

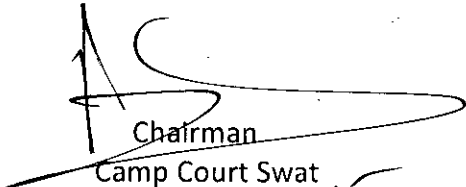
3.8.2015

Appellant with counsel and Mr. Bashir Ahmad, Headmaster alongwith Mr. Muhammad Zubair, Sr. G.P for respondents present. Submitted application for withdrawal of appeal according to which the appellant has been transferred to GPS Abdul Manan Banda.

In view of the afore-sated situation, the appeal is dismissed as withdrawn. File be consigned to the record.

ANNOUNCED

3.8.2015


Chairman
Camp Court Swat
03.08.15

17.04.2015

Appellant Deposited
Security & Process Fee



Counsel for the appellant present. Learned counsel for the appellant argued that appellant was appointed as PHST in GPS Muhammad Pattey on 28.09.2012 wherefrom he was transferred to GPS Bama Bogarai on 16.12.2014. That the impugned order was pre-mature and based on an anonymous complaint and as such the appellant preferred departmental appeal against the impugned order on 20.12.2014 which was not responded and hence the instant service appeal on 24.03.2015.

That the transfer can not be passed as a punishment and that too on an anonymous complaint.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 01.06.2015 before S.B. Since the appeal pertains to the territorial limits of Malakand Division as such to be heard at camp court Swat.


Chairman

5. 1.6.2015




Appellant in person and Mr. Anwar-ul-Haq, G.P for official respondents No. 1 to 3 present. None present for private respondent No. 4. Notice to private respondent No. 4 be repeated for 3.8.2015 at camp court Swat.


Chairman
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 246 / 2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.03.2015	<p>The appeal of Mr. Mukamil Shah presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	26-3-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>31-3-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	31:03.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 17.4:2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

بعد اللہ صاب۔ پتھر میں ہے۔ سرور سے کڑھو پتھر صبر و شکر و تواضع
سواک کبھی منگوارہ۔

صا = ۷۷۱

گزارش حسب ذیل کی ہے کہ صبر و شکر سے

کڑھو پتھر کے خلاف کڑھو پتھر سے سرور اور صبر و شکر سے

اب محکمہ تعلیم ملانڈ نے سرور سے کڑھو پتھر اور صبر و شکر سے

میلڈا سے سرور سے کڑھو پتھر سے کڑھو پتھر سے

فقو اداب

البرقوع - 3/8/2015



العارفین مکتبہ شاہی ایف او ای ٹورنٹو کینیڈا

سولہ بابا بوگرے ضلع ملانڈ

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MALAKAND AT BATKHELA.

OFFICE ORDER /

Consequent upon the approval of the recommendation of transfer committee held in March 2015, in light of the instruction vide Govt: of Khyber Pakhtunkhwa Notification No. SO(PF) 4-5/ Meeting/2013 Transfer/ Posting dated 19-09-2013, transfers of the following primary school teachers (PSHT/ SPST/ PST) are hereby ordered on their own pay and scale with effect from 02-06-2015 in the interest of public service:-

