

30.06.2015

Counsel for the appellant, Addl: A.G for official respondents No. 1 to 2 and counsel for private respondent No.3 present. Requested for adjournment. To come up for written reply/comments on 11.8.2015 before S.B. Status-quo be maintained.


Chairman

11.08.2015

Appellant in person, Assistant A.G for official respondents and counsel for private respondent No. 3 present. Written reply not submitted. Requested for further adjournment. To come up for written reply/comments on 27.8.2015 before S.B. Status-quo be maintained.


Chairman

27.08.2015

Appellant with counsel, M/S Muhammad Iqbal, Supdt. and Muhammad Yasin, Supdt. alongwith Addl: A.G for official respondents No. 1 and 2 and counsel for private respondent No. 3 present. Written reply by official respondents as well as private respondent submitted. The appeal is assigned to D.B for rejoinder and final hearing for 22.12.2015 before S.B.

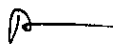

Chairman

22.12.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant moved an application for withdrawal of the instant appeal. Application is allowed and the appeal is dismissed as withdrawn. File be consigned to the record.

22/12/15

Announced
22.12.2015.


Member


Member

12.05.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as SDO, PHE Sub Division Tangi, District Charsadda on the basis of transfer/posting order dated 23.10.2014 when, a period of about two months, transferred as SDO, PHE Sub Division Totali, Buner vide impugned order dated 31.12.2014. That that appellant preferred departmental appeal against the said order on 08.01.2015 which remained un-responded and hence the present service appeal on 05.05.2015.

That the impugned order is a result of political intervention as evident from annexure-C. (Page-8) and in violation of Clause I, II and IV of the transfer/posting policy of the Government and hence not tenable in the eye of law.

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 29.05.2015 before S.B. Notice of stay application be also issued for the date fixed. Till then status-quo will be maintained.


Chairman

29.05.2015

Appellant in person, Mr. Muhammad Iqbal, Supdt. alongwith Assistant A.G for official respondents No. 1 & 2 and counsel for private respondent No. 3 present. Counsel for private respondent No. 3 submitted Wakalat Nama. Requested for adjournment. To come up for written reply/comments on 30.6.2015. Status-quo be maintained.


Chairman

Appellant Deposited
Security & Process Fee



Form- A

FORM OF ORDER SHEET

Court of

Case No

391/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	05.05.2015	<p>The appeal of Mr. Salim Javed 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	11-5-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>18-5-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 391 /2015

SALIM JAVED

VS

GOVT: OF KPK

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
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4.	order dt:23.10.2014	B	7.
5.	Letter	C	8.
6.	Impugned order	D	9.
7.	Departmental appeal	E	10- 11.
8.	Transfer/posting policy	F	12- 14.
10.	Vakalat nama	15.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 391 /2015

M.W.F. Province
Service Tribunal
Diary No. 451
Dated 05/5/2015

Mr. Salim Javed, S.D.O (BPS-17),
PHE Sub Division Tangi, District Charsadda under transfer to PHE Sub
Division Totalai, District Buner **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Public Health Engineering Department Government of Khyber Pakhtunkhwa, Peshawar.
- 3- Mr. Syed Abid Ali Shah, SDO (BPS-17), XEN (BPS-18) (OPS) Public Health Engineering Division Chitral under transfer to PHE Sub Division Tangi, District Charsadda.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED TRANSFER ORDER DATED 31/12/2014 WHEREBY THE APPELLANT WAS TRANSFERRED FROM PUBLIC HEALTH ENGINEERING SUB DIVISION TANGI DISTRICT CHARSADDA TO PUBLIC HEALTH SUB DIVISION TOTALAI BUNER PREMATURELY AND DUE TO POLITICAL INTERFERENCE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned transfer dated 31.12.2014 may very kindly be set aside and the respondents may please be directed that not to transfer the appellant from PHE Sub Division Tangi Charsadda till completion of his normal tenure of three years. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

Filed to the
Registrar
5/5/15

R/SHEWETH:

ON FACTS:

- 1- That appellant is the employee of the respondent Department and having more than 27 years service at his credit. That right from appointment till date the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors.

