


FORM OF ORDER SHEET

Court of _____

Appeal No. 1968/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/10/2023	<p>The appeal of Mr. Muhammad Abid Hussain presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1968/2023

M. ABID HUSSAIN

VS.

PRISON DEPTT.

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-APPELLANT

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO. 1968 /2023

Mr. Muhammad Abid Hussain, Chief Head Warder (BPS-11),
Central Jail, Peshawar under transfer to Central Prison D.I Khan

.....APPELLANT

VERSUS

- 1- The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
- 2- The Superintendent, Headquarter Prison, Peshawar.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 31.05.2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM CETRAL PRISON, PESHAWAR TO CENTRAL PRISON, D.I KHAN AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER

That on acceptance of this service appeal the impugned order dated 31.05.2023 may very kindly be set aside to the extent of appellant and the respondents may please be directed not to transfer the appellant from Peshawar Circle. Any other relief which this august Tribunal deems fit that may also be awarded in favor of appellant.

R/SHEWETH;

ON FACTS:

The brief facts of the present appeal are as under:-

1. That appellant is the employee of Prison department and is serving as Chief Head Warder (BPS-11) at Central Prison D.I Khan quite efficiently and up to the entire satisfaction of his superiors.
2. That during service the respondent department issued order dated 01.10.2019 whereby 04 circles have been created for the betterment of Warder Establishment and it has been held that duties of the employees will be placed within the circle and as such employee serving in a circle could not be placed in another circle. Copy of the order dated 01.10.2019 is attached as annexure.....A.

3. That the appellant while performing his duty at Central Prison, Peshawar transferred to Central Prison, D.I Khan vide impugned order dated 31.05.2023 despite of clear directions of the higher authority in order dated 01.10.2019. That it is pertinent to mention that the impugned order dated 31.05.2023 has been issued in the ban period from Election Commission of Pakistan on transfer/posting of the civil servants. Copies of the impugned order dated 31.05.2023 and notification dated 29.05.2023 are attached as annexure.....**B & C.**
4. That the appellant feeling aggrieved from the impugned order dated 31.05.2023 preferred departmental appeal before the respondent No.1 but no reply has been received so far from the quarter concerned. Copies of the departmental appeal & judgment dated 20.06.2023 are attached as annexure.....**D.**
5. That the appellant feeling aggrieved and having no other remedy but to file the instant service appeal before this august Tribunal on the following grounds amongst the others.

GROUND:

- A- That the impugned appellate order dated 31.05.2023 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafide manner while issuing the impugned appellate Notification dated 31.05.2023 by transferring the appellant from Central Prison, Peshawar to Central Prison, D.I Khan.
- D- That the respondent Department violated Clause-I of the transfer/Posting Policy of the Provincial Government by issuing the impugned appellate Notification dated 31.05.2023. Copy of the transfer/posting policy is attached as annexure.....**E.**
- E- That the impugned Notification dated 31.05.2023 is violative of the principle of natural justice, hence the same is not tenable and liable to be set aside.
- F- That the impugned order dated 31.05.2023 is clear violation of the order dated 01.10.2023, therefore, the same is not tenable and liable to be set aside to the extent of appellant.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO. _____/2023

Mr. Muhammad Abid Hussain, Chief Head Warder (BPS-11),
Central Jail, Peshawar under transfer to Central Prison D.I Khan

.....APPELLANT

VERSUS

- 1- The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
- 2- The Superintendent, Headquarter Prison, Peshawar.

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PRAYER

That on acceptance of this service appeal the impugned order dated 31.05.2023 may very kindly be set aside to the extent of appellant and the respondents may please be directed not to transfer the appellant from Peshawar Circle. Any other relief which this august Tribunal deems fit that may also be awarded in favor of appellant.

