

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEALS NO. 1009/2015

Date of institution ... 11.9.2015

Date of judgment ... 07.06.2016

Mr. Sahibzada Mujeeb ur Rehman
Office Assistant, Directorate of Local Government &
Rural Development, FATA Secretariat, Peshawar.

... (Appellant)

VERSUS

1. The Additional Chief Secretary (FATA), FATA Secretariat, Warsak Road,, Peshawar.
2. The Secretary, Administration, Infrastructure & Coordination, FATA Secretariat, Warsak Road , Peshawar.
3. The Director, Local Government & Rural Development Department, FATA Secretariat, Warsak Road, Peshawar.

... (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974, AGAINST THE PRE-MATURE TRANSFER
ORDER DATED 17.6.2015 AND 7.7.2015 AND REJECTION ORDER DATED
2.9.2015 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT
WAS REJECTED FOR NO GOOD GROUNDS.

Mr. Muhammad Asif Yousafzai, Advocate.

.. For appellant.

Mr. Kabirullah Khattak, Assistant AG

.. For respondents.

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

MR. PIR BAKHSH SHAH

.. MEMBER (JUDICIAL)

JUDGMENT

AHMAD HASSAN, MEMBER: Mr. Sahibzada Mujeeb ur Rehman, Office Assistant, , hereinafter referred as appellant has filed instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the premature transfer order dated 17.6.2015 and 7.7.2015 and rejection order dated 2.9.2015 whereby the departmental appeal of the appellant was rejected.

2. Brief facts of the case as narrated in the contents of appeal are that the appellant was working as Senior Clerk in the Local Government & Rural Development, Peshawar. He was

promoted to the post of Assistant in 2014 vide order dated 26.12.2014. He was transferred and posted as Assistant in the Directorate of Local Government FATA on 7.1.2015. That the appellant was transferred to LG & RD Department, Khyber Agency vide order dated 8.6.2015, but was verbally directed by the Director LG&RD FATA to perform duty for the time being in Mohmand Agency, thus the appellant in compliance of verbal direction, performed his duties at Mohmand Agency from 16.6.2015 to 30.6.2015. Then Director, LG&RDD FATA issued modified order through which the appellant was transferred from Khyber Agency to Mohmand Agency vide order dated 17.6.2015. Subsequently the services of the appellant were placed at the disposal of Director General, LG&RD Development vide order dated 7.7.2015. That the appellant preferred departmental appeal to the competent authority on 30.7.2015, which was rejected on 2.9.2015, hence the present service appeal.

3. Arguments heard and record perused.

4. Learned counsel for the appellant argued that his frequent transfers from one station to another were against the law and violation of Posting and Transfer policy of the Provincial Government. It is also a violation of parameters laid down by the Supreme Court Judgment in Anita Turab case. Moreover, no NOC was obtained by the respondents at the time of his transfer from FATA to settled area. He has requested for setting aside orders dated 17.6.2015, 7.7.2015 and 2.9.2015 being premature and against the posting/transfer policy.

5. Learned Assistant AG while resisting the appeal argued that under section-10 of the Civil Servant Act 1973, any Civil Servant was bound to serve anywhere in the Province. It was the prerogative of the government to transfer a Civil Servant before completion of normal tenure of posting. The appellant was transferred from Directorate of Local Government FATA to Khyber Agency vide order dated 8.6.2015. As financial year 2014/15 was about to close so the Political Agent Khyber requested to keep the order under abeyance. As such a revised order was issued on 17.6.2015. The appellant obeyed the order and performed duties in Mohmand Agency till the completion of the financial year.

6. Moreover, all employee working in FATA were employees of the Provincial Government serving in FATA as such they could be transferred to and there FATA on need basis. When his services were no more required in FATA, the appellant was repatriated to the office of D.G, Local Government in the public interest.

7. Having heard pros and cons of the case, this Tribunal is of the view that the appellant was repatriated in the exigency of service and government had the prerogative to post him at a station where his services were required. Moreover, when his services were no more required in FATA he was repatriated to the D.G Local Government & Rural Development vide order dated 7.7.2015, Which was his parent department. It was a lawful order issued by the FATA Secretariat.

8. As such the case in hand is devoid of any merit which is dismissed. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.06.2016.



(PIR BAKHSH SHAH)
MEMBER



(AHMAD HASSAN)
MEMBER

07.06.2016

Counsel for the appellant and Assistant AG for respondents

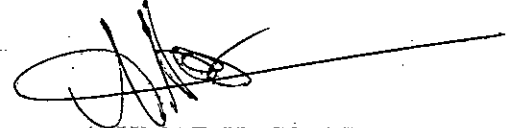
present.

Vide our detailed judgment of to-day consists of three pages placed on file, as such the case in hand is devoid of any merit which is dismissed. Parties are, however, left to bear their own costs. File be consigned to the record.

Announced
07.06.2016



(PIR BAKHSH SHAH)
MEMBER



(AHMAD HASSAN)
MEMBER

15.03.2016


Clerk to counsel for the appellant and Mr. Muhammad Awais, Assistant alongwith Muhammad Jan, GP for respondents present. Requested for adjournment. To come up for arguments on 3.5.16 before D.B. Status-quo be maintained.



MEMBER


MEMBER

03.05.2016

Counsel for the appellant and Asst: AG for respondents present. Counsel for the appellant requested for adjournment. Last opportunity granted. To come up for arguments on 07.06.2016. The restraint order shall continue.

Member 

 Member

01.12.2015

Counsel for the appellant and Mr. Awais, Assistant alongwith Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 29.12.2015. Status-quo be maintained.


Chairman

29.12.2015

Clerk to counsel for the appellant and Mr. Awais, Assistant alongwith Asst: AG for respondents present. Rejoinder received which is placed on file. To come up for final hearing before D.B on 12.2.2016. Status-quo be maintained.


Member

12.02.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to paucity of time. Therefore, the case is adjourned to 15-3-16 for arguments. Status-quo be maintained.