- 2- That vide Notification dated 18.3.2014 the appellant was promoted to the post of Sub-Divisional Officer (BPS-17) on regular basis on the proper recommendations of Departmental promotion Committee. That the appellant was posted/ transferred as Sub Divisional Officer (BPS-17) at Public Health Engineering Sub Division Dargai Malakand. That in response appellant submitted his Charge report and started performing his duty at the concerned station. Copy of the promotion Notification is attached as annexure **A.**
- 3- That vide Notification dated 23/10/2014 the appellant was prematurely transferred from PHE Sub Division Dargai, Malakand to PHE Sub Division Tangi, Charsadda without any reason and clear justification. That in response the appellant started performing his duty at the new station to utmost satisfaction of his superiors. Copy of the Notification dated 23.10.2014 is attached as annexure **B.**
- 4- That due to Political intervention of the Minister for Public Health Engineering Department the appellant was again Prematurely transferred from Public Health Engineering Tangi, Charsadda to Public Health Engineering Totalai, Buner vide impugned Notification dated 31.12.2014. Copies of the letter and impugned Notification dated 31.12.2014 is attached as annexure **C & D.**
- 5- That appellant feeling aggrieved from the impugned order/ Notification dated 31.12.2014 filed Departmental appeal on 8.1.2015 but the same was un-responded by the respondent No.1 within the stipulated time of ninety days. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **E.**

GROUND:

- A- That the impugned order dated 31.12.2014 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 in accordance with law and rules by the respondent Department on the subject noted above and as such the respondent violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned order dated 31.12.2014 is against the clause I, II and IV of the transfer/Posting Policy of the Government of Khyber Pakhtunkhwa. Copy of the

transfer/ posting policy is attached as annexure
..... F.

- D- That the impugned order dated 31.12.2014 has not been issued by the respondents in the public interest nor in exigencies of service.
- E- That the impugned order dated 31.12.2014 has been issued by the respondents pre maturely, therefore the same is not tenable and liable to be set aside.
- F- That the transfer order dated 31.12.2014 has been issued under the direction of Political figure which is not tenable in the eye of law and liable to be set aside.
- G- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 4.5.2015

APPELLANT



SALIM JAVED

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____/2015

SALIM JAVED

VS

GOVT: OF KPK

APPLICATION FOR SUSPENSION OF OPERATION
OF IMPUGNED ORDER DATED 31.12.2014 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 31.12.2014 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 31.12.2014 may very kindly be suspended till disposal of this appeal.

APPELLANT


SALIM JAVID

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the March 18, 2014



NOTIFICATION

A - (5)

No.SO(Estt)/PHED/4-53/B/2014: The competent authority, on the recommendations of the Departmental Promotion Committee, is pleased to promote the following acting charge SDO (BPS-17)/Sub Engineers (BPS-16/11) of the Public Health Engineering Department to the post of Assistant Engineer / Sub Divisional Officer (BPS-17) on regular basis, with immediate effect:-

- i) Engr. Salim Javed, acting charge SDO (BPS-17)
- ii) Engr. Iftexhar Ahmad, Graduate Sub Engineer (BPS-11)
- iii) Mr. Abdul Ghani, Diploma Holder Sub Engineer (BPS-16)
- iv) Mohammad Ashiq, Diploma Holder Sub Engineer (BPS-16)
- v) Mr. Saleem Khan, Diploma Holder Sub Engineer (BPS-11)

2. The officers, on promotion, will remain on probation for a period of one year in terms of Section 6 (2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. In order to actualize their promotion, the following postings / transfers / adjustments are made henceforth:-

S.No	Name	From	To	Remarks
i.	Mr.Salim Javed (BPS-17)	Sub Divisional Officer (acting charge) PHE Sub Division Dargai Malakand	Sub Divisional Officer (BPS-17) PHE Sub Division Dargai Malakand on regular basis.	Against the existing vacancy
ii.	Mr.Iftexhar Ahmad (BPS-11)	Sub Engineer PHE Division Nowshera	Sub Divisional Officer (BPS-17) PHE Sub Division Swat on regular basis.	Against the vacant post
iii.	Mr.Abdul Ghani (BPS-16)	Sub Engineer PHE Division Haripur	Assistant Design Engineer (BPS-17) O/o the C.E (North) PHE Peshawar on regular basis.	Against the vacant post
iv.	Mohammad Ashiq (BPS-16)	Sub Engineer PHE Division Swabi	Sub Divisional Officer (BPS-17) PHE Sub Division Chota Lahore Swabi on regular basis.	Against the vacant post
v.	Mr.Saleem Khan (BPS-11)	Sub Engineer PHE Division Lakki Marwat.	Sub Divisional Officer (BPS-17) PHE Sub Division Lakki Marwat on regular basis.	He will actualize his promotion w.e.f. 01.04.2014