R/SHEWETH:

ON FACTS:

The brief facts of the present appeal are as under:-

1. That appellant is the employee of Prison department and is serving as Chief Head Warder (BPS-11) at Central Prison D.I Khan quite efficiently and up to the entire satisfaction of his superiors.
2. That during service the respondent department issued order dated 01.10.2019 whereby 04 circles have been created for the betterment of Warder Establishment and it has been held that duties of the employees will be placed within the circle and as such employee serving in a circle could not be placed in another circle. Copy of the order dated 01.10.2019 is attached as annexure.....A.

3. That the appellant while performing his duty at Central Prison, Peshawar transferred to Central Prison, D.I Khan vide impugned order dated 31.05.2023 despite of clear directions of the higher authority in order dated 01.10.2019. That it is pertinent to mention that the impugned order dated 31.05.2023 has been issued in the ban period from Election Commission of Pakistan on transfer/posting of the civil servants. Copies of the impugned order dated 31.05.2023 and notification dated 29.05.2023 are attached as annexure.....**B & C.**
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GROUND:

- A- That the impugned appellate order dated 31.05.2023 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafide manner while issuing the impugned appellate Notification dated 31.05.2023 by transferring the appellant from Central Prison, Peshawar to Central Prison, D.I Khan.
- D- That the respondent Department violated Clause-I of the transfer/Posting Policy of the Provincial Government by issuing the impugned appellate Notification dated 31.05.2023. Copy of the transfer/posting policy is attached as annexure.....**E.**
- E- That the impugned Notification dated 31.05.2023 is violative of the principle of natural justice, hence the same is not tenable and liable to be set aside.
- F- That the impugned order dated 31.05.2023 is clear violation of the order dated 01.10.2023, therefore, the same is not tenable and liable to be set aside to the extent of appellant.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

Dated: 27.09.2023.

APPELLANT


MUHAMMAD ABID HUSSAIN

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

CERTIFICATE:

It is certified that no other earlier appeal was filed between the parties.


DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2023


M. ABID HUSSAIN

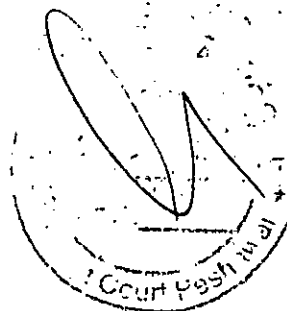
VS.

PRISON DEPTT:

AFFIDAVIT

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


MIR ZAMAN SAFI,
Advocate
High Court, Peshawar


27/2/23



A-5

ORDER:-

In supersession of all previous orders and in exercise of the powers conferred by Rule-1110 of Khyber Pakhtunkhwa Prisons Rules 2018, the following 04 circles are hereby created with immediate effect for better management of warder establishment of the Province:-

CIRCLE No.1 (PESHAWAR CIRCLE) HEADQUARTERS PRISON PESHAWAR.

All Jails / Lockups / Detention Centres located in the following districts:-

- i) Peshawar ii) Charsadda iii) Swabi iv) Nowshera
v) Khyber vi) Mohmand vii) Bajaur

CIRCLE No.2 (MARDAN CIRCLE) HEADQUARTERS PRISON MARDAN.

All Jails / Lockups / Detention Centres located in the following districts:-

- i) Mardan ii) Timergara (Dir Lower) iii) Chitral iv) Dir Upper
v) Malakand

CIRCLE No.3 (HARIPUR CIRCLE) HEADQUARTERS PRISON HARIPUR.

All Jails / Lockups / Detention Centres located in the following districts:-

- i) Haripur ii) Abbottabad iii) Mansehra iv) Kohistan
v) Battagram vi) Swat vii) Buner

CIRCLE No.4 (D.I KHAN CIRCLE) HEADQUARTERS PRISON D.I KHAN.

