prefers that Departmental Appeal/Representation to your good self for kind consideration inter.alia on the following grounds

Grounds:

- A. That the impugned transfer order is without justification, jurisdiction and legal authority ,hence the same being viod is not sustainable under the law .
- B. That the impugned transfer order is arbitrary, whimsical, based on ill will and malafide and is against the posting/Transfer policy and there fore, is not sustainable in the eyes of law.
- C. That the impugned Notification/ Transfer order is neither in the interest of public nor in the exigency of service but is the result of biased ill will and malafide approach of the concerned A.E.O namely Attique, the same being void is liable to be set aside.
- D. That the notification impugned has been issued during the period of ban and no relaxation of ban has received from competent authority, hence the same is nullity in the eyes of law and liable to be brushed aside.
- E. That the impugned order has been passed in total disregard of the law, rules and norms governing the subject.

It is therefore, earnestly prayed that on acceptance of the instant departmental appeal/Representation , the impugned notification No.FS/E/100-96(vol-3)/15271-79 dated 30/9/2014 may kindly be set aside by allowing the Appellant to serve as principal government degree college Landi Kotal.

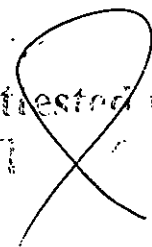
Yours sincerely


Ghani-Ur- Rehman

Principal GDC Landi Kotal under transfer for further posting .

Dated:17/10/2014

Attested to be





Posting and Transfer

Statutory Provision.

Section 10 of the NWFP Civil Servants Act, 1973.

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

Posting/transfer policy of the Provincial Government.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas.
- v) ⁷⁹[]

⁷⁹ Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make Posting/Transfer subject to observance of the policy and rules.

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vi) ⁸⁰While making posting/transfers of officers/officials in areas to FATA and vice versa approval of the Chief Secretary should be obtained. Save Tehsildars/Naib Tehsildars within a whom the concerned Commissioner will exercise the same case of posting/transfer of officers in BS-18 and above, for FATA and vice-versa, specific approval of the Government should be obtained.

Provided that the power to transfer Political Tehsildars and Tehsildars within FATA between different divisions shall rest with the Chief Secretary FATA.

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades down to each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the District Coordination Officers (D.C.Os) and District Police (DSP) shall not be posted at a place where the Police Station (Th) of his area/residence is situated.
- viii) No posting/transfers of the officers/officials on detailment basis shall be made where possible would be made to post such persons at one station subject to the public interest.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts should be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement.

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⁸¹DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

- xii) In terms of Rule 17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Department in consultation with Head of Attached Department concerned. Secretary (Establishment)

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/ officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

⁸¹ Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

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

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

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule – IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

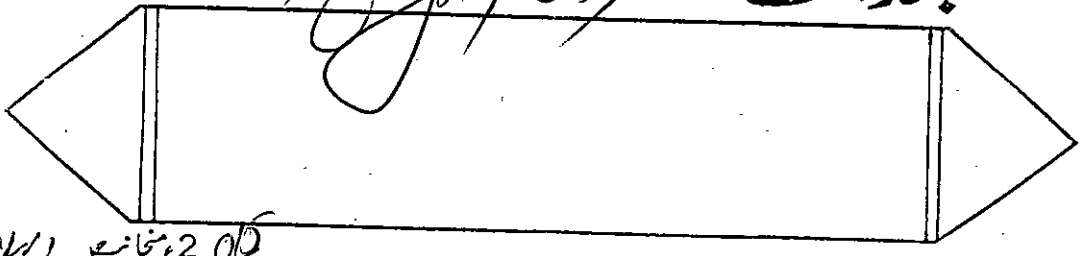
4. I am further directed to request that the above noted policy may be strictly observed/implemented.