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ATTESTED

SECRETARY

Handwritten signature

23

6

Enst: No.SO(Estt)/PHED/4-53/B/2013

Dated Peshawar, the March 18, 2014

Copy forwarded for information and necessary action to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Chief Engineer (South) PHE Khyber Pakhtunkhwa Peshawar.
3. Chief Engineer (North) PHE Khyber Pakhtunkhwa Peshawar.
4. Superintending Engineers PHE Circle Swat, Mardan & Bannu.
5. Executive Engineer PHE Division Malakand, Swat, Swabi & Lakki Marwat.
6. District Accounts Officer Malakand, Swat, Swabi & Lakki Marwat
7. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
8. PS to Secretary PHE Department Khyber Pakhtunkhwa.
9. Officers concerned.
10. Office Order / Personal Files.

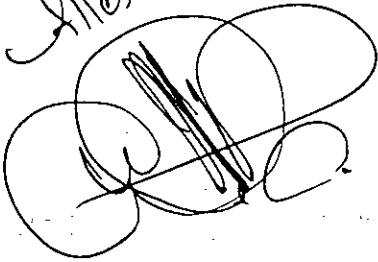


SECTION OFFICER (ESTT)

ATTESTED



Attested

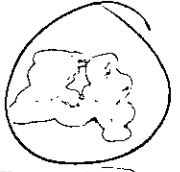




GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the October 23, 2014

B-7



ORDER


No.SO(ESTT)PHED/1-44/2013-14. The competent authority has been pleased to transfer Mr. Salim Javid, SDO (BPS-17) PHE Sub Division Dargai Malakand and posted him against the vacant post of SDO PHE Sub Division Tangi Charsadda, with immediate effect, in the public interest.

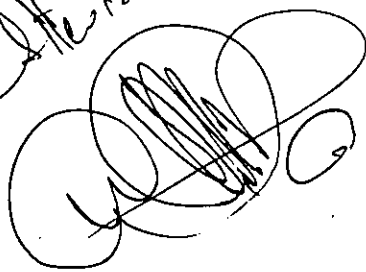
SECRETARY

No.SO(ESTT)PHED/1-44/2013-14 **Dated Peshawar, the October 23, 2014**

Copy forwarded for information & necessary action to the:-

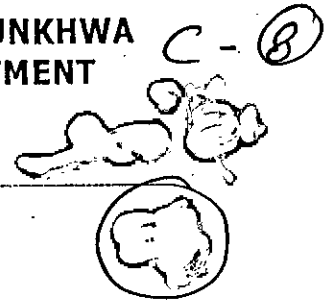
1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (South) PHE Khyber Pakhtunkhwa Peshawar
3. Chief Engineer (North) PHE Khyber Pakhtunkhwa Peshawar
4. Superintending Engineer PHE Circle Peshawar/Swat
5. Executive Engineer PHE Division Charsadda/Malakand
6. PS to Minister for PHE Department Khyber Pakhtunkhwa Peshawar.
7. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar.
8. District Accounts Officer Charsadda/Malakand
9. Officer concerned.
10. Office Order / Personal File


23/10/14
SECTION OFFICER (ESTT)

ATTESTED





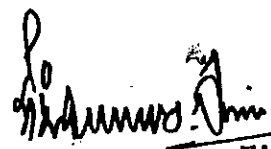
NOTE FOR THE MINISTER PHE, K.P

Subject: **POSTING/TRANSFER.**

Private Secretary to the Hon'ble Minister for PHE Khyber Pakhtunkhwa telephonically informed that the Minister PHE has desired that Syed Abid Ali Shah (BPS-17), Executive Engineer (OPS) PHE Division Chitral may be transferred and posted against the post of SDO PHE Sub Division Tangi District Charsadda, in the public interest, with immediate effect.

2. In this regard, it is submitted that Syed Abid Ali Shah is basically Assistant Engineer/SDO (BPS-17) and presently working as Executive Engineer (OPS) PHE Division Chitral since 16.09.2014. It is worth mentioning that Mr. Salim Javed is working as SDO PHE Sub Division Tangi, Charsadda since 23.10.2014.