S. No.	Name and Designation	Current Station.	School where transferred.	Remarks
1	Safdar Hussain SPST-14	GPS Bar Tangey	GPS No.1 Totakan	AVP
2	Azizur Rahman SPST-14	GPS Kandey Khatak (Dargai)	GPS No.1 Sakhakot	AVP
3	Adam Khan SPST-14	GPS Pattak(Dargai)	GPS Khatako Shah	AVP
4	Muhammad Ameen SPST-14	GPS No 2 Pirkhel	GPS Chapal	Against PST B-12 as the school is a single teacher.
5	Syed Abdul Haq PST-12	GPS No.2 Thana	GPS Khatkey Btk	AVP
6	Fazal Haqani PST-12	GPS No.2 Mekhband	GPS Nari Tangai	Against required B-12 post as a single teacher school.
7	Abdul Hameed PST-12	GPS Mekhband	GPS Lalo Patai	Vice S.No. 8
8	Abdul Mueed PST-12	GPS Lalo Patai	GPS Sheikh Hasan Baba	AVP
9	Amjad Ali PST-12	GPS Jughrai Khanori	GPS Brah Ghakhey	AVP
10	Fida Hussain PST-12	GPS Haibat Gram	GPS No.2 Thana	Against S.No. 5.
11	Jauhar Ali PST-12	GPS Dobandai (Dargai)	GPS Heroshah Kalan	AVP
12	Muhammad Ishaq PST-12	GPS Bazdara bala	GPS Shengrai	AVP
13	Waris Khan PST-12	GPS Sheik Hassan (Totakan)	GPS G.Abad(Btk)	AVP
14	Muhammad Rafiq PST-12	GPS Janat Abad	GPS Hijab Kaley	AVP
15	Muhammad Ghaffar PST-12	GPS Amandara	GPS Sahib Zada Baba Aladand.	Vice S.No. 16.
16	Muhammad Faraz PST-12	GPS Sahib Zada Baba	GPS Fazal Abad (Aladand)	AVP
17	Adil.Muhammad PST-12	GPS Dray Sary	GPS Amandara	Vice S.No. 15.
18	Naeem Ahmad PST-12	GPS Barakt Shah Koruna	GPS No1 Sakhakot	AVP
19	Muhammad Riyaz PST-12	GPS Hijab Kalai	GPS Barakt Shah Kurona	Vice S.No.18
20	Bahri Karam PST-12	GPS Bazdara Payan	GPS Kandai Khatak(SKT)	AVP
21	Gul Bahar PST-12	GPS Doda Banda	GPS Qulangai	AVP
22	LAL BACHA PST-12	GPS Meherdi	GPS Ghani dheri	AVP
23	Mukamil Shah PSHT-15	GPS Bama Bogari	GPS Abdul Manan Banda	To open the school immediately while pay will be received from his present school till sanction of the post from the FD.
24	Muhammad Gul SPST-14	GPS Barh	GPS Maina	AVP
25	Saeedullah SPST-14	GPS Karkanai (Mehrdi)	GPS Barh	Vice S. No. 24.

Note:-

1. No TA/DA is allowed.
2. Charge report should be submitted to all concerned.

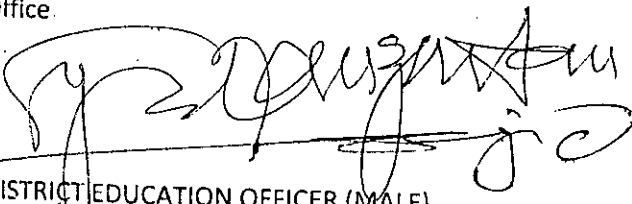
(SYED MANZIR JAN SAJID)
DISTRICT EDUCATION OFFICER (MALE)
MALAKAND AT BATKHELA.

Dated 13-05/2015

Enst;No 3230.86/F.No.Transfers/PSTs

Copy forwarded for information and necessary action to:-

1. The Director, E&SE Khyber Pakhtunkhwa, Peshawar
- 2-4 The Sub Divisional Education Officers (Male) Batkhela/Dargai.
3. The District Accounts Officer, Malakand.
4. The Assistant Programmer, DEMIS Cell Local Office.
- 5-31 The Head Teachers.
- 32-57 The Teachers Concerned.


DISTRICT EDUCATION OFFICER (MALE)
MALAKAND AT BATKHELA.

**BEFORE THE PESHAWAR HIGH COURT CIRCUIT BENCH AT
SWAT**

APPEAL NO. 246 /2015

MUKAMIL SHAH

VS

GOVT: of KPK

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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2.	Stay application	4.
3.	Transfer order	A	5.
4.	Impugned transfer order	B	6.
5.	Departmental appeal	C	7.
6.	Transfer/ posting policy	D	8- 10.
7.	Transfer/ posting Regulatory Act	E	11- 14.
8.	Court fee	15.
9.	Vakalat nama	16.