All Jails / Lockups / Detention Centres located in the following districts:-

- i) D.I Khan ii) Bannu iii) Karak iv) Lakki Marwat
v) Tank vi) Kohat vii) Hangu viii) South Waziristan
ix) North Waziristan x) Kurram

Circle Headquarters Prison, headed by the Superintendent Headquarters Prison concerned will perform the following functions in respect of the Jails / Lockups / Detention Centres included in the Circle:-

- Appointment, promotion and intra circle transfer of Warder Establishment.**
- Disciplinary proceedings against Warder Establishment of the Circle.**
- Administration of Warder Establishment including G.P Fund, Benevolent Fund, Retirement, Pension etc;**
- Maintenance of complete record of Warder Establishment.**
- Preparation and maintenance of seniority lists of Warder Establishment.**
- Joint seniority list of Chief Warders will be maintained at Provincial level in the Inspectorate.**
- Any other function as per Prisons Rules or as ordered by the Inspector General of Prisons.**
- Superintendent Headquarters Prison concerned will be appointing / competent authority in respect of the Warders Establishment of the respective circle.**



OFFICE ORDER:-

On the recommendation of the Departmental Promotion Committee in its meeting held on 30-05-2023, the Competent Authority is pleased to promote the following Head Warders (BPS-09) to the post of Chief Head Warders (BPS-11) on regular basis, with immediate effect:-

S#	Name with Parentage	Name of Jail	S#	Name with Parentage	Name of Jail
1.	Asmatullah s-o Gul Muhammad	CP D.I Khan	17.	Nadeem Khan S/o Abdul Qayum Khan	CP Peshawar
2.	Amjid Ali s-o Mir Hashim	SJ Malakand	18.	Muhammad Rasheed s-o Nazir Dad	CP Korak
3.	Muhammad Zakria s-o Iqbal Shah	SJ Ghallanai	19.	Muhammad Yaqoob Khan S/o Muhammad Raheem	CP Mardan
4.	Inayat Rehman s-o Saleh Rehman	CP Mardan	20.	Naveed Ali Shah S/o Abid Ali Shah	CP Peshawar
5.	Asndullah s-o Fida Muhammad	CP Peshawar	21.	Roham Dad Khan s/o Pir Muhammad	CP Peshawar
6.	Syed Muslim Shah S/o Syed Younsa Shah	CP Peshawar	22.	Shah Faisal s-o Karim Khan	CP Peshawar
7.	Hijabullah S/o Abdul Rasheed	CP Peshawar	23.	Muhammad Umar s-o Abdul Qadir	RPO Mardan
8.	Riaz Muhammad S/o Muhammad Afzal	SJ Nowshera	24.	Azizullah S/o Amin ullah	CP Peshawar
9.	Sadrat Khan S/o Arsala Khan	CP Peshawar	25.	Abdul Hayat S/o Wasool Khan	CP Korak
10.	Muhammad Abid Hussain S/o Khadim Hussain	CP Peshawar	26.	Mukhtiar Ahmad S/o Haji Rahim Bakhsh	CP D.I Khan
11.	Rasheed Khan S/o Fazal Khan	Inspectorate General of Prisons	27.	Zarwali Khan S/o Sifat Khan	IC Lakk Marwat
12.	Ali Akbar S/o Muhammad Israel	CP Mardan	28.	Sultan Muhammad S/o Ghulam Muhammad	DJ Hangu
13.	Muhammad Khalid S/o Fazal Muhammad	CP Peshawar	29.	Mumtaz Ali S/o Abdul Mateen	SJ Ghallanai
14.	Amjid Ali S/o Umar Ali	CP Peshawar	30.	Bakht Ali S/o Babuzai	DJ Timergam
15.	Muhammad Naseer S/o Shahzad Gul	CP Peshawar	31.	Zainullah S/o Said Mula Khan	CP Mardan
16.	Shah Zarin S/o Kachkol	CP Peshawar			

The above named officials will be on probation for a period of one year in terms Section 6(2) of the Khyber Pakhtunkhwa Civil Servant Act 1973 and Rule-15 of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