5. All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

(Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

Attested to be
True Copy

بعدالت سرور سٹیٹ بینک



2002ء بمطابق ستمبر 1997ء
محکمہ اعلیٰ درجہ بنیام حکومتی سندھ

- مورخہ
- مقدمہ
- دعویٰ
- جرم

باعث تحریر آئینہ

مقدمہ مندرجہ عنوان کے لایا میں اپنی طرف سے واسطے پیروی و جواب دہی اکل کارروائی متعلقہ
 آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار و مکلفیت
 وکیل و صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زبانیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا یکطرفہ یا اپیل کی برادگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ
 پروا ختمہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم _____ ماہ _____ 20

العبد _____ واہ العبد _____

کے لئے منظور ہے۔

بمقام _____

(Handwritten signature and text)

For
Gleri or Rehman



Establishment Section

FATA SECRETARIAT
(ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)
WARSAK ROAD PESHAWAR

NOTIFICATION:-

No. FS/E/100-19(Vol-41)/1645-SI.

On creation of Agency Cadre for appointment on posts from BS-1 to BS-15 vide FATA Secretariat Notification No. FS/E/100-19(Vol-28)/6981-94 dated 03-08-2009, the competent authority has been pleased to declare the following as "Appellate Authorities" for the employees in Basic Pay Scales as noted against each:-

S.No	Basic Pay Scale (1)	Appointing Authority (2)	Appellate Authority (3)
1	For holders of posts in BPS 1 to BPS-10	Agency Officer incharge of the concerned department in Agency/FRs	Director of concerned Line Directorate
2	For holders of posts in BPS 11 to BPS-15	Political Agent concerned	Respective Administrative Secretary of the concerned Line Directorate in FATA Secretariat.

SECRETARY (ADMN: INFRA: & COORD)

Dated 02/02/2015

Copy to :-

1. All Administrative Secretaries in FATA Secretariat
2. All Heads of Line Directorates in FATA Secretariat
3. All Political Agents
4. Deputy Commissioners (for FRs)
5. PS to ACS FATA
6. PS to Secretary AI&C Department
7. File No. FS/E/100-19(Vol-28-Agency Cadre)


(SAIFULLAH KHAN)
Section Officer (Estab)

3



FATA SECRETARIAT
COORDINATION & ADMINISTRATION DEPARTMENT
WARSAK ROAD PESHAWAR

NOTIFICATION

The Competent Authority has been pleased to declare posts in BS-1 to BS-15 in FATA as Agency Cadre for all departments devolved to District on levelled side with District Cadres.

The Competent Authority has been further pleased to declare the following appointing authorities in respect of Agency Cadre posts:-

1.	Posts in BS-1 to BS-10	Agency Officer incharge of the concerned department in Agency/FR
2.	Posts in BS-11 to BS-15	Political Agent concerned

ADDITIONAL CHIEF SECRETARY (FATA)

No.FS/E/100-19 (Vol-28) 59815/94

Dated 3/8/2009

Copy to:-

1. All Administrative Secretaries in the Government of NWFP
2. Secretary to Governor NWFP
3. Secretary Finance Department, FATA Secretariat
4. Secretary P&D Department, FATA Secretariat
5. Secretary Law & Order Department, FATA Secretariat
6. Secretary (A&U) & Usur Department, FATA Secretariat
7. Additional Accountant General (FR) Sub Office Peshawar
8. All Heads of Law Departments
9. All Political Agents (DCs) (FR)
10. All Deputy District Officers
11. PS to Additional Chief Secretary, NWFP
12. PS to Secretary (Admn & Coord) Department, FATA Secretariat

20/8/09
HKSANULLAH KHAN
Section Officer (Estab)

AWTESTED

AWTESTED

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غنى الرحمان

S.No. PB

7257611

BOARD OF INTERMEDIATE & SECONDARY EDUCATION



Roll No: 83071

PESHAWAR



PROVISIONAL AND DETAILED MARKS CERTIFICATE INTERMEDIATE (ANNUAL) EXAMINATION, 2015 PRE-ENGINEERING (Part-II)

Zia Ur Rehman

Son / Daughter of Ghani Rahman

of Govt College Landi Kotal Khyber Agency

has secured the marks shown against each subject in the HSSC Examination held in the month of April 2015 as Regular Student