MEMBER


MEMBER

22.09.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is an employee in the Establishment of Local Government Fata and was promoted from Senior Clerk (BPS-7) to Assistant (BPS-14) vide order dated 26.12.2014 and appointed as Assistant in the Directorate of Local Government FATA vide order dated 7.1.2015 and there-after subjected to different postings and finally his repatriation orders were issued from the Directorate of Local Government of FATA to the office of DG, LG & RD KPK vide impugned order dated 7th July 2015 regarding which departmental appeal was preferred on 30.7.2015 which was rejected on 2.9.2015 and hence the instant service appeal on 11.9.2015.

That neither any NOC was obtained nor circulation of the Government dated 27.2.2013 regarding tenure of posting was taken into account.

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 28.10.2015 before S.B. Notice of stay application be issued for the date fixed. Status-quo be maintained.


Chairman

28.10.2015

Counsel for the appellant and Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 1.12.2015 before S.B. Status-quo be maintained.


Chairman

Appellant Deposited
Security & Process Fee






FORM-A

FORM OF ORDER SHEET

Court 1009/2015

Case No. _____

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	11.09.2015	<p>The appeal of Sahibzada Mujeebur Rahman presented to-day Mr. Muhammad Asif, Yousafzai, Advocate may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case be put up before the S.Bench for preliminary hearing on <u>21-9-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	21.09.2015	<p>Counsel for the appellant present. Seeks adjournment. Adjourned to 22.9.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Appeal No. 1009 /2015

Sahibzada Mujeeb ur Rehman, V/S ACS (FATA) & Others.


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APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Appeal No. 1009 /2015

**F.W.P. Province
Service Tribunal**
Diary No. 1065
Dated 11-2-15

Mr. Sahibzada Mujeeb ur Rehman,
Office Assistant, Directorate of Local Government &
Rural Development, FATA Secretariat, Peshawar.

APPELLANT

VERSUS

1. The Additional Chief Secretary (FATA), FATA Secretariat, Warsak Road, Peshawar.
2. The Secretary, Administration, Infrastructure & Coordination, FATA Secretariat, Warsak Road Peshawar.
3. The Director, Local Government & Rural Development Department, FATA Secretariat, Warsak Road, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE PRE-MATURE TRANSFER ORDER DATED 17.6.2015 and 7.7.2015 AND REJECTION ORDER DATED 02.09.2015 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

.....

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 17.6.2015 & 7.7.2015 AND FINAL REJECTION ORDER DATED 02.09.2015 MAY BE SET ASIDE TO THE EXTENT OF APPELLANT BY DECLARING THE SAME AS PRE-MATURE, VIOLATION OF POSTING, TRANSFER POLICY AND PASSED BY INCOMPETENT AUTHORITY. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

File to - dsg.
10/9/15

RESPECTFULLY SHEWETH:

1. That the appellant was working as Senior Clerk in the Local Government & Rural Development Department, Peshawar and promoted to the post of Assistant in the year 2014 vide order dated 26.12.2014. On promotion, he was transferred and posted as Assistant in the Directorate of LG&RD FATA on 7.01.2015. Copies of Orders are attached as Annexure-A and B.
2. /That the appellant was transferred to LG&RD Department, Khyber Agency vide order dated 8.6.2015 but he was verbally directed by the Director LG&RD FATA to perform the duties for certain period in Mohmand Agency, thus the appellant in compliance of verbal direction, performed his duties at Mohmand Agency from 16.06.2015 to 30.06.2015./ Copies of Order and Certificate are attached as Annexure-C and D.
3. /That the Director, LG&RDD FATA Secretariat issued modified order in which the appellant was transferred from Khyber Agency to Mohmand Agency vide order dated 17.06.2015./ Copy of Order is attached as Annexure-E.
4. /That the services of the appellant placed at the disposal of Director General, LG&RD Department vide order dated 07.07.2015./ Copy of Order is attached as Annexure-F.
5. /That the appellant preferred Departmental Appeal to the competent authority on 30.07.2015 which was rejected on 02.09.2015./ Copies of Appeal and Rejection Order are attached as Annexure-G and H.
6. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others.

GROUNDS:

- A) That the order dated 17.06.2015, 7.7.2015 and 02.09.2015 are premature, against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the impugned transfer's orders have been passed by the respondents which are premature.
- C) That the repeated transfers orders have been passed by the respondents department are in violation of transfer, posting policy.
- D) That no NOC is obtained in transfer case of the appellant while transferring him from FATA to settle side.
- E) That the impugned transfer orders have been issued by incompetent authority, thus under the rules, the order passed by incompetent authority can not be sustained legally.
- F) That the impugned orders are against the law and in total violation of the government posting and transfer policy dated 15.2.2003. Copy of the Transfer, Posting Policy is attached as Annexure-I.
- G) That even all the transfer orders have been passed in violation of Government circular dated 27.2.2013 which is based on Anita Turab's case decided by the Hon'able Supreme Court of Pakistan and as such the same is not sustainable. Copy of Circular is attached as Annexure-J.
- H) That no reasons good reasons mentioned in the transfer order of the appellant which is against the law and rules.
- I) That spouse of the appellant is also working in Govt: Deptt; in Peshawar and as such the transfer orders of the appellant are against the spouse policy and also against the posting transfer policy. Copy of certificate is attached as Annexure - K

- J) That the appellant was never on deputation to FATA, rather promoted by the FATA as Assistant from the post of Senior Clerk.
- K) That the appellant has not been treated according to law and rules and government posting, transfer policy.
- L) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT 

Sahibzada Mujeeb ur Rehman,

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Appeal No. _____/2015

Sahibzada Mujeeb ur Rehman, V/S ACS (FATA) & Others.

**APPLICATION FOR SUSPENSION OF IMPUGNED
ORDER DATED 17.06.2015, 07.07.2015 &
02.09.2015 TILL THE PENDING FINAL DECISION
OF MAIN APPEAL.**

RESPECTFULLY SHEWETH:

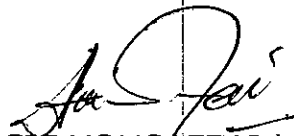
1. That the appellant has filed an appeal along with this application which no date has been fixed so far.
2. That the appellant has a good prima facie case and all the ingredients are in favour of the appellant.
3. That, if the impugned order has not been suspended, then the appellant would become mentally torture.
4. That the impugned order has been passed by the respondent, which is illegal and violation of rules.
5. That the order dated 17.06.2015, 07.07.2015 and 2.9.2015 have been passed in violation of the instruction of Policy of Transfer and Posting dated 15.2.2003.
6. That the appellant has neither relinquished the charge nor he has been relieved from the present station.