APPELLANT

THROUGH:


**NOOR MUHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 246 /2015

Mr. Mukamil Shah, PSHT (BPS-15),
GPS Mohammad Patty, District Malakand under transfer
to GPS Bama Bogarai, Tehsil Dargai, District Malakand.

G.W.F. Province
Service Tribunal
Diary No 249
Date 24-3-2015

..... APPELLANT

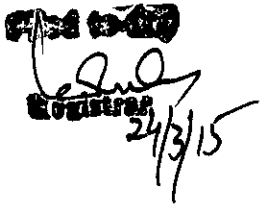
VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa Peshawar.
- 2- The Director of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (M), District Malakand.
- 4- Mr. Shehreyar, PSHT (BPS-15), GPS Bama Bogarai under transfer to GPS Mohammad Patty, District Malakand.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 16.12.2014 WHEREBY THE APPELLANT WAS PREMATURELY TRANSFERRED FROM GPS MOHAMMAD PATTY TO GPS BAMA BOGARAI ON THE BASIS OF ANONYMOUS/ PSYDONOMOUS COMPLAINT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER: That on acceptance of this appeal the impugned order dated 16-12-2014 may very kindly be set aside and the respondents may very kindly be directed that not to transfer the appellant from GPS Mohammad Patty till completion of his normal tenure. Any other remedy which this august Court deems fit may also be awarded in favor of the petitioner.


24/3/15

R.SHEWETH:

ON FACTS:

- 1- That appellant is the employee of the respondent Department and has served the respondent Department for quite considerable time quite efficiently and up to the entire satisfaction of his superiors.
- 2- That appellant has served the respondent Department as PST in far flung areas of District Malakand. That the

appellant was lastly transferred to GPS Mohammad Patty from GPS Bagh din kalay after completion of his normal tenure of three years. Copy of the transfer order is attached as annexure **A.**

3- That appellant while serving the respondent Department as PSHT (BPS-15) at GPS Mohammad Patty an anonymous and baseless complaint was filed against the appellant. That the respondent Department on the basis of that anonymous complaint transfer the appellant from GPS Mohammad Patty to GPS Bama Bogarai vide impugned order dated 16.12.2014 with out conducting fact finding and Departmental inquiry in the matter. Copy of the transfer order is attached as annexure **B.**

4- That it is very pertinent to mention that appellant have hardly served for two years at GPS Mohammad Patty which is the clear violation of transfer/ posting policy of the Provincial Government. Moreover the station to which the appellant has been transferred is belonging to another union Council than that of the home union Council to which the petitioner is belongs.

5- That appellant feeling aggrieved from the impugned transfer order dated 16.12.2014 filed Departmental appeal but no heed was paid by the concerned authority to the Departmental appeal of appellant. Copy of the Departmental appeal is attached as annexure **C.**

6- That hence the instant appeal inter alia on the following grounds.

GROUND:

A- That the impugned order dated 16-12-2014 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 respondents 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 impugned order dated 16-12-2014 is against the clause I, II, and IV of the transfer/ Posting policy of the Government of Khyber Pakhtunkhwa. (Copy of Transfer/Posting policy is attached as annexure **D.**

- D- That the impugned order dated 16-12-2014 has not been issued in the public interest nor in exigencies of service.
- E- That the impugned transfer order dated 16.12.2014 is issued in violation of the transfer/ posting Regulatory Act of 2011 promulgated by the Provincial Government. Copy of the Act is attached as annexure E.
- F- That the transfer of the appellant is void ab initio on the ground that transfer can not be awarded as punishment as the same has not been mentioned in any of the penalty list of E&D amended Rules 2011.
- G- That according to the instructions of the Establishment Code an anonymous complaint if received may straight away be thrown in to the dust bin and no action has to be taken on such complaints.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

