

2016

06.05.2017

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional AG for respondents also present. Learned counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 04.07.2017 before D.B.

(GUL ZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

12. 04.07.2017 Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondent present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 01.08.2017 before D.B.

i want to withdraw the instant case.
01-8-2017

(Gul Zeb Khan)
Member

(Muhammad Hamid Mughal)
Member

01.08.2017

Learned counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for respondents present. Learned counsel for the appellant seeks withdrawal of the instant appeal. Allowed. The appeal is dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record.

Announced
01-08-2017

(Gul Zeb Khan)
Member

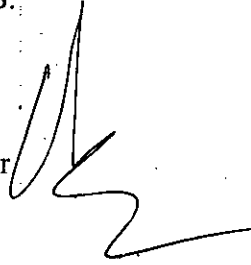
(Muhammad Hamid Mughal)
Member

Appeal No. 278/2016

08.09.2016

Clerk to counsel for the appellant and Additional AG for respondents present. Rejoinder on behalf of the appellant submitted, copy whereof handed over to learned Additional AG. To come up for arguments on 30-12-16 before D.B.

Member



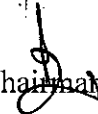
Member



30.12.2016

Clerk to counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Addl. AG for respondents present. Arguments could not be heard due to incomplete bench. Case adjourned to 17.02.2017 for arguments before D.B.


Chairman



17.02.2017

Counsel for appellant and Mr. Daud Jan, Superintendent alongwith Mr. Ziaullah, GP for respondents present. Learned Member (Judicial) Mr. Ishfaque Taj is on leave therefore, bench is incomplete. To come up for arguments on 26.05.2017 before D.B.

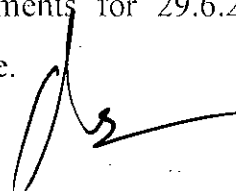
(AHMAD HASSAN)
MEMBER



Appeal No. 278/2016

20.05.2016

Clerk to counsel for the appellant and Assistant AG present. None present on behalf of respondents. Notice be issued to the respondents for written reply/comments for 29.6.2016 before S.B. The restraint order shall continue.



Member

29.6.2016

Counsel for the appellant and Murtaz Khan, Steno alongwith Addl. AG for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 29.07.2016 before S.B.



Chairman

29.07.2016

Counsel for the appellant, M/S Hameedur Rahman, AD and Murtaza Khan, Steno alongwith Addl. Ag for the respondents present. Written reply on behalf of all the respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing for 08.09.2016.



Chairman

Appeal No. 278/2016

29.03.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as Assistant Agency Education Officer in the Establishment of Secretary Admin, INFRA and Coordination Department and vide impugned order dated 24.11.2015 his services were placed at the disposal of Directorate of Elementary and Secondary Education KPK on administrative grounds where-against he preferred departmental appeal on 25.11.2015 which was not responded and hence the instant service appeal on 22.3.2016.

That the said impugned order is violative of posting/transfer policy of Provincial Government more particularly clause i, ii and iv of the said policy as the said order was neither in the public interest nor the appellant was allowed to serve for normal tenure of posting and is the result of political intervention. Additionally, the impugned order is passed by an incompetent authority as no prior approval of the competent authority i.e Governor KPK was obtained.

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 27.4.2016 before S.B. Notice of stay application be also issued for the date fixed. Status-quo be maintained.

Appellant Deposited
Security & Process Fee


Chairman

27.4.2016

Agent of counsel for the appellant, M/S Daud Jan, Supdt. Khursheed Khan, SO and Sultan Shah, Asstt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 20.5.2016 before S.B. The restraint order shall continue.




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 278/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22.03.2016	<p>The appeal of Mr. Akhtar Nawaz 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 please.</p> <p style="text-align: right;">  REGISTRAR </p>
2	29.3.16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>29.3.16</u></p> <p style="text-align: right;">  CHAIRMAN </p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 278 /2016

AKHTAR NAWAZ

VS

A.C.S FATA & OTHERS

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8.	Certificate	E	10- 11.
9.	Departmental appeal	F	12- 13.
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11.	Order	I	20.
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APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 278 /2016

N.W.F Province
Service Tribunal
Diary No. 259
Dated 29-3-2016

Mr. Akhtar Nawaz Khan, Assistant Agency Education Officer (Dev),
O/O the Agency Education Officer North Waziristan Agency under
transfer to Directorate of (E&SE) Department Khyber Pakhtunkhwa,
Peshawar. **APPELLANT**