It is, therefore, most humbly prayed that the operation of impugned orders dated 17.06.2015, 07.07.2015 and 2.9.2015 may graciously be suspended till the disposal of main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.



Appellant
Sahibzada Mujeeb ur Rehman,

Through:



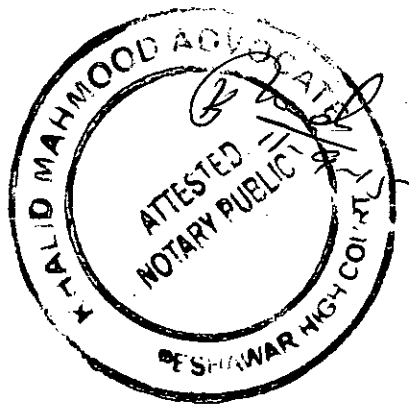
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



Deponent





OFFICE OF THE DIRECTOR GENERAL
LOCAL GOVERNMENT & RURAL DEVELOPMENT
DEPARTMENT KHYBER PAKHTUNKHWA

A (7)

No. Director (LG) 3-1/Establishment/2013
Dated Peshawar the 26th December, 2014.

11272

ORDER.

No. Director (LG) 3-1/Establishment/2014.- Consequent upon the recommendations made by the Departmental Promotion committee in its meeting held on 2nd December, 2014 the Competent Authority has been pleased to order the promotion of the following Senior Clerks (BPS-9) working in the Directorate LG&RDD, FATA Secretariat, Peshawar to the post of Assistant (BPS-14) on regular basis with immediate effect, on 01 year probation extendable to second year on the basis of their performance.

1 – Sahibzada Mujeeb Ur Rehman.

2 – Mr. Sher Akbar.

On the promotion, the Terms & Conditions of their services on which they were initially appointed will remain the same.

-----Sd-----

**Director General
LG&RDD, Khyber Pakhtunkhwa.**

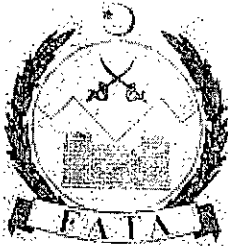
Copy to:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Additional Accountant General, Sub Office, Peshawar.
3. Director, LG&RDD, FATA Secretariat, Peshawar.
4. Section Officer (Estab) LG, E&RDD.
5. PA to Director General
- ✓ 6. Officials Concerned. Office File

**Deputy Director
LG&RDD, Khyber Pakhtunkhwa.**

Office Tel: 091-9211451: Fax: 091-5270460: e-mail: dir.a.lg@kp.gov.pk

ATTESTED



B **(8)**

**Directorate of Local Govt:
& Rural Dev. Deptt:
FATA Secretariat, Peshawar**


No. DF(RD)/ Assistant/(7)2005/Vol:IV/4044-57
Dated: Peshawar the 7th January 2015.

ORDER:

Consequent upon promotion of Senior Clerks (BPS-9) to the post of Assistant (BPS-14) vide Government of Khyber Pakhtunkhwa, Local Government, Elections & Rural Development, Peshawar Order NO. Director(LG)3-1/Establishment/2014/1272 dated 26 December 2014, the Competent Authority is pleased to order the following posting / transfer with immediate effect in the best public interest.

S.No	Name of Assistants	From	TO	Remarks
1	Sahibzadā Mujeeb Ur Rehman	Directorate of LG&RD, FATA	Directorate of LG&RD, FATA	Against the vacant post
2	Sher Akbar	Directorate of LG&RD, FATA	Directorate of LG&RD, FATA	-do-
3	Awais Basir	Directorate of LG&RD, FATA	LG&RD, Mohmand Agency	-do-


Due to load of work the official at serial No.3 will perform his duty in this Directorate till further orders.


Director
LG&RDD, FATA Secretariat
Peshawar
Jan 7, 2015

Copy to:

1. The Additional Accountant General, (PR) Sub Office, Peshawar.
2. The Section Officer (Establishment), LG&RDD, Khyber Pakhtunkhwa, Peshawar.
3. The Assistant Director, LG&RDD, Mohmand Agency.
4. The Agency Accounts Officer, Mohmand Agency.
5. The Officials Concerned.
6. Office Order File.


Director
LG&RDD, FATA Secretariat
Peshawar
January 7, 2015

ATTESTED




①

9

Directorate of Local Govt:
& Rural Dev. Deptt:
FATA Secretariat, Peshawar

No.DF(RD)Office Order/2014-15/678-84
Peshawar the 08th June, 2015

OFFICE ORDER

The following postings/transfers of Assistants (BPS-16) of Local Government & Rural Development Department, FATA are hereby ordered with immediate effect in the best public interest.

S.NO	Name/Designation	From	TO	Remarks
1	Mr. Kaleem Iqbal	LGRD, Khyber Agency	LGRD, Mohmand Agency	
2	Sahibzada Mujeeb ur Rehman	Directorate of LGRD, FATA	LGRD, Khyber Agency	
3	Mr. Awis Basir	LGRD, Mohmand Agency	Directorate of LGRD, FATA	

Director
LG&RDD, FATA Secretariat
Peshawar

Copy to:-

1. The AGPR, Sub-Office, Peshawar.
2. The Assistant Director, LGRD, Khyber Agency.
3. The Assistant Director, LGRD, Mohmand Agency.
4. The Agency Account Office, Khyber Agency.
5. The Agency Account Office, Mohmand Agency.
6. PS to Secretary, A.I & C, FATA Secretariat.
7. The Officer/ Officials Concern.