Subjects	Marks	Marks Obtained					
		Part-I		Part-II		Total	Marks in Words
		Theory	Pract	Theory	Pract		
English	200	56	--	63	--	119	One Hundred Nineteen
Urdu	200	47	--	69	--	116	One Hundred Sixteen
Islamic Education	50	33	--	--	--	33	Thirty-Three
Pakistan Studies	50	--	--	32	--	32	Thirty-Two
Mathematics	200	85	--	74	--	159	One Hundred Fifty-Nine
Physics	200	56	15	60	12	143	One Hundred Forty-Three
Chemistry	200	62	15	66	15	158	One Hundred Fifty-Eight

Total : 1100

760-B Seven Hundred Sixty Only

Remarks :

Reg: No 0437-B/LK-2013

Checked By : _____

Issue Date: 17-08-2015

Note: Error(s)/Omission(s) excepted. Any mistake in above particulars must be intimated within 30 days of the issuance of this certificate.

Controller of Examinations

For Ghani ur Rehman

GOVERNMENT OF PAKISTAN
Cabinet Secretariat
ESTABLISHMENT DIVISION

38

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No.F.1/11/2012-Lit-IV

ANNEX H
Islamabad - the 3rd January, 2013.

OFFICE MEMORANDUM

SUBJECT: ORDER PASSED BY SUPREME COURT OF PAKISTAN IN CONST. PETITION NO.23/2012 FILED BY MS ANITA TURAB AND OTHERS VS. FEDERATION OF PAKISTAN dated 13.10.2012

AN 2013

(A)

JAN 2013

(M)
(CA)

[Handwritten signature]

23/1/13

MF-1/MC-II/S(MC-III)

2-1/IR-II/IR-III

3(IR-IV)

iii)

iv)

The undersigned is directed to refer to the subject cited above and to say that the Supreme Court of Pakistan has enunciated certain guiding principles for depoliticizing the public service vide its judgment dated 12-11-2012 passed in the subject case. The operative parts of the judgment given vide para-22 are reproduced as under:-

- i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule-based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- iv) OSD: Officers should not be posted as OSD except for compelling reasons; which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

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REGISTERED

3282
08 JAN 2013

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2. The Supreme Court has further recognized the need for ensuring that decision making in relation to tenure, appointment, removal, promotion and transfer remains ruled based and is not susceptible to arbitrariness or absolute and unfettered discretion.

3. In view of the foregoing, the following guidelines have been circulated vide Establishment Division's O.M.No.4/10/2012-E-2 dated 26th December, 2012 (copy enclosed) with the approval of competent authority for strict compliance of the Supreme Court orders, dated 12.11.2012 while passing any such orders relating to appointment, tenure and transfer of the officers in BS-17 to BS-22:-

- a) The normal tenure specified must be respected and may not be varied except for compelling reasons which should be recorded in writing and would be defensible if subjected to judicial scrutiny.
- b) The officer appointed on a post be allowed to earn at least one Annual Performance Evaluation Report.
- c) The officer should not be posted as OSD except for compelling reasons, usually for training, temporary inefficiency of extreme hardship and transit period for minimum possible time with the reasons to be recorded in writing.
- d) There is no space for unilateral surrender of the officers by Ministries/Divisions/Provincial Governments and they are requested to refrain from this practice. However, even if they intend to change the officer, matter may be taken up with the Establishment Division, in case of APUG and federal employees and with respective Provincial Departments dealing with service matters of the officer, for appropriate action.

4. Attention of all the Ministries/Divisions/Departments/Organizations is also invited to the existing provisions contained in the constitution of Pakistan, 1973, Rules of Business, 1973, Pakistan Penal Code, and Conduct Rules, 1964. The relevant extracts are as under:-

The Constitution of Islamic Republic of Pakistan 1973 In terms of article 240 of the 1973 Constitution the appointment to and the conditions of service of Pakistan are determined inter-alia through the act of Parliament.