APPELLANT


MUKAMIL SHAH

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____ /2015

MUKAMIL SHAH

VS

GOVT: OF KPK

APPLICATION FOR SUSPENTION OF OPERATION
OF IMPUGNED ORDER DATED 16.12.2014 TILL
THE DISPOSAL OF THIS APPEAL

R/SHEWETH:

- 1- That the appellant filed above mentioned appeal along with this application before this august service Tribunal in which no date has been fixed so for.
- 2- That all the three ingredients necessary for the stay is in favor of the appellant.
- 3- That the transfer of the appellant is against the transfer policy of the Government of Khyber Pakhtunkhwa and the impugned transfer order dated 16.12.2014 IS also not issued in the public interest nor exigencies of public service.
- 4- That the grounds of main appeal is also be considered as integral part of this application.

It is therefore humbly prayed that on acceptance of this application the impugned transfer order dated 16.12.2014 may very kindly be suspended till disposal of this appeal.

APPELLANT


MUKAMIL SHAH

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE) MALAKAND AT BATKHELA.

A- (15)

MUTUAL TRANSFERS.

Mutual transfers of the following primary school teachers (Male) Malakand Agency are hereby ordered to the schools noted against each their names on their own pay and grade in the interest of public service with immediate effect.

S.No.	Name of teachers/ Designation.	From.	To	Remarks.
1.	Mukammil Shah PST	GPS, Baghdin kalli	GPS, Muhammad Pattey	V.SNo.02
2.	Mr. Jamshaid Khan PST	GPS, Muhammad Pattey	GPS, Baghdin kalli.	V.SNo.01

Note:- Note:- No TA/DA is allowed.
Charge reports should be submitted to all concerned.

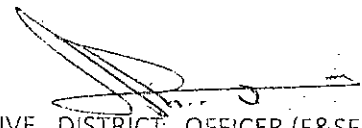
(MUSHTAQ AHMAD)
EXECUTIVE DISTRICT OFFICER (E&SE)
MALAKAND AT BATKHELA.

Endst.No. 132-88-93

Dated 28-9-2012

Copy forwarded for information and necessary action to :-

1. The District Coordination officer, Malakand.
2. The Deputy District officer (Male) Dargai w/r to his office memo No. 541 dated 18.09.2012.
3. The Agency Accounts officer, Malakand.
4. The Assistant Programmer, DEMIS, Cell, local office.
- 5-6. The Head teachers concerned.
7. 8. The teachers concerned.


EXECUTIVE DISTRICT OFFICER (E&SE)
MALAKAND AT BATKHELA.

Attested

g.

B-6

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) MALAKAND AT BATKHELA.

TRANSFER ORDER.

The following PSHTs are hereby transferred to the Schools noted against each on their on their own pay and Scale in the interest of public service with immediate effect.

S.No	Name & Designation	From	To	Remarks
1.	Mr. Mukamil Shah PSHT	GPS Muhammad Patty	GPS Bama Bogarai	On administrative ground.
2.	Mr. Muhammad Sheiryar PSHT	GPS Bama Bogarai	GPS Muhammad Patty	V.S.No1

Note:-

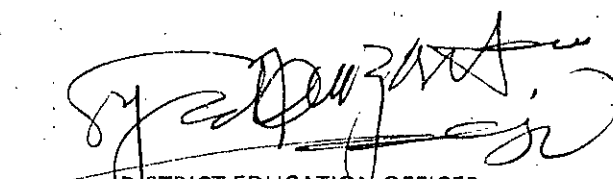
1. No TA/DA is allowed.
2. Charge reports should be submitted to all concerned.


(SYED MANZARJAN SAJID)
DISTRICT EDUCATION OFFICER (M),
MALAKAND AT BATKHELA.

Endst No 7873⁷⁸/G. Transfer of PST (M) Dated Batkhela the 16-12 /2014.