Director
LG&RDD, FATA Secretariat
Peshawar June 8, 2015

ATTESTED

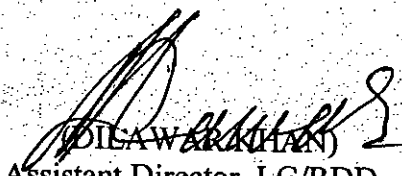
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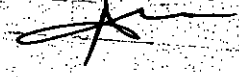
D 19

TO WHOM IT MAY CONCERN.

It is certified that in compliance with Director, LG&RDD, FATA Secretariat, verbal order, Sahibzada Mujeeb ur Rehman Assistant (BPS-16) delivered his service to this office from 16th June, 2015(F.N) to 30th June, 2015 (A.N).

Dated: 30.6.2015


DILAWAR KHAN
Assistant Director, LG/RDD,
Mohmand Agency Ghallanai.

ATTESTED




3

E 11

Directorate of Local Govt:
& Rural Dev. Deptt:
FATA Secretariat, Peshawar

No.DF(RD)Office Order/2014-15/ 710-11
Peshawar the 17 June, 2015

OFFICE ORDER

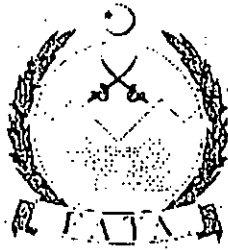
In partial modification of this department Order No. DF(RD)Office Order/2014-15/678-84 dated 08-06-2015, the transfer order is hereby amended as under.

S.NO	Name/Designation	From	TO	Remarks
1	Mr. Kaleem Iqbal	Under transfer LGRD, Mohmand Agency	LGRD, Khyber Agency	
2	Sahibzada Mujeeb ur Rehman	Under transfer LGRD, Khyber Agency	LGRD, Mohmand Agency	

[Signature]
Director
LG&RDD FATA Secretariat
Peshawar
June 17, 2015

Director
Local Govt and
Rural Dev. Department,
Civil Secretariat FATA

ATTESTED
[Signature]



4

F
12

Directorate of Local Govt:
& Rural Dev. Deptt:
FATA Secretariat, Peshawar

No.DF(RD)Assistant/2014-15/809-12
Peshawar the 07th July,, 2015

OFFICE ORDER

The services of Sahibzada Mujeeb ur Rehman, Office Assistant (BPS-16), LG&RDD, FATA Secretariat are no more required to this directorate, therefore his services may be placed at the disposal of Directorate General of Local Government & Rural Development in the best public interest.

Mueeb
~~Director~~
LG&RDD, FATA Secretariat
Peshawar
July 8, 2015

Copy to:-

1. The Director General, LG&RDD, Khyber Pakhtunkhawa, Peshawar.
2. The AGPR, Sub-Office, Peshawar.
3. PS to Secretary, A.I & C, FATA Secretariat.
4. Assistant II, Directorate of LG&RDD, FATA Secretariat, Peshawar.
5. The Officer Concern.

Director
LG&RDD, FATA Secretariat
Peshawar

ATTESTED
[Signature]

To,

The Secretary A, I & C
FATA Secretariat, Peshawar.

9 (13)

Subject :-

Appeal Against Cosecutive Four Illegal
Transfers/Reparation Orders Within A Month.

Sir,

With due respect I dare to bring in your kind notice that I, Sahibzada Mujeeb ur Rehman Assistant - BPS-16, have been handed over four transfer and repatriation orders in short period of 30 days with the common reason of "in the larger public interest", the Directorate of LG&RDD, FATA Secretariat is not the Competent forum and it will have to seek prior approval of the competent authority. I waited and hoped that the Directorate LG&RDD itself will realise the violation of posting/transfer from FATA and will cancel the office orders but they did not. Therefore the case is submitted in your kind honour, details are as under.

1 - I was Transferred from Directorate LG&RD, FATA Secretariat to the office of Assistant Director, LG&RDD, Khyber Agency order issued on 8th June, 2015. (ironically, transfer in the month of June without showing any reason) copy at F/A.

2 - On 15th June, 2015 I was telephonically directed by the Director LG&RD to report in the office of Assistant Director LG&RD, Mohmand Agency, the reason I do not know, till 30th June, 2015. I reported and did my duty and certificate of the concerned Assistant Director is at F/B.

3 - On 17th June, 2015 Directorate LG&RDD issued an other vague and unclear transfer order, corrigendum or modification to Mohmand Agency, copy sent to non. (copy attached at F/C).

4 - And finally on 13th July, 2015 I was handed over a repatriation order which was signed on 7th July, 2015, for which the Directorate of LG&RDD is not the competent authority, to Khyber Pakhtunkhwa without any reason, any complaint, any corruption charges and any other allegation except the common reason of "in the larger public interest", copy at F/D.

Sir, unfortunately the Directorate of LG&RDD, FATA Secretariat is not fully aware of the policy of Posting / Transfer from FATA and vice versa in which it has been clearly mentioned that line Departments are not competent for grant of NOCs and transfer from FATA to settled area. (copy at F/E)

Sir, now the Directorate of LG&RD, FATA Secretariat, under the cover of illegal and unlawful repatriation order, intends to stop my salary / pay which is not only illegal but also inhuman and unethical and abuse of power and shows severe personal grudges. Therefore, THE SUPREME COURT OF PAKISTAN has issued a comprehensive Order in 2012 for such illegal orders. copy at F/F

ATTESTED
A

► THE SUPREME COURT OF PAKISTAN has shown concern in its decision/order issued in 2012 that civil servants who act according to law, at times, have to face hardship in the form of immediate transfer or posting as Officers on Special Duty (OSD) even before the completion of their tenure. It was also noticed that frequent transfers, postings and disciplinary proceedings are taken in violation of the law, rules and regulations.

► THE SUPREME COURT OF PAKISTAN, in its order also mentions that the compliance of illegal orders of superiors is not justified on the basis of having been issued from higher authority as it is the law and Constitution which must be obeyed. (copy attached at F/F)

Sir, before challenging the illegal office orders issued by the Directorate of LG&RDD, FATA Secretariat, which is clear contempt of court, it is my moral responsibility to bring the issue in your kind notice for redressal and cancellation of all orders issued to avoid any legal proceedings

Sir, it is also requested that the line Departments generally and Directorate of LG&RDD, FATA Secretariat specially be directed not to take decisions independently for which they are not competent.