Moreover, the Competent Authority is also pleased to appoint the following Head Warders (BPS-09) to the post of Chief Head Warders (BPS-11) on acting charge basis, with immediate effect:-

S#	Name with Parentage	Name of Jail	S#	Name with Parentage	Name of Jail
32	Liaqat Ali S/o Mir Alam	CP Mardan	33	Afsar Khan S/o Atlas Khan	CP Peshawar

Consequent upon their promotion / appointment on acting charge basis, the following postings / transfers are hereby ordered in the public interest with immediate effect:-

S#	Name with Parentage	From	To
1.	Asmatullah s/o Gul Muhammad	Head Warder (BPS-09) at CP D.I Khan	Chief Head Warder (BPS-11) at CP D.I Khan against the vacant post.
2.	Amjid Ali s/o Mir Hashim	Head Warder (BPS-09) at CP Mardan	Chief Head Warder (BPS-11) at DJ Swat against the vacant post.
3.	Muhammad Zakria s/o Iqbal Shah	Head Warder (BPS-09) at SJ Ghallanai for the purpose of pay and for the purpose of duty with CP Peshawar	Chief Head Warder (BPS-11) at CP Peshawar vice # 4.
4.	Alamzeb s/o Fazal Khaliq	Chief Head Warder (BPS-11) at CP Peshawar	Chief Head Warder (BPS-11) at SJ Ghallanai against the vacant post.
5.	Inayat Rehman s/o Saleh Rehman	Head Warder (BPS-09) at CP Mardan	Chief Head Warder (BPS-11) at DJ Chitral against the vacant post.

(Handwritten Signature)

Sl No	Name with Parentage	From	To
6.	Anarulh S/o Fida Muhummad	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at CP Haripur against the vacant post
7.	Syed Muslim Shah S/o Syed Younas Shah	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at R/O Kohistan for the purpose of pay against the vacant post and for the purpose of duty with CP Peshawar.
8.	Hijahullah S/o Abdul Rasheed	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at CP Mardan for the purpose of pay against the vacant post and for the purpose of duty with CP Peshawar.
9.	Riaz Muhammad S/o Muhammad Afzal	Head Warder (BPS-09) at SJ Nowshera	Chief Head Warder (BPS-11) at DJ Hangu for the purpose of pay against the vacant post and for the purpose of duty with SJ Swabi.
10.	Sadurat Khan S/o Arsala Khan	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at CP Mardan for the purpose of pay against the vacant post and for the purpose of duty with CP Peshawar.
11.	Muhammad Abid Hussain S/o Khadim Hussain	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at CP D.I Khan against the vacant post.
12.	Rasheed Khan S/o Fazal Khan	Head Warder (BPS-09) at Inspectorate General of Prisons Peshawar	Chief Head Warder (BPS-11) at CP Haripur for the purpose of pay against the vacant post and for the purpose of duty with CP Peshawar.
13.	Ali Akbar S/o Muhammad Israel	Head Warder (BPS-09) at CP Mardan	Chief Head Warder (BPS-11) at CP Mardan against the vacant post.
14.	Muhammad Khalid S/o Fazal Muhammad	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at R/O Swat for the purpose of pay against the vacant post and for the purpose of duty with CP Peshawar.
15.	Amjid Ali S/o Umar Ali	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at CP Mardan against the vacant post
16.	Muhammad Naseer S/o Shahzad Gul	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at R/O Abbottabad against the vacant post.
17.	Shah Zarin S/o Kachkol	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at SJ Swabi against the vacant post.
18.	Liaqat Ali S/o Mir Alam	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) acting charge basis at R/O Hannu for the purpose of pay against the vacant post on and for the purpose of duty with CP Peshawar.
19.	Nadeem Khan S/o Abdul Qayum Khan	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at SJ Ali Zai for the purpose of pay against the vacant post and for duty with CP Peshawar.
20.	Muhammad Rasheed s-o Nazir Dad	Head Warder (BPS-09) at CP Karak	Chief Head Warder (BPS-11) at CP Karak against the vacant post.
21.	Muhammad Yaqoob Khan S/o Muhammad Raheem	Head Warder (BPS-09) at CP Mardan	Chief Head Warder (BPS-11) at CP Mardan against the vacant post.
22.	Naveed Ali Shah S/o Abid Ali Shah	Head Warder (BPS-09) at CP Peshawar for the purpose of pay and for the purpose of duty SJ Landi Kotal	Chief Head Warder (BPS-11) at DJ Hangu against the vacant post.
23.	Raham Dad Khan s/o Pir Muhammad	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at SJ NW for the purpose of pay against the vacant post and for the purpose of duty with R/O Peshawar.
24.	Shah Faisal s/o Karim Khan	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at CP Haripur against the vacant post
25.	Muhammad Umar s/o Abdul Qadir	Head Warder (BPS-09) at R/O Mardan	Chief Head Warder (BPS-11) at R/O Mardan against the vacant post.