Copy of the above is forwarded for information to:-

1. The Director E&SE Khyber pakhtunkhwa Peshawar.
2. The District Accounts Officer Malakand.
- 3-4. The SDEO(M) Sama & Swat Ranizai Dargai & Batkhela, District Malakand.
- 5-6. The Head Teachers concerned.


DISTRICT EDUCATION OFFICER
(M) MALAKAND AT BATKHELA.

ATTESTED


ATTESTED

Ro-12.014

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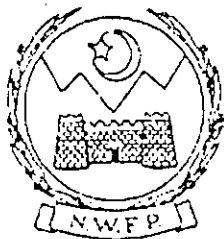
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D-8

**GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)**

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) 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) { }
vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- ²While 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 atleast 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 DPOs/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 detailment 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.

ATTESTED

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

- 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
¹DCOs 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 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.

ATTESTED

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

(10)

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 posing/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.

.....

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.

ATTESTED



Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011

AN ACT to regulate by law appointments, postings and transfers of teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges and instructors in technical institutions and doctors in health facilities.

Preamble.---WHEREAS it is expedient to regulate by law appointments, postings and transfers at local level, of teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges and instructors in technical institutions and doctors in health facilities and to ensure the availability of teachers in schools, lecturers in colleges and instructors in technical institutions and the doctors in health facilities, and to regulate deputation of doctors abroad, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:

1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011.

(2) It shall apply to teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges as well as commerce colleges and instructors serving in technical institutions and doctors serving in the health facilities in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---(1) In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-

- (a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;
- (aa) "college" means a degree college;
- (b) "doctor" means a doctor serving in the health facility;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "health facilities" mean all health facilities established and managed by Government to provide medical facilities to general public;
- (e) "lecturer" and "instructor" respectively means a lecturer or an instructor serving in a Technical Institution as well as in a college, as the case may be;
- (f) "prescribed" means prescribed by rules made under this Act;

ATTESTED

b.

- (g) "rules" mean the rules made under this Act; (12)
- (h) "school" means school in the public sector including primary, middle, secondary school, higher secondary school or an institution of equivalent level imparting education through any system or medium of instruction in the public sector;
- (i) "teacher" means a teacher of primary, middle, secondary or higher secondary school; and
- (j) "technical institution" means and includes a Commerce College or Government College of Management Sciences or Technical Institute or Technical and Vocational Training Center or Skill Development Center in the public sector imparting technical education to students leading to the award of a degree or a diploma or a certificate.

(2) Words and phrases used in this Act, but not defined, shall have the same meanings as respectively assigned to them under the relevant federal law or provincial law or any other statutory order or rules for the time being in force.

3. Appointment, posting and transfer of primary school teachers.---

(1) The vacancy of primary school teacher shall be filled in from the candidates belonging to the Union Council of their permanent residence mentioned in their Computerized National Identity Card and domicile, on merit and if no eligible candidate in that Union Council is available where the school is situate, such appointment shall be made on merit from amongst eligible candidates belonging to the adjacent Union Councils:

Provided that on availability of a vacancy, a primary school teacher, appointed from adjacent Union Council, as referred to in this sub-section, shall be transferred against a vacant post in a school of the Union Council of his residence within a period of fifteen days.

(2) Upon marriage, the primary school teacher on request may be transferred to the school in the Union Council, where his spouse, ordinarily resides, subject to the availability of vacancy.

(3) The primary school teacher shall be transferred to other school within the Union Council on completion of tenure as may be prescribed or before completion of tenure, subject to the policy of rationalization for maintaining certain students teachers ratio, if any.

(4) Government shall, within a period not exceeding one year of the commencement of this Act, make arrangement for posting of all the primary school teachers appointed prior to coming into force of this Act, to the schools of their respective Union Councils or adjacent Union Councils, as the case may be.