3. Order of the Hon'ble Minister for PHE Khyber Pakhtunkhwa is, therefore, solicited to the proposal contained at Para-1 above. In case the proposal of posting of Syed Abid Ali Shah is approved for posting as SDO PHE Sub Division Tangi District Charsadda then Mr. Salim Javed SDO PHE Sub Division Tangi will be transferred and posted against the vacant post of SDO PHE Sub Division Totalai District Buner.


(NIZAM-UD-DIN) 31/12
SECRETARY PHED

Minister for PHE,
Khyber Pakhtunkhwa

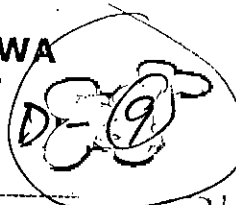
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GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the December 31, 2014



NOTIFICATION

No.SO(Estt)/PHED/1-45/2013-14: The competent authority has been pleased to order the transfers/postings of the following officers of the Public Health Engineering Department, with immediate effect, in the public interest:-

S.No	Name	From	To	Remarks
1.	Syed Abid Ali Shah, BPS-17	Executive Engineer (OPS) PHE Division Chitral	SDO PHE Sub Division Tangi, Charsadda	Vice S.No.2
2.	Mr. Salim Javed, BPS-17	SDO PHE Sub Division Tangi, Charsadda	SDO PHE Sub Division Totalai, Buner	Against the vacant post

SECRETARY

No.SO(ESTT)/PHED/1-45/2013-14: **Dated Peshawar, the December 31, 2014**

Copy forwarded for information & necessary action to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Chief Engineer (South) PHE Khyber Pakhtunkhwa Peshawar
3. Chief Engineer (North) PHE Khyber Pakhtunkhwa Peshawar
4. Superintending Engineer PHE Circle Malakand at Timergara/Swat/Peshawar
5. Executive Engineer PHE Division Charsadda/Buner/Chitral
6. District Accounts Officer Charsadda/Buner/Chitral
7. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
8. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar.
9. PA to Deputy Secretary (Admn) PHED Khyber Pakhtunkhwa Peshawar.
10. Officers concerned.
11. Office Order / Personal Files.

SECTION OFFICER (ESTT:)

ATTESTED

Before the Chief Secretary Govt of KPK Peshawar



Sub: Departmental appeal

E - (103)

Respected Sir:

1. After joining services on 22-11-1988. Against a contract, extendible till 1989 in the same scenario, I was subjected of some agonies, given by the irregular and illegal orders of the department, caused me to file a writ petition, at the disposal of which I, thereafter, filed an appeal before the services Tribunal KPK Peshawar. The judgment of which was impugned before the August Supreme Court of Pakistan in CP of 2005, at the acceptance of which I along with others was re-instated in my service with all back benefits.
2. In this light a proper departmental order was passed thereafter I was promoted and finally confirmed in 2014.
3. I served at Malakand Agency in such status However in October 2014 I was transferred in the statue of Sub Divisional Officer to Tangii District Charsadha against a vacant post. I served therein till date however an order of my transfer was made on 31-12-2014 to District Buncer Sub Division TottaLai.
4. Syed Abid Ali Shah went, here from the mentioned Sub Division in the promoted status as Executive Engineer (PHE) Division Chitral in his own pay scale, nothing but something attracted him to accept reversion and occupy the post presently being occupied by me. He used political pressure as such.
5. As I have no political back, is being treated as a rolling stone therefore the order of the transfer being immature against the stipulation mentioned in the APPOINTMENT, PROMOTION AND TRANSFER RULES OF 1986. The same is not sustainable as only 2 months service is available on my credit at the present station of Tangii.

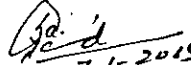
ATTESTED



Therefore it is requested that the acceptance of this Departmental appeal, the Impugned Transfer Order may kindly be cancelled.

Thanking you.

Yours Obediently


7-1-2015
Salim Javed.

Sdo (PHE) Sub Division

Tangii Charsadha.

ATTESTED



E-10



**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.

¹ 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.

² Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

ATTESI

(11)

- 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:
- 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.
 - Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

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

ATTESTED

[Handwritten signature]

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

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar
OF 2015

Salim Javed

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt. of KPK

(RESPONDENT)
(DEFENDANT)

I/We Salim Javed

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

Salim Javed

CLIENT

NK

ACCEPTED

NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141



VAKALAT NAMA

NO. 391 /2015

IN THE COURT OF Service Tribunal Peshawar

Salim Javed (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

PHO Deptt (Respondent)
(Defendant)

I/We S. Azid Ali Shah (Respondent no. 3)

Do hereby appoint and constitute **M.Asif Yousafzai, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 29-5- /2015.