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Administration, infrastructure and Co-Ordination Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director of Education FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 5- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 6- The Agency Education Officer, North Waziristan Agency Miran Shah at Bannu.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 24.11.2015 WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE POST OF ASSISTANT AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY TO DIRECTORATE OF (E&SE) DEPARTMENT PRE MATURELY AND INVIOLATION OF TRANSFER/POSTING POLICY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD

PRAYER: That on acceptance of this appeal the impugned transfer order dated 24.11.2015 may very kindly be set aside and the respondents may very kindly be directed that not to transfer the appellant from the post of AAEO North Waziristan Agency till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

Filed to
As per
27/3/16

Brief facts giving rise to the present appeal are as under:

1. That appellant was appointed as Senior English Teacher (SET) in the respondent Department vide order dated 13-09-2004. That after appointment the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of appointment order is attached as annexure **A.**
2. That appellant while serving as SET (BPS-16) in the respondent Department, the appellant was transferred and posted as Assistant Agency Education Officer Development vide order dated 21-12-2013. That in response to the order dated 21-12-2013 the appellant submitted his charge report on the very next day i.e. 22-12-2013. Copies of the transferred order and charge report are attached as annexure **B & C.**
3. That appellant while serving as Assistant Agency Education Officer Development astonishingly vide impugned order dated 26-06-2014 communicated to appellant on 20.11.2014 the appellant was transferred to the post of SET (BPS-16) pre maturely and on the basis of political pressure. So much so vide order dated 01-01-2014 the substitute of the appellant who is much more junior (Approx 12 Years) to the appellant was transferred in place of appellant. Copies of the impugned order and certificate are attached as annexure **D & E.**
4. That it is very pertinent to mention here that the impugned order dated 26-06-2014 was communicated to the appellant on 20.11.2014. That feeling aggrieved the appellant filed Departmental appeal but the same was not responded by the appellate authority. That then after the appellant knocked the door of this august Tribunal in appeal No.249/2015 and this august Tribunal issued suspension order in favor of the appellant vide order dated 3.4.2015. Copies of the Departmental appeal, memo of service appeal and suspension order are attached as annexure **F, G and H.**
5. That during the pendency of the said appeal the respondent No.5 issued order dated 12.4.2015 in favor of the appellant and in compliance of this august service Tribunal order dated 3.4.2015. Copies of the order and letter are attached as annexure **I and J.**
6. That the said appeal was withdrawn by the appellant after the implementation of the said order dated 12.4.2015. That unfortunately the respondent No.3 who infact is not

competent to issue such orders has issued an order dated 24.11.2015 whereby the services of the appellant has wrongly been placed on the disposal of respondent No.5. That appellant feeling aggrieved from the impugned order dated 24.11.2015 prefer Departmental appeal to the respondent No. 1 but no reply has been received so far. Copies of the withdrawal order, impugned order and Departmental appeal are attached as annexure **K, L & M.**

7. That hence the present appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 24.11.2015 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned order dated 24.11.2015 has been issued by the incompetent authority; therefore the same is not tenable and liable to be set aside.
- D- That the impugned order dated 24.11.2015 is against the clause I, II, and IV of the transfer/ Posting policy of the Government of Khyber Pakhtunkhwa. (Copy of Transfer/Posting policy is attached as annexure **N.**
- E- That the impugned order dated 24.11.2015 has not been issued in public interest nor in exigencies of service.
- F- That the respondents violated the selection criteria for the post of AAEO while issuing the impugned order dated 24.11.2015. Copy of the Notification is attached as annexure **O.**
- G- That the impugned order dated 24.11.2015 has been issued under the direction of political figures which is not tenable in the eye of law.

H- 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: 18.3.2016

APPELLANT



AKHTAR NAWAZ KHAN



THROUGH:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____/2016

AKHTAR NAWAZ

VS

A.C.S FATA

APPLICATION FOR SUSPENTION OF OPERATION
OF IMPUGNED ORDER DATED 24.11.2015 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 24.11.2015 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 24.11.2015 may very kindly be suspended till disposal of this appeal.

APPELLANT



AKHTAR NAWAZ

THROUGH:



NOOR MOHAMMAD KHATTAK
ADVOCATE

A-6

DIRECTORATE OF EDUCATION FATA, NWFP PESHAWAR.

NOTIFICATION.