(Handwritten Signature)

9

#	Name with Parentage	From	To
26.	Azizullah S/o Amin ullah	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) at IC Ghallanai for the purpose of pay against the vacant post and for the purpose of duty with CP Peshawar.
27.	Abdul Hayat S/o Wasceel Khan	Head Warder (BPS-09) at CP Karak	Chief Head Warder (BPS-11) at SJ Kurram against the vacant post.
28.	Mukhtiar Ahmad S/o Haji Rahim Bakhsh	Head Warder (BPS-09) at CP D.I Khan	Chief Head Warder (BPS-11) at SJ Orakzai against the vacant post.
29.	Zarwali Khan S/o Sifat Khan	Head Warder (BPS-09) at IC Lakki Marwat	Chief Head Warder (BPS-11) at IC Lakki Marwat against the vacant post.
30.	Afsar Khan S/o Atlas Khan	Head Warder (BPS-09) at CP Peshawar	Chief Head Warder (BPS-11) on acting charge basis at CP Peshawar vice # 31.
31.	Inam ullah s/o Kareem Ullah	Chief Head Warder (BPS-11) at CP Peshawar	Chief Head Warder (BPS-11) at IC Fort Salop against the vacant post.
32.	Sultan Muhammad S/o Ghulam Muhammad	Head Warder (BPS-09) at DJ Hangu	Chief Head Warder (BPS-11) at CP D.I Khan against the vacant post.
33.	Mumtaz Ali S/o Abdul Mateen	Head Warder (BPS-09) at SJ Ghallanai	Chief Head Warder (BPS-11) at CP Bannu against the vacant post.
34.	Bakht Ali S/o Babuzai	Head Warder (BPS-09) at DJ Timergara	Chief Head Warder (BPS-11) at DJ Timergara against the vacant post.
35.	Zainullah S/o Saïd Mula Khan	Head Warder (BPS-09) at CP Mardan	Chief Head Warder (BPS-11) at DJ Buner against the vacant post.
36.	Sajjad Ali s/o Jamalud Din	Chief Head Warder (BPS-11) at CP Mardan	Chief Head Warder (BPS-11) at SJ Khar Bajaur vice# 37.
37.	All Sher s/o Ghulam Hussain	Chief Head Warder (BPS-11) at SJ Khar Bajaur	Chief Head Warder (BPS-11) at CP Mardan vice # 36.

sd
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
E-mail: hqprisonpeshawar@gmail.com

Endst: No. 1844-60/1

Copy of the above is forwarded to the:-

1. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.
2. Accountant General Khyber Pakhtunkhwa Peshawar.
3. DIG Regional Prisons Office Peshawar, Abbottabad, Bannu, Mardan & Swat.
4. Superintendent Circle Headquarters Prison Haripur, Mardan and D.I Khan
5. Superintendent Jails concerned for information and further necessary action.
6. District Accounts Officers concerned.