Dated. 30-7-2015.

Yours obediently,

mjib
30-7-2015

Sahibzada Mujeeb Ur Rehman
Assistant, LG&RD

FATA Secretariat, Peshawar.

P.No - 00285567

Pay Roll - II

Copy to :

- 1- The Additional Chief secretary, FATA Secretariat, Peshawar. (encls as above)
- 2- The AGPR, Sub-office, Peshawar.
- 3- The Director General, LG&RDD, Khyber Pakhtunkhwa.
- 4- The Director, LG&RDD, FATA Secretariat, Peshawar.



**Local Govt: & Rural
Development Department
FATA Secretariat Peshawar**

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No. DF (RD)/Assistant/1036-39
Dated: 02/09/2015

To

Mr. Mujeeb Ur Rehman
Office Assistant
Directorate of LGRD, FATA.

Subject: - **DEPARTMENTAL APPEAL.**

Memo:

Plases refer to your appeal lodged against your transfer Order No. DF(RD)Office Order/2014-15/678-84 dated 08-06-2015.

After having gone through the contents of your appeal and comments of the Directorate of LGRD, FATA thereon, Secretary, Administration, Infrastructure and Coordination has been pleased to file the appeal, hence the above referred transfer orders issued stands intact.

You are hereby informed through this notice to comply with the above referred orders and report to DG, LGRD, KP for further posting.

Assistant Director
LG&RDD, FATA Secretariat
Peshawar

Copy for info:-

1. AGPR, Sub Office, Peshawar.
2. The Director General, LGRDD, Khyber Pakhtunkhwa, Peshawar.
3. PS to secretary A,I&C Department FATA Secretariat Peshawar.

Assistant Director
LG&RDD, FATA Secretariat
Peshawar

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**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) 1{ }

- 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.

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

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- 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.
- (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 column2 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:	

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

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a) Within the same Department	Secretary of the Department concerned.
b) To and from an Attached Department	Secretary of the Dept in consultation with Head of Attached Department concerned.
c) Within the Secretariat from one Department to another	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.

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.

ATTACHED

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.

SPECIMEN NOTIFICATION.

GOVERNMENT OF NWFP
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshawar, _____

NOTIFICATION

NO. The Competent Authority is pleased to order the transfer of Mr. _____ Department and to post him as _____ in the interest of public service, with immediate effect.

CHIEF SECREARY
GOVERNMENT OF NWFP

Endst. No. and date even.

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5.

(NAME)
SECTION OFFICER
Administrative Department

{*Authority: Letter No. SO (E-1) E&AD/9-12/2006 dated 22-12-2006.*}

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-1 (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.

{*Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008.*}

.....
According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.

{*Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28th Oct, 2005.*}

.....
The Chief Minister NWFP has directed that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;

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- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

{*Authority: Urdu circular No; SOR-VI/E&AD/1-4/2003, dated 86-2004. Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2005.*}

It has been decided with the approval of the competent authority that:-

- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
- ii) NWFP Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

{*Authority: - Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005*}

.....

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

{*Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007.*}

.....

PLACEMENT POLICY.

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy as follows:-

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go to the parent organization of the participant from where the individual had applied. This will be in consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.
- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and than the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the

¹ Placement Policy has been made part of the posting/transfer policy vide Urdu circular No.SOR-VI(E&AD)1-4/06, dt 9-2-2007



officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:

- a) Permanent posting of an officer to the training institutions for 2-3 years;
- b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
- c) Earmarked as a visiting faculty member for specific subject.

- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participant will decline/represent against his/her posting.

ATTENDED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

(REGULATION WING)

NO. SOR.VI (E&AD)1 -4/2005/Vol-II

Dated Peshawar, 27th February, 2013

Establishment Department
Khyber Pakhtunkhwa
Dated 28 Feb 2013

To
[Handwritten signature]

1. The Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
2. The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.

Subject: CONSTITUTION PETITION NO.23 OF 2012 OUT OF SUO MOTO CASE NO. 3/2012 (PETITION BY MS. ANITA TURAB FOR PROTECTION OF CIVIL SERVANTS REGISTERED UNDER ARTICLE 184 (3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.)

Sir,

I am directed to refer to the subject noted above and to state that the Supreme Court of Pakistan vide the subject cited judgment has enunciated the following principles of Law with regard to protection and conduct of civil servants.

- (i) **Appointments, Removals and Promotions:** Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) **Tenure, Posting and Transfer:** When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

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- (iii) **Illegal Orders:** Civil Servants owe their first and foremost allegiance to the law and the constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- (iv) **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

2. I am, therefore, directed to request you to note the above principles of law for strict compliance.

Yours faithfully,

najam

(NAJ-MUS-SAHAR)
SECTION OFFICER (REG-VI)

Encl: as above.

A copy is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Registrar, Peshawar High Court, Peshwar.
6. The Secretary Khyber Pakhtunkhwa, Public Service Commission.
7. All Addl: Secretaries Establishment & Administration Department.
8. All Deputy Secretaries in Establishment & Administration Department.

najam

SECTION OFFICER (REG-VI)



Establishment Section

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

No.FS/E/100-1 (Vol-42)/ 31/6-22
Dated 20/03/2015

1. All Secretaries in FATA Secretariat
2. Director General Project (FATA)
3. Additional Secretary (Green) FATA
4. All Heads of Line Directorates

Subject: POSTING/TRANSFERS AND GRANT OF NOCs

Dear Sir,

I am directed to invite kind attention to this Department letters bearing No. FS/E/100-86/4169-70 dated 13-2-2014, No. FS/E/100-1(Vol-42)/876-77 dated 21-01-2015 and No. FS/E/100-1(Vol-41)/9726-37 dated 2-12-2014 where-under a mechanism to channelize the proposals regarding posting/transfers and placement of requisition with concerned regulatory departments in the provincial Government as well as grant of NOC for transfer of staff from FATA to settled area and vice versa through this department has been prescribed.