Consequent upon the recommendation of the Departmental selection committee the Director School & Literacy NWFP Peshawar has been pleased to appoint the SET's Science male on regular basis in BPS -16 (Rs.3805-2295-12655) plus usual allowances as admissible under the rules & the services of the following candidates belong into FATA has been placed at the disposal of Director of Education for adjustment vide their file No.151/A-14/SET (MF) appointments /2004/DSL/AD Estab-1 Endst: No-5197-5223 dated 31/8/2004 is hereby transferred to the schools noted against their names.

Regular Science SET Male

S.No	Name & Designation	Posted at	Remarks
1	Akhtar Nawaz Lab: Asstt: GHS Razmak N.W Agency.	GHS Tiarza SWA	Against vacant SET post
2	Ihsan Ul Haq CT GHS No. Sakha Kot No.1 Malakand	GHS Khawa Stoori Khel Orakzai	-do-
3	Sardar Hussain SET GHS Lakari Mohmand Agency	GHS Lakari Mohmand Agency	already occupied
4	Khalid Khan CT GHS No. 2 Sakh Kot Malakand	GHS Janata SWA	against vacant post
5	M. Riaz Shahid CT GHS Badraga Malakand	GHS Zadrana SWA	-do-
6	Kamil SET GHS Akhurwal FR Kohat	GHS Akhurwal FR Kohat	Already occupied
7	Ahmed Jan CT GHS Loi Sam Bajour	GHS Palosai Orakzai Agency	against vacant post
8	Noor Ullah Jan SET GHS Qamar Khel Attari Khyber	GHS Qamar Khel Attari Khyber	Already occupied
9	M. Hussain CT GHSS Gujer Gari Mardan	GHS Shinkai SWA	against vacant post
10	Shah Muhammad CT GHS Badraga Malakand	GHS Kotkai SWA	-do-
11	Haleem Gul CT GHS Sher Gar Mardan	GHS Said Khan Kot SWA	-do-
12	Sajjad Ahmed SET GHS Zarwam FR Bannu	GHS Zarwam FR Bannu	-do-
13	Said Akber Shah SET GHS Chagher Matli Peshawar	GHS Makip Cahrerai	-do-
14	Shakeel Ahmed Lab:Asstt: GHS Ara Khel FR Kohat	GHS Gulistan Orakzai	-do-
15	Farooq Shah CT GHS Spin Dand Khyber	GHS Kamaer Khel Attari Khyber	Vice Noorulla Jan posted as I/C HM
16	Mujahid Hussain CT GHS Malana Kurram	GHS Sakhi Ahmed Shah Kurram	against vacant post
17	Noor ul Amin CT GHS Zaryab Gul Charsadda	Services placed at the disposal of Director Schools & Literacy for further adjustment	
18	Nadir Sher CT GHSS Ghallani Mohmand Agency	-do-	
19	Irfan Ullah PET GHS Umar Payan Peshawar	-do-	
20	Fayaz Khan DM GHS Ibrahim Khan Killi Mardan	-do-	
21	Qudrat Ullah CT GHS Habib Ullah FR Bannu	GHS Spin South Waziristan Agency	against vacant post

ATTESTED

ATTESTED

ATTESTED

Attest

Accept

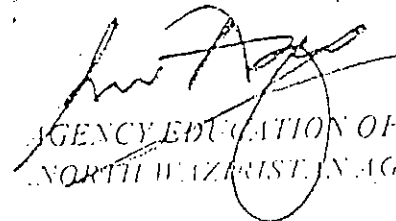
OFFICE OF THE AGENCY EDUCATION OFFICER NORTH
WAZIRISTAN AGENCY

B-7



OFFICE ORDER

According to the order of the worthy Director Education FATA vide No. 2202(03) dated 16-12-013 Mr. Akhtar Nawaz is hereby allowed / directed to work as a Assistant Agency Education Officer Development and as well as monitoring of all the schools situated in the North Waziristan Agency Miranshah on the basis of great experience, energetic and having approach to all the


AGENCY EDUCATION OFFICER
NORTH WAZIRISTAN AGENCY

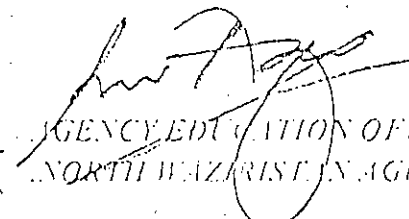
Endstt: No. 138-67 /ORDER/AEO/NWA

dated 21 / 12 / 2013

Copy to:

- 1) Director of Education FATA, with reference to his letter dated _____
- 2) Political Agent, NWA Miran Shah
- 3) Agency Accounts Officer NWA Miran Shah
- 4) All AAEO's / Circle Incharge for information and necessary action please
- 5) The candidate concerned