2
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
E-mail: hqprisonpeshawar@gmail.com
d

sd



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

C-10

No. SO (Policy) (E&AD) 1-4/2023
Dated Peshawar, 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: - **BAN ON POSTINGS AND TRANSFERS IN KHYBER PAKHTUNKHWA**
Dear Sir,

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,


(Mansoor Haq)
Deputy Secretary (Policy) 29/5/2023

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)



25083

To,

The Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.

D-11

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED OFFICE ORDER DATED 31.05.2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM CENTRAL JAIL, PESHAWAR TO CENTAL JAIL DI KHAN DURING THE BAN PERIOD ON THE TRANSFER POSTING AND ALSO IN VIOLATION OF ORDER DATED 11.10.2019 OF THE PRISON DEPARTMENT

Respected Sir,

With great reverence it is stated that the appellant is the employee of your good self Department and is serving as Chief Head Warder (BPS-11) quite efficiently and upto the entire satisfaction of his superiors.

That the appellant while performing his duty as Head Warder at Central Prison, Peshawar promoted to the rank of Chief Head Warder vide order dated 31.05.2023 but subsequently transferred to Central Prison, DI Khan by the Worthy Superintendent Headquarter Prison, Peshawar.

That it is pertinent to mention that the appellant has served the different stations during his entire service with devotion, honesty and with all zeal and zest.

That it is also pertinent to mention here that your good self has been created 04 circles vide order dated 01.10.2019 for the transfer/posting of the employees and it was the clear directions of your good self that Inter circle posting/transfers of warders establishment shall be ordered by the A.I.G Prisons but the appellant has been transferred from Peshawar Circle to D.I Khan Circle in violation of the order dated 01.10.2019.

That it is worth mentioning here that as per instructions of the Establishment Department vide dated 29.05.2023 there is complete ban on the transfer/posting of the civil servants, but inspite of that the authority issued the impugned order dated 31.05.2023.

That the impugned order dated 31.05.2023 is based on malafide intention of the authority concerned and the same is coram-non-judice.

That the impugned Notification dated 26.05.2023 has been in clear violation of Clause-I of the transfer/posting policy of the Provincial Government and as such violative of the order dated 01.10.2019, therefore, the same is not tenable in the eye of law and liable to be set aside.

That the impugned Notification dated 31.05.2023 is also violative of Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

That the impugned order dated 31.05.2023 is also violative of the instruction/order of the Establishment department dated 29.05.2023.

That the impugned order dated 31.05.2023 has been issued in utter violation of the principle of natural justice.

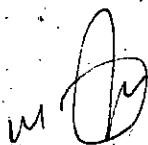
That the appellant feeling aggrieved from the impugned order dated 31.05.2023 preferred the instant departmental appeal before your good self.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal the impugned order dated 31.05.2023 may very kindly be set aside to the extent of appellant and the authority concerned be directed not to transfer the appellant from Central Prison, Peshawar. Any other relief which your good self deems fit that may also be awarded in favor of the appellant.

Dated: 05.06.2023.

Your sincerely

MUHAMMAD ABID HUSSAIN,
Chief Head Warder (BPS-11),
Central Prison, Peshawar





GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

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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 posting/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) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained.

While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary, NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice-versa, specific approval of the Governor, NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for about eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPO/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on deputation basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would 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.

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. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004.

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- 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
 DCOs 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 DPS-1A 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 Dept 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.

* 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 DPS-17 and above posted in the District.	Provincial Government
4.	Official in DPS-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.

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).

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

OF 2023

Muhammad Abid Hussain (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

I. G. Prison & others (RESPONDENT)
(DEFENDANT)

I/We Muhammad Abid Hussain

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /2023

Abid Hussain
CLIENT

Mir Zaman Safi
ACCEPTED
MIR ZAMAN SAFI
ADVOCATE

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Munfat Ali
ADVOCATE