2- This Standing Operating Procedure (SOP) has been moulded to ensure transparency and to keep into consideration the human resource requirement in service matters. However, violation and deviation of the prescribed procedure has been observed on the part of various Departments/Line Directorates.

3- Being service matter falling under the prerogative domain of Establishment Section under Rules of Business of FATA Secretariat, it is imperative to have a mandatory follow up of the procedure in letter and spirit.

Yours faithfully,

[Signature]
Section Officer (Estab)

Copy to

1. Additional Secretary (Coordination) AI&C department
2. PS to ACS FATA
3. PS to Secretary AI&C FATA
(for information)

[Signature]
Section Officer (Estab)

ATTESTED
[Signature]

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note for compliance
20/4/2015

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Federal Govt. Degree College for Women PESHAWAR CANTT.



Ref. No. FGW/F-11/

Dated 10th Sep 15

SERVICE CERTIFICATE

This is to certify that Mrs. Nargis Nisar W/O Sahibzada

Mujeeb ur Rehman working in this Department as Associate Professor

in Home Economics. She is a permanent Federal Govt. Employee.

Principal
(Syeda Soofia Begum)
Syeda Soofia Begum
Principal
F.G. Degree College for
Women, Peshawar Cantt

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Posting/transfer from FATA and vice versa.

I am directed to refer to the subject noted above and to state that the Centrally Administered Tribal Areas (Employees' Status) Order 1972 (President's Order No. 13 of 1972) provides that:

"Notwithstanding anything contained in their condition of service, the employees shall from the appointed day, be the employees of the Provincial government on deputation to the Federal Government and shall work under the overall administrative control of the Provincial government, on the same terms and conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or tenure of office as were applicable to them immediately before that day; provided that the employees shall not be entitled to deputation allowance for their service after the appointed day".

2. According to the Posting/Transfer Policy of the Provincial Government, the Governor NWFP and the Chief Secretary NWFP are the competent authorities for posting/transfer of Civil Servants in BS-18 and above and up to BS-17 respectively. The policy prescribes two years normal tenure of posting in FATA. Similarly, it is obligatory for all the Provincial Government employees who have been selected against Zone-I/FATA Quota to compulsorily serve in FATA for at least eighteen months.

3. It is evident from the above that employees serving in FATA are under the administrative control of the Provincial Government. However, after establishment of FATA Secretariat, it was felt imperative to have linkage between the Provincial Departments and the FATA Secretariat so that public service delivery does not suffer due to frequent reshuffling of staff without knowledge of that Secretariat.

4. Taking cognizance of frequent posting/transfer of officers/officials from FATA to settled areas and vice versa by the respective Departments without prior consultation with the FATA Secretariat, it was emphasized on all the Administrative Departments, vide circular letter No SO(E-I) E&AD/9-126/2006/Vol-II dated 26th January, 2007 that the said Secretariat should invariably be consulted before issuing orders of Posting/Transfer of Government Servants from and to FATA. However, the FATA Secretariat have frequently conveyed their apprehensions that these instructions are not being followed, and at times a very embarrassing situation for the FATA Secretariat is created as work suffers due to shortage of staff which becomes a serious issue in the prevailing law and order situation in FATA.

5. In view of above, it is reiterated that:-

- (i) All Provincial Government Departments are directed to move proposals for posting out of an employee from FATA only when a substitute is proposed in the same case.
- (ii) On consent from the FATA Secretariat and approval of the proposal by the competent authority, the substitute to FATA would invariably give his arrival for duty before the employee being transferred out of FATA is relieved.

- (iii) Provincial Government Departments may not accept the arrival report of an employee transferred out of FATA till his proper relieving order is issued by the FATA Secretariat.
- (iv) The Accountant General (PR) is also requested that Last Pay Certificate of an employee transferred out of FATA but not relieved properly by the FATA Secretariat may not be issued in any circumstances.
- (v) Instruction issued vide letter No.SO (E-I) E&AD /9-126/2006/Voll-II dated 26th January, 2007 (quoted in Para-4 above) should be followed strictly.
- (vi) No NOC in respect of transfer from FATA to settled area issued by any Head of Line Department of FATA Secretariat should be accepted. Only those NOCs, which have been issued by the Administration & Coordination Department, FATA Secretariat, should be considered.
- (vii) Tenure of Civil Servants must be kept in view while issuing NOC for posting/transfer or considering postings/transfers.
- (viii) No NOC's should be issued in respect of employees in BS-1-15 who is from agency cadre and in whose respect Political Agent and Agency officer have been declared as appointing authorities.
- (ix) Persons appointed in agency cadre, if appointed in the settled areas will resign from service in FATA and will resume service in settled arrears as a fresh candidate.
- (x) NOCs may be issued in respect of employees of the Provincial cadres i.e. BS-16 and above only after completion of their normal tenure and they shall not be transferred out of FATA unless their substitutes are provided simultaneously.

6. It is requested that the above Policy may be followed in letter and spirit, in further, in public interest.

(Authority: No. SOR-VI/E&AD/1-4/2008-Vol: VII Dated Peshawar, 30th March, 2009)

Change in policy to fill vacant posts in FATA to ensure better human resource management

I am directed to refer to the subject and to state that the competent authority has been pleased to make following changes to the posting/transfer Policy of the Provincial Government in respect of candidates selected from Zone-I (FATA):-

- a) Every civil servant recruited against Zone-I by Public Service Commission shall directly report to FATA Secretariat. A copy of the joining report shall be submitted by the recruited officer to FATA Secretariat who shall endorse it to the concerned administrative department in the Provincial Government. The FATA Secretariat shall arrange medical and security clearance and thereafter submit a case through the respective administrative department seeking approval of the appointing authority. The appointment letter shall be issued by FATA Secretariat.