ATTESTED



AGENCY EDUCATION OFFICER
NORTH WAZIRISTAN AGENCY

ATTESTED

Attested
Attested

صراحی رپورٹ

C-8
3

میں سے آفٹر فوڑ خان آئی ایچ جی 22-12-013 کو ایم ایچ ایچ کے

اصغر اڈھنر 138-41 کوڑا 21-12-013 بجٹ ریسٹ ایچ ایچ کے اصغر

ڈیویڈنٹ ایچ ایچ کے اس نارکوڈر مسلمان میرالبتاہ سے ایچ ڈی ایچ کے لاجاری کھالہ

اور ایچ ڈی ایچ کے اس طرح سے سرنگام درایع ہوں

صراحی رپورٹ اور ان عدالت ہے

ایچ ایچ کے ایچ ایچ کے
Attested

آفٹر فوڑ خان ریسٹ ایچ ایچ کے ایچ ایچ کے (dev)

آفٹر فوڑ خان ریسٹ
Keep on record.

22/12/013

ATTESTED
Attested
Attested

ATTESTED
A

DIRECTORATE OF EDUCATION, FATA SECRETARIAT PESHAWAR
CANCELLATION OF REDEPLOYMENT

The redeployment order in respect of the following AEO/SSTs (Male/Female) is hereby cancelled with immediate effect in the interest of public service:-

D-9

S/#	Name Designation	Redeployed at	Endst: No & date of redeployment
1	Abdul Khalid I/C HM GHS Manz Ghari Orakzai	AEO Office Orakzai	AEO Endst: No. 64-66 dated 03/01/14
2	Din Muhammad GHS Khocha FR Tank	AEO Office FR Tank	Dir: Endst: No. 20711-14 dated 27/11/2013
3	Akhtar Nawaz GMS Hassan Shah Kot, NWA	AEO Office NWA	Dir: Endst: No. 22026-27 dated 16/12/2013
4	Amjad GHS Sra Mela Orakzai	AEO office Orakzai	Dir: Endst: No. 87-89 dated 02/01/2014
5	Nasim GMS GGMS Sukk F.R Kohat	AEO Office F.R Kohat	Dir: Endst: No. 5601-04 dated 18/04/2014
6	Zulikha AEO F.R D.I	AAEO F.R Tank	Dir:1383-86 dated 11/02/2014

DIRECTOR EDUCATION FATA

Endst: No. 8414-38 / A-1/Gen/Re-deployment Dated 26/6 /2014

Copy of the above is forwarded for information to the:-

- 1 All the Agency Education Officers in FATA with the remarks to ensure that all types of redeployment/detailment in addition to the above is cancelled other wise they will be held responsible for the consequences.
- 2 Principal/Headmasters concerned
- 3 PS to Secretary AI&C FATA Secretariat
- 4 P.A to D/E FATA
- 5 P/Files

Attested

Ardu

Due to military operation in NWA the transfer order already issued vide dated 26/6/14 is hereby commuted to Mr. Archer Nasir AAO (dev) in o/p AEO NWA under transfer to GMS Hassan Shah on 20/11/14 with the approval of competent authority.

Attested

ATTESTED

A

A. Ardu
20/11/14

10



FATA SECRETARIAT
DIRECTORATE OF EDUCATION
WARSAK ROAD PESHAWAR, PAKISTAN
PHONE: 091-9210166 FAX 091-9210216
NO. 20323 / DATED 19/11/13
A-1/AAEO NWA VOL-II

Sayyid F. dautlah of
From
11-2013
22

To

The Agency Education Officer
N.W. Agency at Miranshah

Subject:

TRANSFER/ADJUSTMENT ON AAEO POST

I am directed to ask you to furnish a list of at least 15 senior SETs including Mr. Said Muhammad SST duly recommended by MNA and Muhammad Roshan SST GCET Mir Ali N.W. Agency according to the criteria for selection to fill up the vacant AAEO posts.

M B Haroon

(SYED MANZAR JAN SAJID)
ADDL. DIRECTOR(ESTAB)

ATTESTED

A

11



OFFICE OF THE AGENCY EDUCATION OFFICER NORTH
WAZIRISTYAN AGENCY.

TO WHOM IT MAY CONCERN;

Certified that Mr.Said Mohammad is hereby posted as Assistant Agency Education Officer (Development) North Waziristan Agency in place of Akhtar Nawaz Khan Assistant Agency Education Officer (Development) Vide ~~order No 151-55 dated 1-1-2014 by pressure i.e Mohammad Nazir Khan MNA (NA-40) and Welfare Committee of the area.~~

ATTESTED

Agency Education Officer
North Waziristan Agency

TO

The Director of Education (FATA),
FATA Secretariat Warsak Road Peshawar.