4. Appointment of doctors, lecturers, instructors, subject specialists and teachers on adhoc basis.---(1) Government may, through the competent authorities make adhoc appointment on merit against the vacant posts of doctors, lecturers, instructors, subject specialists and teachers, falling within the purview of Commission, in a district concerned from the domicile holders of that district for a period of one year or till the arrival of recommendees of Commission, whichever is earlier after fulfilling the pre-requisites

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In light of Section 3(4) of the T/P Act
The petitioner is liable to serve
the respondent in his own union
Council.

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of giving wide publicity in the press. On assumption of charge of post by recommendee of the Commission, the services of such ad hoc appointee shall stand automatically terminated:

Provided that if no suitable and eligible candidate is available in the district concerned for appointment, then the candidates belonging to the neighbouring districts shall be considered for appointment in the order of their merit.

(2) Save as the appointment made under proviso of this section, "ad hoc appointee" shall serve in the district of his domicile.

(3) The post of a doctor, lecturer, instructor, subject specialist or teacher who proceeds on training or long leave may be treated as vacant post for the purpose of contract or contingent appointment till the return of such employee from training or long leave and assumption of charge of the post:

Provided that the period of such training or long leave shall not be less than one year and no appointment on contract or contingent shall be made on the post which may fall vacant for a period less than one year.

5. Initial posting. --- (1) The doctors, lecturers, instructors subject specialist or teachers, upon their appointment shall be first posted in the periphery of the zone against whose quota they have been recruited, and they shall not be transferred for a period of at least three years.

(2) Upon expiry of the tenure as referred to in sub-section (1), transfer shall be made only upon the availability of substitute.

6. Deputation of Doctors.---(1) Government may allow deputation abroad for all categories of doctors only once in their entire service, for a period not exceeding three years.

(2) Deputation to "Foreign Service" within Pakistan shall be permissible only in respect of medical officers for a period not exceeding three years:

Provided that no further extension, on expiry of agreed tenure shall be given to the doctors who are already on deputation abroad or within Pakistan.

7. Postgraduate Medical Education.---(1) The Health Department, on the basis of objective need assessment and analysis, shall determine the intake number of Trainee Medical Officers (TMOs) in Postgraduate Medical Institute (PGMI) and Junior Registrars in Tertiary Care Hospitals every year. This stipulated number shall not exceed in any case.

(2) Any doctor selected or permitted for postgraduate medical training shall be treated on leave without pay and may be entitled only for stipend fixed by Government from time to time for such training.

(3) A doctor selected or permitted for postgraduate medical training shall provide surety bond prescribed by Government ensuring that upon completion of his studies for which he was initially selected, shall compulsorily serve for three years in the district of

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his domicile and in case of non-availability of a post in the district of domicile, he shall serve for three years in the rural area.

(4) For the purpose of sub-section (3), the doctor shall also provide guarantee of two government officers.

(5) In case of violation of sub-section (3), Government shall serve one month notice upon the doctor for resumption of duty, failing which the amount shall be recovered from him or from the guarantor, as the case may be.

8. Provisions relating to doctors apply to lecturers and instructors. ---
The provisions relating to doctors in section 7 of this Act shall mutatis mutandis apply to lecturers and instructors.

9. Act to over-ride other laws.--- The provisions of this Act shall have effect notwithstanding any thing contained in any other law for the time being in force.

10. Jurisdiction barred.--- Save as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and the Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974), no order made or proceedings undertaken under this Act, or the rules made there under or any officer authorized by it shall be called into question in any Court, and no injunction shall be granted by any Court in respect of any decision made, or proceedings taken in pursuance or by any power conferred by or under this Act or the rules.

11. Removal of difficulties.--- Government may, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Act.

12. Power to make rules.--- Government may make rules for carrying out the purposes of this Act.

GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(Regulation Wing)

1. 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.

1. Posting - Transfer Policy - updated till 10 Jan, 2009

ATTESTED



VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2015

Mukamil Shah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Department

(RESPONDENT)
(DEFENDANT)

I/We Mukamil Shah

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, 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. ____/____/2015



CLIENT



ACCEPTED

NOOR MOHAMMAD KHATTAK
(ADVOCATE)

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