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VAKALAT NAMA

NO. _____/20

IN THE COURT OF SERVICE TRIBUNAL PESHAWAR

Sahibzada Mujeeb ur Rehman (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

A.G.S - FATA Sothwal (Respondent)
(Defendant)

I/we Sahibzada Mujeeb ur Rehman

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 11-9-2015



(CLIENT)

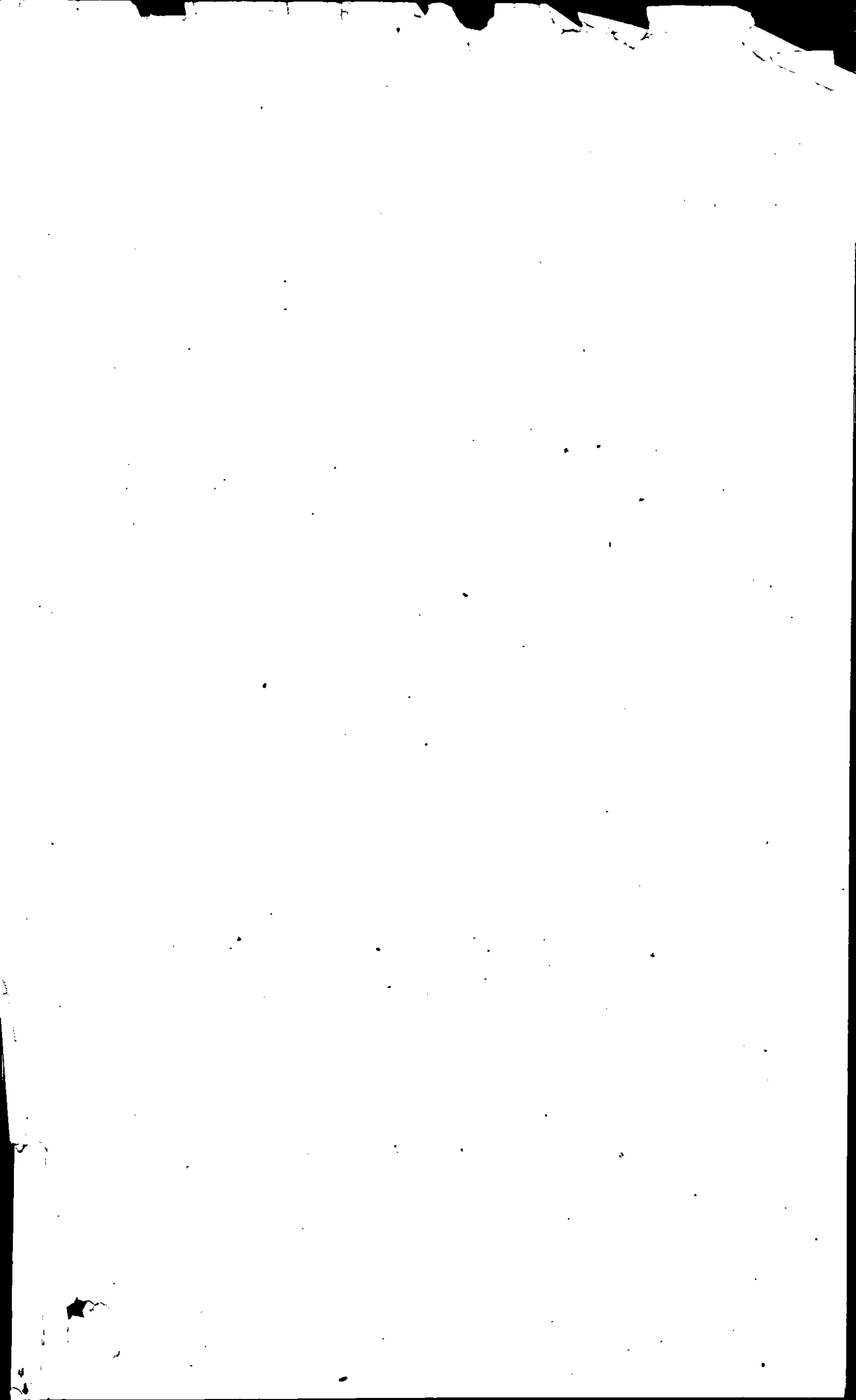
ACCEPTED


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



BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

Appeal No. 1009/2015

Mr Sahibzada Mujeeb Ur Rehman.....Appellant.

Versus

Add: Chief Secretary(FATA) & others.....Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 to 3.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- a. Appellant has no '**locus standi**' and / or **cause** to file the instant appeal.
- b. Appellant is not an "**aggrieved**" person within the meaning of Article 199 of the Constitution of Pakistan.
- c. The Appeal is wholly **incompetent**, **misconceived** and **untenable**.
- d. The Appellant has not come to the Court with clean hands. The appeal also suffers from mis-statement and concealment of facts..

On Facts

1. Correct.
2. Correct.
3. Correct.
4. Correct.
5. Correct. However it is pertinent to mention here that The petitioner was transferred from Directorate of LGRD, FATA to Khyber Agency vide order dated 08-06-2015, keeping in view the closure of financial year 2014-15, Political Agent, Khyber Agency requested for keeping the order under abeyance and as such, as interim arrangements, a revised order was issued on 17-06-2015. The official after agitation obeyed the order and performed his duties in Mohmand Agency till completion of the financial year.

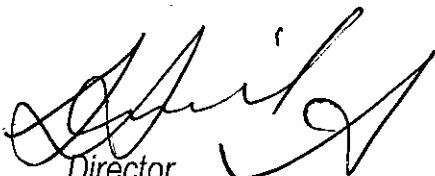
Keeping in view the need of Provincial Government, the services of petitioner were later on transferred to the office of Director General, LGRD, Khyber Pakhtunkhwa for further posting to any nearby district. The petitioner filed appeal against the order, which was turned down by Secretary, A.I&C, FATA.

6. No comments.

On Grounds

- A. Incorrect hence denied. Details as per para 5 above.
- B. Incorrect. The orders were passed keeping in view public interest and need of Provincial Government
- C. Incorrect.
- D. Incorrect, Secretary, A.I&C, being administrative head of the Directorate of LG&RD, FATA is fully competent to issue the orders.
- E. Incorrect. For Office Assistant, Director, LGRD, FATA is competent to issue such orders.
- F. Incorrect. The order is as per mandate of law and rules.
- G. No Comments.
- H. No Comments.
- I. Incorrect. Peshawar has never been the operational area of FATA; however, the office of Director General, LGRD, Khyber Pakhtunkhwa can be approached to accommodate the official in District Peshawar.
- J. All employees working in FATA are employees of the Provincial Government serving in FATA and as such they are transferred to and from FATA on need basis.
- K. Incorrect. The appellant has been treated in accordance with law and rules.
- L. No Comments.