F-12

Subject:

**DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
ORDERS DATED 01.01.2014 AND 26.06.2014
WHEREBY ONE MR. SAID MOHAMMAD SET
SCIENCE WAS TRANSFERRED AS ASISSTANT
AGENCY EDUCATION OFFICER IN PLACE OF
APPELLANT AND THE APPELLANT WAS
TRANSFERRED TO HIS OWN SCHOOL.**

RESPECTED SIR:

Most humbly appellant begs to submit as under:

- 1- That appellant was appointed as Senior English Teacher (SET) vide order dated 13.09.2004. That after appointment appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors.
- 2- That appellant while serving as SET in the education Department, the appellant was transferred and posted as Assistant ^{Agency} education officer development vide order dated 21.12.2013. That in response to the order dated 21.12.2013 the appellant submitted his charge report on the very next day.
- 3- That appellant while serving as AAEO (Dev) astonishingly vide impugned order dated 26.6.2014 the appellant was transferred to the post of SET pre maturely on the basis of political pressure so much so order dated 01.01.2014 one Mr. Said Mohammad SET Science who is much more junior to the appellant and also belong to the cadre of SET Science was transferred in place of appellant.
- 4- That the dates of said order clearly shows the malafide and arbitrary intention of the authorities. Because the appellant was transferred on 26.6.2014 while the said employee i.e. Mr. Said Mohammad was transferred on 01.01.2014.
- 5- That it is very pertinent to mention that the said order dated 01.01.2014 and 26.06.2014 were not communicated to the appellant in time.
- 6- That the said impugned orders are against the existing transfer/posting policy of the provincial Government.

ATTESTED

A

ATTESTED

Attested
Attested

Received Today
8/12/2014

7- Moreover the impugned orders were issued under the direction of Political figures which is not tenable in the eye of law.

It is therefore most humbly prayed that on acceptance of this Departmental appeal. The impugned orders dated 01.01.2014 and 26.6.2014 may very kindly be set aside and the appellant may not be disturbed from the post of AAEO (Dev) till completion of his normal tenure.

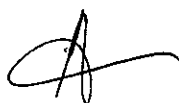
Dated: 2.12.2014

APPELLANT



AKHTAR NAWAZ KHAN
AAEO (Dev) NWA

ATTESTED



Attested



G-14

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 249 /2015

Mr. Akhtar Nawaz Khan, Assistant Agency Education Officer (Dev),
O/O the Agency Education Officer North Waziristan Agency.

..... **APPELLANT**

VERSUS

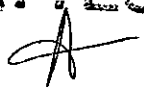
- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 2- The Director of Education FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 3- The Agency Education Officer, North Waziristan Agency Miran Shah at Bannu.
- 4- Mr. Said Muhammad, SET science (BPS-16), GHS Shamazan Kot, North Waziristan Agency Miranshah at Bannu.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDERS DATED 1.1.2014 AND 26.6.2014 COMMUNICATED TO THE APPELLANT ON 20.11.2014 WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE POST OF ASSISTANT AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY PRE MATURELY AND DUE TO POLITICAL INETERFERENCE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WIHTIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER: That on acceptance of this appeal the impugned transfer orders dated 1.1.2014 and 26.6.2014 communicated to the appellant on 20.11.2014 may very kindly be set aside and the respondents may very kindly be directed that not to transfer the appellant from the post of AAEO (Development) North Waziristan Agency till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

ATTESTED



R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

1. That appellant was appointed as Senior English Teacher (SET) in the respondent Department vide order dated 13-09-2004. That after appointment the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of appointment order is attached as annexure **A.**
2. That appellant while serving as SET (BPS-16) in the respondent Department, the appellant was transferred and posted as Assistant Agency Education Officer Development vide order dated 21-12-2013. That in response to the order dated 21-12-2013 the appellant submitted his charge report on the very next day i.e. 22-12-2013. Copies of the transferred order and charge report are attached as annexure **B & C.**
3. That appellant while serving as Assistant Agency Education Officer Development astonishingly vide impugned order dated 26-06-2014 communicated to appellant on 20.11.2014 the appellant was transferred to the post of SET (BPS-16) pre maturely and on the basis of political pressure. So much so vide order dated 01-01-2014 the private respondent No.4 who is much more junior (Approx 12 Years) to the appellant was transferred in place of petitioner. Copies of the impugned order and certificate are attached as annexure **D & E.**
4. That it is very pertinent to mention here that the impugned order dated 26-06-2014 was communicated to the appellant on 20.11.2014. That feeling aggrieved the appellant filed Departmental appeal but the same was not responded by the appellate authority. Copy of the Departmental appeal is attached as annexure **F.**
5. That hence the present appeal on the following grounds amongst the others.