- "4. Right of individuals to be dealt with in accordance with law, etc.
 - (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.
 - (2) In particular :-
 - (a) no action, detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;
 - (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and
 - (c) no person shall be compelled to do that which the law does not require him to do"
- "9. Security of person. No person shall be deprived of life or liberty save in accordance with law"

AMENDED
AMENDED

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Appeal No. ~~101/2014~~ 61/2015 *[Signature]*
Mr. Ghani-u- Rehman
Principal GDC Landi Kotal Khyber Agency
under Transfer for further postingAppellant

.....VERSUS.....

1. The Additional Chief Secretary (FATA), FATA Secretariat Warsak Road Peshawar.
2. Secretary (Admn: Infa & Coord) FATA Secretariat Peshawar
3. Director Education FATA, FATA Secretariat Peshawar..... Respondents.

PRELIMINARY OBJECTIONS.

1. That the appellánt has got no cause of action/locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed materials facts from this Honorable Tribunal.
4. That the appeal is not maintainable in its present form.
5. That the appeal is bad due to non-joinder and mis-joinder of necessary parties.
6. That the appellant is *stopped by his own conduct to bring the present appeal.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 , 2 AND 3

APPEAL NO. ~~101/2014~~ 61/2015 *[Signature]*

Respectfully Sheweth.

1. No Comments pertains to record.
2. No Comments pertains to record.
3. NO comments pertains to record.
4. Correct to the extent that the appellant was working as Principal GDC Landi Kotal The Competent Authority issued the transfer order of the appellant on the basis of internal arrangement in the interest of Public Service and for the smooth running of the Department. According to section 10 of Khyber Pakhtunkhwa Civil Servant Act-1973 "Every Civil Servant shall be liable to serve anywhere within or outside the province".
5. Incorrect. As explained in Para-4 above.

Grounds.

- A. Incorrect. The appellant transfer order has been issued by the Competent Authority in accordance with law and rules no action has been taken which is against the norms of natural justice. All Government employees are bound to perform their duties according to the instructions given by the Government from time to time in the interest of public .
- B. Incorrect. There is no provision in the rules to work a civil servant on their own desire / station according to his wishes .
- C. Incorrect. As explained in Para-A above.
- D. Incorrect. The appellant has been transferred in the interest of Public and in accordance with Law.
- E. Incorrect. According to section 10 of Khyber Pakhtunkhwa Civil Servant Act-1973 "Every Civil Servant shall be liable to serve anywhere within or outside the province". The appellant has no right to perform his duty according to his wishes.

- F. Incorrect. detail reply already given in the above paras .
- G. Incorrect. as explain in para No. E above.
- H. Incorrect .Each in every case has its own merit and circumstances .
- I. No comments pertains to record .
- J. Respondents are also seeks permission to advance other grounds and proofs at the time of arguments.

In the light of above explained position it is humbly requested to please dismiss the appeal having no legal force.

Respondent No1.


Additional Chief Secretary FATA
FATA Secretariat Peshawar 13/1/16

Respondent No.2


Secretary (A I & C) FATA
FATA Secretariat Peshawar

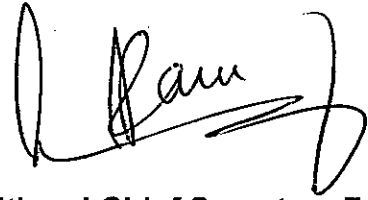
Respondent No.3


Director Education (FATA)
FATA Secretariat Peshawar

AFFIDIVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our knowledge and believe that nothing has been concealed from this honorable tribunal

Respondent No1.



Additional Chief Secretary FATA
FATA Secretariat Peshawar

Respondent No.2



Secretary (AI&C) FATA
FATA Secretariat Peshawar

Respondent No.3



Director Education (FATA)
FATA Secretariat Peshawar

A No. 61/15

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1356 /ST

Dated 24 / 9 / 2015

To


The Secretary (Admn. Infra: & Coord),
FATA Secretariat, Warsak Road Peshawar.

Subject: - Order

I am directed to forward herewith certified copy of order dated 26.8.2015 passed by this Tribunal on subject Order for strict compliance.

Encl: As above

g/c


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.