It is therefore prayed in light of the above said facts that the appeal at hand may be dismissed in favour of the respondents with cost throughout



Director
LGRD, FATA Secretariat
Peshawar



Secretary
A.I&C, FATA Secretariat
Peshawar



Add: Chief Secretary
FATA Secretariat, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. __1009 /2015

Sahibzada Mujeebur Rehman V/S ACS (FATA) & Others.
.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(a-d) All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents, so no comments.
- 2 Admitted correct by the respondents, so no comments.
- 3 Admitted correct by the respondents, so no comments.
- 4 Admitted correct by the respondents, so no comments.
- 5 Admitted correct by the respondents, however it is added that the contention of the respondent Deptt: regarding need of appellant for settle area because other official has been transferred to FATA from settle area which shows the malafide of the respondents. Copies of orders are attached as Annexure – R1, & R2.

- 6 No comments endorsed by the respondent department, which means that they have admitted correct, so no comments.

GROUND:

- A) Incorrect, while Para-A of appeal is correct. It is further that the order dated 17.6.2015, 7.7.2015 and 02.09.2015 are premature and have been passed against the law and rules.
- B) Incorrect, while Para-B of appeal is correct.
- C) Incorrect, while Para-C of appeal is correct.
- D) Incorrect, while Para-D of appeal is correct.
- E) Incorrect, while Para-D of appeal is correct. The impugned orders have been issued by incompetent authority.
- F) Incorrect, while the contents of Para-F of appeal are correct.
- G) No comments endorsed by the respondent department, which means that they have admitted correct, so no comments.
- H) No comments endorsed by the respondent department, which means that they have admitted correct, so no comments.
- I) Incorrect. The transfer orders are against the spouse policy and against the posting, transfer policy. however, the spouse of the appellant is working in Government Department in Peshawar.
- J) Incorrect. The contents of Para-J of appeal are correct.
- K) Incorrect. The appellant has not been treated according to law and rules and government posting transfer policy as well as spouse policy.

- L) No comments endorsed by the respondent department, which means that they have admitted correct, so no comments.

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

APPELLANT
Sahibzada Mujeebur Rehman

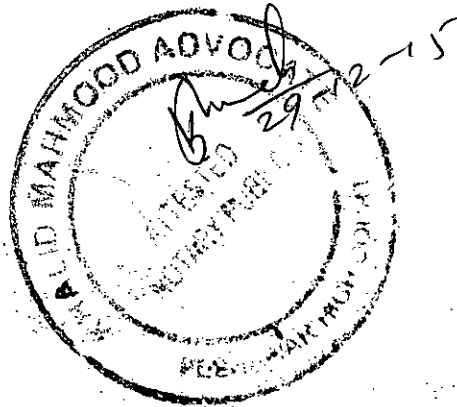
Through:



(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief.


DEPONENT



مجب الرمان

R-1

OFFICE OF THE DIRECTOR GENERAL
LOCAL GOVERNMENT & RURAL DEVELOPMENT
DEPARTMENT KHYBER PAKHTUNKHWA

OFFICE ORDER

Dated Peshawar, the 6th Nov, 2015

No. Director (LG)3-4/Posting/Transfer/2012-13-⁴⁰²⁴ The Competent Authority has been pleased to transfer Mr. Waqas Basir presently working as Office Assistant (BPS-16) in office of the Assistant Director LG&RDD Nowshera and to place his services at the disposal of Directorate LG&RDD, FATA Secretariat with immediate effect.

-sd-

DIRECTOR GENERAL
LG & RDD

Endst. No. & Date even.

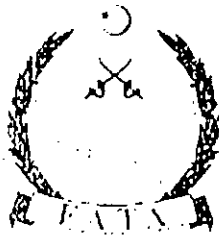
Copy of the above is forwarded to the:

1. Accountant General Pakistan Revenues (AGPR), Khyber Pakhtunkhwa Peshawar.
2. Director FATA LG&RDD FATA Secretariat Peshawar.
3. Assistant Director, LG&RDD Nowshera.
4. District Accounts Officer, Nowshera.
5. PA to Director General LG&RDD Khyber Pakhtunkhwa Peshawar.
6. Official Concerned.

ADCA)

A

Deputy Director (Admin)
LG&RDD



مجید الرحمان

R-2

Directorate of Local Govt:
& Rural Dev. Deptt:
FATA Secretariat, Peshawar

No.DF(RD)Office Assistant/2014-15/1260-10
Peshawar the 11th November, 2015

OFFICE ORDER

The Competent authority has been pleased to order the posting/ transfer of the following Office Assistant of LGRD with immediate effect in the best public interest.

S.NO	Name	From	TO
1.	Kaleem Iqbal	Office of AD,LGRD, Khyber Agency	Office of AD,LGRD, Mohmand Agency
2.	Waqas Basir	Directorate of LGRD, FATA	Office of AD,LGRD, Khyber Agency

In No from KP

Deputy Director
LG&RDD, FATA Secretariat
Peshawar

Copy to:-

1. The Political Agent, Mohmand Agency.
2. The Political Agent, Khyber Agency.
3. The Assistant Director, LGRD, Mohmand Agency.
4. The Assistant Director, LGRD, Khyber Agency.
5. The Agency Account Office, Mohmand Agency.
6. The Agency Account Office, Khyber Agency.
7. PS to Secretary, A.I &C, FATA Secretariat.
8. PS to Director, LGRD, FATA Secretariat.
9. The Official Concern.

Deputy Director
LG&RDD, FATA Secretariat
Peshawar

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1044 /ST

Dated 16/6/2016


To

The Directorate Local Government & Rural Development Department,
FATA Secretariat Warsak Road Peshawar.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 7.6 .2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.