GROUND:

ATTESTED
A

- A- That the impugned orders dated 01-01-2014 and 26-06-2014 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the impugned orders dated 01-01-2014 and 26-06-2014 are against the clause I, II, and IV of the transfer/ Posting policy of the Government of Khyber Pakhtunkhwa. (Copy of Transfer/Posting policy is attached as annexure **G.**
- D- That the impugned orders dated 01-01-2014 and 26-06-2014 has not been issued in public interest nor in exigencies of service.
- E- That the respondents violated the selection criteria for the post of AAEO while issuing the impugned orders dated 1.1.2014 and 26.6.2014. Copy of the Notification is attached as annexure **H.**
- F- That the impugned orders dated 01-01-2014 and 26-06-2014 has been issued under the direction of political figures which is not tenable in the eye of law.
- 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.

APPELLANT

Akhtar

AKHTAR NAWAZ KHAN

THROUGH:

Noor
**NOOR MOHAMMAD KHATTAK
ADVOCATE**

ATTESTED

A

17

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____ /2015

AKHTAR NAWAZ

VS

A.C.S FATA

APPLICATION FOR SUSPENSION OF OPERATION
OF IMPUGNED ORDERS DATED 1.1.2014 AND
26.6.2014 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 orders dated 1.1.2014 and 26.6.2014 are 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 orders dated 1.1.2014 and 26.6.2014 may very kindly be suspended till disposal of this appeal.

ATTESTED



APPELLANT



AKHTAR NAWAZ

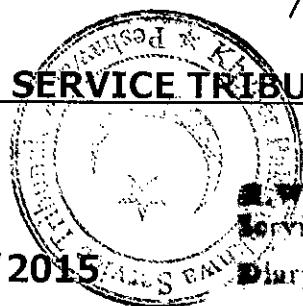
THROUGH:



NOOR MOHAMMAD KHATTAK

H-18

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



K.P. Province
Service Tribunal
Diary No. 248
Dated 24-3-15

APPEAL NO. 249 /2015

Mr. Akhtar Nawaz Khan, Assistant Agency Education Officer (Dev),
O/O the Agency Education Officer North Waziristan Agency.

..... APPELLANT

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 2- The Director of Education FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 3- The Agency Education Officer, North Waziristan Agency Miran Shah at Bannu.
- 4- Mr. Said Muhammad, SET science (BPS-16), GHS Shamazan Kot, North Waziristan Agency Miranshah at Bannu.

..... RESPONDENTS

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDERS DATED 1.1.2014 AND 26.6.2014 COMMUNICATED TO THE APPELLANT ON 20.11.2014 WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE POST OF ASSISTANT AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY PRE MATURELY AND DUE TO POLITICAL INETERFERENCE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WIHTIN THE STATUTORY PERIOD OF NINETY DAYS

ATTESTE
A

PRAYER: That on acceptance of this appeal the impugned transfer orders dated 1.1.2014 and 26.6.2014 communicated to the appellant on 20.11.2014 may very kindly be set aside and the respondents may very kindly be directed that not to transfer the appellant from the post of AAEO (Development) North Waziristan Agency till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-400
24/3/15

As distributed to-400
and filed.
27/3/15

R/SHEWETH:
ON FACTS:

Brief facts giving rise to the present appeal are as under:

3.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was posted as Assistant Agency Education Officer Development vide order dated 21.12.2013 but transferred vide impugned order dated 26.6.2014 to GGMS Hassan Shah Kot, NWA on political interference as endorsed by Agency Education Officer vide certificate placed on record (Annexure-D page -8). That the impugned order was communicated to the appellant on 20.11.2014 and departmental appeal was preferred on 2.12.2014 which remained unresponded and hence the instant service appeal on 24.3.2015.

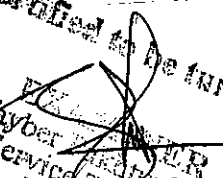
That the impugned order based on political intervention is violative of clause-1, 2 and 4 of transfer/posting policy of the Provincial Government.

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 17.4.2015 before S.B. Notice of stay application be also issued for the date fixed. Till the next date the impugned order is suspended.