(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

Ep
Taimur Ali Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.391/2015

Mr. Salim Javid,
SDO (BPS-17),
PHE Sub Division Totalai District BunerAppellant

VERSUS


1. The Government of KPK,
through Chief Secretary
2. The Secretary to Govt. of.KPK,
Public Health Engineering Department
3. Syed Abid Ali Shah,
SDO (BPS-17),
PHE Sub Division Tangi,
District Charsadda Respondents

PARA WISE COMMENTS OF RESPONDENTS NO.1 & 2

AFIDAVIT

I, Mohammad Iqbal, Superintendent (Estt) PHED Peshawar, do hereby solemnly declare that contents of the Para-wise comments are correct to the best of my knowledge and record and nothing has been concealed from this honourable Court.

Deponent


SUPERINTENDENT (ESTT)
PHE DEPARTMENT

Identified by

Senior Government Pleader
KPK Service Tribunal Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.391/2015

Mr. Salim Javid,
SDO (BPS-17),
PHE Sub Division Totalai District BunerAppellant

V E R S U S

1. The Government of KPK,
through Chief Secretary
2. The Secretary to Govt. of KPK,
Public Health Engineering Department
3. Syed Abid Ali Shah,
SDO (BPS-17),
PHE Sub Division Tangi,
District Charsadda Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 & 2

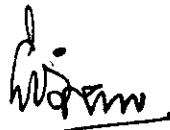
Respectfully Sheweth,

Preliminary Objections

1. That the appellant has got no locus standi.
2. That appellant is estopped due to his own conduct.
3. That this Hon'ble Tribunal has got no jurisdiction.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. The appeal is time barred.
6. The appellant is barred by law.
7. The appeal is not maintainable in its present form.
8. The appeal is bad for non joinder/mis-joinder of necessary parties.

Facts of the case

1. That para No.1 of the appeal is not correct in its present form. The appellant has been adjusted/inducted to this department during 2008 being surplus employee from the LG&RD Department. Furthermore there are numerous complaints against him (**Annex-I, II & III**) which speaks of the fact that he has not got unblemished record of service.
2. That para No.2 of the appeal is correct to the extent that the appellant was promoted to the post of SDO (BPS-17) on regular basis. However, prior to his promotion, the appellant was posted/transferred as SDO PHE Sub Division Dargai Malakand on recommendations/directions of the concerned MPA/DDAC Chairman and Chief Minister Khyber Pakhtunkhwa (**Annex-IV**).



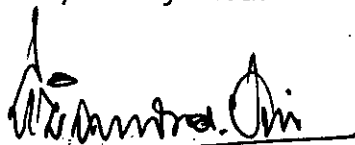
3. That para No.3 of the appeal is not correct. The appellant was transferred from the post of SDO PHE Sub Division Dargai Malakand to the post of SDO PHE Sub Division Tangi Charsadda in the public interest (**Annex-V**).
4. That para No.4 of the appeal is correct to the extent that the appellant was again transferred from the post of SDO PHE Sub Division Tangi Charsadda to the post of SDO PHE Sub Division Totalai Buner in the public interest vide Notification dated 31.12.2014. In compliance to the said notification, the appellant has assumed the charge of the post of SDO PHE Sub Division Totalai Buner on 08-01-2015 (**Annex-VI**) and it seems that he was willing on his transfer.
5. Correct to the extent that the appellant filed departmental appeal which did not carry any weightage / merit.

GROUND:

- a. That ground 'A' of the appeal is incorrect, misconceived and denied as the appellant was transferred to the post of SDO PHE Sub Division Totalai Buner in the public interest and is very much legal.
- b. That ground 'B' of the appeal is incorrect, misconceived. Denied.
- c. Incorrect. The notification dated 31-12-2014 was issued in the public interest and not against the transfer/posting policy of the government.
- d. That ground 'D' of the appeal is incorrect, misconceived, hence denied.
- e. Incorrect. The Government may transfer any officer irrespective of the tenure in the public interest.
- f. Incorrect. The notification dated 31-12-2014 is according to law and not against posting/transfer policy. As stated above, the appellant has always used the political influence for his posting/transfer.
- g. No comments. Moreover explained in proceedings paras.

PRAYERS

Keeping in view the position explained above, it is very humbly requested that the appeal may be rejected.