Appellant Deposited Security & Process Fee



sd/-
Chairman

Certified to be true copy

 JUDGE
 Khayber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Date of Reception of Application 8-12-15
 Number of Vols. 800
 Copying Fee 6
 Stamp 2
 Total 8
 Date of Receipt of Security 8-12-15
 Date of Receipt of Process Fee 8-12-15

OFFICE ORDER

1-20

In the light Service tribunal Khyber Pakhtunkhwa Peshawar decision dated 3/4/2015 and Director education FATA implementation order No.4449 dated 15/4/2015 Mr: Akhtar Nawaz is hereby restored with all the previous duties except of Development working in the larger interest of Justice.

Charge report should be submitted to all concerned.

Sd

**Agency Education Officer
North Waziristan Agency**

Endst: No. 3938-35 /Appeal/AEO/ NWA Dated 12/06/2015

Copy to:

1. The Chairman Service Tribunal Khyber Pakhtunkhwa Peshawar for information and dated mentioned above.
2. The Director Education FATA vide his order dated 15/4/2015 .
3. The political Agency Miranshah.
4. The agency accounts Officer N.W.Agency.
5. All AAEOs Circle Concerned for information.
6. Mr: Akhtar Nawaz.

and

**Agency Education Officer
North Waziristan Agency**

ATTACHED

f



FATA SECRETARIAT
DIRECTORATE OF EDUCATION
WARSAK ROAD PESHAWAR, PAKISTAN
PHONE: 091-9210166 FAX 091-9210216

NO.
DATE PESH: THE //2015

J-21

To

The Agency Education Officer
North Waziristan Agency.

Subject:- Implementation of Court Order.

MEMO:-

I am directed to refer to the subject cited above and to ask you for implementation of Khyber Pakhtunkhwa Services Tribunal order dated, 03-04-2015 in service Appeal No. 249/2015 for compliance under intimation to this office. being Court matter.

Assistant Director (Litigation)
Directorate of Education FATA.

Endst: No. 4450-51 / dated, 15/4 /2015.

Copy forwarded to the:

1. Chairman Service Tribunal Peshawar.
2. PA to Director Education FATA.

Assistant Director (Litigation)
Directorate of Education FATA.

ATTESTED

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



APPEAL NO. 249 /2015

S.W.F. Service
Duty No. 249
Date: 24-5-15

Mr. Akhtar Nawaz Khan, Assistant Agency Education Officer (Dev),
O/O the Agency Education Officer North Waziristan Agency.

K-22

..... APPELLANT

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 2- The Director of Education FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 3- The Agency Education Officer, North Waziristan Agency Miran Shah at Bannu.
- 4- Mr. Said Muhammad, SET science (BPS-16), GHS Shamazan Kot, North Waziristan Agency Miranshah at Bannu.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDERS DATED 1.1.2014 AND 26.6.2014 COMMUNICATED TO THE APPELLANT ON 20.11.2014 WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE POST OF ASSISTANT AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY PRE MATURELY AND DUE TO POLITICAL INTERFERENCE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

7 30.06.2015

Counsel for the appellant, Mr. Daud Jan, Supdt. alongwith Addl: A.G for official respondents No. 1 to 3 and private respondent No. 4 in person present. Learned counsel for the appellant requested for withdrawal of appeal as the grievances of the appellant have been redressed. Dismissed as withdrawn. *File be closed* the record. *MM*

Certified to be true copy
Khyber Pakhtunkhwa Service Tribunal
Peshawar

ANNOUNCED
30.6.2015

Chairman

Date of Presentation of Application 9-7-2015

Number of Words 400

Copying Fee 4

Urgent 2

Total 6

Price of Copying 6

Date of Completion of Copy 9-7-2015

Date of Delivery of Copy 9-7-2015

227





Establishment Section

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

L-237

ORDER:-

Mr. Akhtar Nawaz SET, Government Middle School Hassan Shah Kot North Waziristan Agency is repatriated to Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa with immediate effect, on administrative grounds.

SECRETARY (ADMN, INFRA: & COORD)

No.FS/E/100-96 (Vol-9)/ 16024-13

Dated 24/11/2015

Copy to:-

1. Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa
2. Secretary Social Sectors Department FATA Secretariat
3. Accountant General Khyber Pakhtunkhwa
4. Director Elementary & Secondary Education Khyber Pakhtunkhwa
5. Director Education (FATA)
6. Agency Education Officer North Waziristan Agency
7. Headmaster, GMS Hassan Shah Kot North Waziristan Agency
8. Agency Accounts Officer North Waziristan Agency
9. PS to Secretary A,I&C Department FATA Secretariat
10. SET concerned

Received on 7/12/2015

Section Officer (Estab)

24.11.2015

ATTESTED

To,

The Additional Chief Secretary FATA,
FATA Secretariat, Warsak Road, Peshawar.