**SECRETARY TO GOVT. OF KPK
PHE DEPARTMENT
(RESPONDENTS No.1 & 2)**

GOVERNMENT OF NWFP
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the March 13, 2008

2
Amevi

ORDER

No.SOE-II/W&S/17-3/99 In compliance with the decision of Supreme Court of Pakistan dated 25.08.2005 the competent authority has been pleased to absorb/adjust the following surplus Sub Engineers (BPS-11) of Local Govt. & Rural Dev: Department, Peshawar against the vacant posts of Sub Engineers (BPS-11) in the Public Health Engineering Works & Services Department with immediate effect.

1. Mr. Mohammad Khan
2. Mr. Amanullah
3. Malik Mohammad Irfan
4. Mr. Abdul Hamid Khan
5. Mr. Munawar Ahmed
6. Mr. Intizar Mohammad
7. Mr. Dilawar Khan
8. Mohammad Ilyas Khan
9. Mr. Abdul Rahman
10. Mr. Mohammad Siddiq
11. Mr. Aziz-ur-Rahman
12. Mr. Mohammad Raees
13. Mr. Tariq Khan
14. Mr. Mislaluddin
15. Mr. Salim Javed.
16. Mr. Abdali Shah
17. Mr. Arif Qayum
18. Mr. Amin Gul
19. Mr. Asghar Hussain
20. Mr. Mohammad Nazif

2. Their services are placed at the disposal of Chief Engineer-PHE Works & Services for further posting against the vacant posts.

3. They shall be placed at the bottom of seniority list of Sub Engineers in the PHE cadre Works & Services Department in accordance with their interse-seniority in their parent department.

SECRETARY

2/1
Endst of even number & date

Copy is forwarded to the:-

1. Accountant General NWFP, Peshawar.
2. Principal Secretary to Chief Minister NWFP, Peshawar.
3. Secretary to Govt. of NWFP, Establishment & Admn Deptt, Peshawar.
4. Secretary to Govt. of NWFP, Local Govt, & Rural Dev: Deptt, Peshawar.
5. Secretary Local Council Board, NWFP Peshawar.
6. Chief Engineer Works & Services Peshawar.
7. Chief Engineer ERE Works & Services Peshawar.
8. Chief Engineer WTA Works & Services Peshawar.
9. Section Officer (Estt-I) W&S Department Peshawar.
10. Section Officer (Estt-II) W&S Department Peshawar.
11. Section Officer (Surplus Pool) Establishment Deptt: Peshawar.
12. Incharge Computer Cell, Works & Services Department Peshawar.
13. PS to Secretary Works & Services Department, Peshawar.
14. PA to Adml: Secretary W&S Department Peshawar.
15. Officials concerned.
16. Office file/Personal file.


(SYED BAQAR SHAH)
SECTION OFFICER (ESTT-II)



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Annex II

OFFICE OF THE EXECUTIVE ENGINEER,
PUBLIC HEALTH ENGG: DIVISION MALAKAND.
No. 33/14-E/ XEN/PHE/MKD.
DATED: - 28/10/2014.

To,

The Chief Engineer (North),
Public Health Engineering Department,
Khyber Pakhtunkhwa Peshawar.

Subject: - TRANSFER/POSTING OF SUB DIVISIONAL OFFICER.

It is submitted for your kind information that Mr. Saleem Javid SDO (BPS-17) PHE Sub Division Dargai has been transferred to PHE Sub Division Tangi, District Charsadda vide Secretary to Khyber Pakhtunkhwa PHED Peshawar Office Order No. SO(ESTT)PHED/1-44/2013-14 dated 23-10-2014.

It is requested to kindly approach the competent authority to post a suitable SDO in PHE Sub Division Dargai District Malakand so as to settle down the issues related to the developmental and AOM&R works in the best interest of public.

EXECUTIVE ENGINEER

Copy forwarded to: -

- 1) The Superintending Engineer PHE Circle Swat for information and further necessary action please.
- 2) The Section Officer (Estt) PHED Peshawar for information & further necessary action please.

EXECUTIVE ENGINEER



Annex - III

OFFICE OF CHIEF ENGINEER (NORTH)
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR
Ph#091-9211554, FAX#091-9211407, E-mail: northphed@gmail.com

No. 04 /E-1/PHE (N)
Dated Peshawar the 13/07/2015

To

Mr. Salim Javeed,
Sub Divisional Officer,
Totalai

Subject: **ABSENT FROM DUTY**

Reference: Executive Engineer PHE Division Buner letter No. 02-04/E-1/PHE (B) dated 19.05.2015.

In this respect you are hereby directed to explain your position to proceed further under the rules.

It may be noted that in case of your failure experty action will be initiated against you at fault.

Copy to:

- 1) The Superintending Engineering PHE Circle Swat for necessary action with reference to above.
- 2) The Executive Engineer PHE Division Buner for necessary action with reference to above.

Chief Engineer (North)

|
Chief Engineer (North)

OFFICE OF THE EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG: DIVN: BUNER

No. 03-06/E-1/PHE(B)

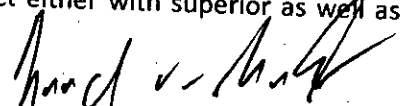
Dated Daggar the 9/4/2015

To

The Chief Engineer (N)
Public Health Engg: Department
Khyber Pakhtunkwha Peshawar

Subject:- WORKING OF MR, SALIM JAVED SDO

It is reported for your kind information that Mr, Salim Javed is least interested in his duties as he often remain absent from duty. He travels from home to office and back when ever he attends office. He was asked to explain his position but turned deaf ear and practiced similar behavior. He was asked to visit his AM&R schemes and get know all his operational staff but instead he started asking operational staff to come to the office for verification of their service books which shows his misconduct either with superior as well as to his subordinates.


EXECUTIVE ENGINEER

Copy to:-

- 1) The Superintending Engineer PHE Circle Swat with reference to this office No 12-13/E-1/PHE(B) dated 07/04/2015
- 2) Mr, Salim Javed. You are once again asked to explain your position why you leave station every day without cogent reason and why you have not visited AM&R schemes till to date despite a huge bill of POL is being incurred so far.

EXECUTIVE ENGINEER

Chief Engineer (North) PHE Department	
Sl. No.	1182
Date	10/5/15
Case	ET
S.E.G	
CHD	
B&AO	
AO	<input checked="" type="checkbox"/>
D.E	
A.D.E	
ADE/Focal Person (Consultancy)	

Call Explanation
of the S.D.O.
13/4/15



MUHAMMAD ARIF AHMADZAI
 M.P.A. PK-22 SHABQADAR CHARSADDA
 CHAIRMAN DDAC CHARSADDA
 Chairman Standing Committee for E&S-Education KPK
 Member Syndicate Bacha Khan University
 Charsadda & Peshawar University



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 Annex IV

Honorable Minister for PHE KPK

Mr. Saleem Javid SDO

Sub division Dargai may
 be transferred / posted as

1032
 30-9-14
 SDO Dargai against the
 vacant post and
 assigned.

P. PHE MS
 Note for approval
 of Minister PHE.

DJA

Thul's

see PHE D

Approved if
 the vacant
 seat is available

Sign: 30/9/14

Date: 28/9/14
 MOHAMMAD ARIF AHMADZAI
 M.P.A.

PK-22 SHABQADAR
 CHARSADDA KPK

Put up on
 his pp.

Stamp:


Minister For
 H.E.D, Culture Labour
 Cyber Pakfunkh

30/9/14

Annex VI

CHARGE ASSUMPTION REPORT

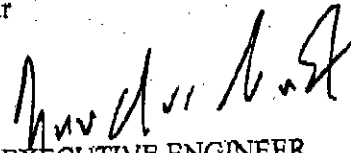
In pursuance of the notification issued Vide secretary to Govt of Khyber Pakhtunkhwa PHE Department, No. SO (Estt) / PHED /1-45 /2013-14 Dated December 31-2014 . I Engr. Salim Javed, do here by assume the charge of the post of Sub Divisional Officer BS -17 Totalai Sub Division District Buner on 08 -01-2015 (F.N)


Engr. Salim Javed
Sub Divisional Officer
PHE Sub Division
Totalai

NO 01-07/PHED /E-1 /Dated 08/01/2015

Copy forwarded for information to:-

- 1) Chief Engineer (South)PHE Department KPK Peshawar
- 2) Chief Engineer(North) PHED Department KPK Peshawar
- 3) Superintending Engineer PHE Circle Swat
- 4) Deputy Commissioner Buner .
- 5) District Account Officer Buner
- 6) Manager National Bank Buner
- 7) PS to Secretary PHE Department ,KPK Peshawar


EXECUTIVE ENGINEER
PHE DIVISION BUNER