① ②
M-242

**DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
ORDER DATED 24.11.2015 WHEREBY THE APPELLANT
WAS TRANSFERRED FROM THE POST OF ASSISTANT
AGENCY EDUCATION OFFICER NORTH WAZIRISTAN
AGENCY TO DIRECTORATE OF (E&SE) DEPARTMENT
PRE MATURELY AND INVIOATION OF
TRANSFER/POSTING POLICY**

PRAYER:

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present Departmental appeal are as under:

1. That appellant was appointed as Senior English Teacher (SET) in the Education Department vide order dated 13-09-2004. That after appointment the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors.
2. That appellant while serving as SET (BPS-16) in the Education Department, the appellant was transferred and posted as Assistant Agency Education Officer Development vide order dated 21-12-2013. That in response to the order dated 21-12-2013 the appellant submitted his charge report on the very next day i.e. 22-12-2013.
3. That appellant while serving as Assistant Agency Education Officer Development astonishingly vide impugned order dated 26-06-2014 communicated to appellant on 20.11.2014 the appellant was transferred to the post of SET (BPS-16) pre maturely and on the basis of political pressure. So much so vide order dated 01-01-2014 the substitute of the appellant who is much more junior (Approx 12 Years) to the appellant was transferred in place of appellant.
4. That it is very pertinent to mention here that the impugned order dated 26-06-2014 was communicated to the appellant on 20.11.2014. That feeling aggrieved the appellant filed Departmental appeal but the same was not responded by the appellate authority. That then after the appellant knocked the door of the august Tribunal in appeal No.249/2015 and the august Tribunal issued suspension order in favor of the appellant vide order dated 3.4.2015.

5. That during the pendency of the said appeal the AEO, NWA issued order dated 12.6.2015 in favor of the appellant and in compliance of the august service Tribunal order dated 3.4.2015.
6. That the said appeal was withdrawn by the appellant after the implementation of the said order dated 12.6.2015. That unfortunately the Secretary Admn: who in fact is not competent to issue such orders has issued an order dated 24.11.2015 whereby the services of the appellant has wrongly been placed on the disposal of Directorate (E&SE) KP.
7. That hence the present Departmental appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 24.11.2015 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the authorities in accordance with law and rules on the subject noted above and as such the authorities violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned order dated 24.11.2015 has been issued by the incompetent authority; therefore the same is not tenable and liable to be set aside.
- D- That the impugned order dated 24.11.2015 is against the clause I, II, and IV of the transfer/ Posting policy of the Government of Khyber Pakhtunkhwa.
- E- That the impugned order dated 24.11.2015 has not been issued in public interest nor in exigencies of service.
- F- That the authority violated the selection criteria for the post of AAEO while issuing the impugned order dated 24.11.2015.
- G- That the impugned order dated 24.11.2015 has been issued under the direction of political figures which is not tenable in the eye of law.

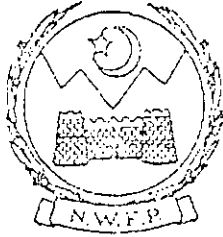
It is therefore, most humbly prayed that on acceptance of this Departmental appeal the impugned transfer order dated 24.11.2015 may very kindly be set aside and the appellant may not be transferred from the post of AAEO North Waziristan Agency till completion of his normal tenure. Any other remedy which this good self deems fit that may also be awarded in favor of the appellant.

Dated: 25.11.2015

APPELLANT



AKHTAR NAWAZ KHAN
AAEO, North Waziristan Agency



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

Handwritten marks and a circled number: N-26

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.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

ATTESTED

Handwritten signature and the word "Attested" written vertically.

- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
 DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

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

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

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

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.

.....

ATTESTED

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



Handwritten notes and stamps:
 0-29
 12 Year Junior

To

All the Agency Education Officers
 In FATA

Subject: SELECTION CRITERIA FOR THE POST OF AAEO (M/F)

I am directed to convey the following criteria duly approved by the competent authority for transfer against the post of AAEO (M/F) in your respective Agencies for strict compliance while submitting proposal to this Directorate:-

- (i) Seniority position of those to be considered for posting as AAEO/MF should be in the top 10 of the SETs seniority list of the concerned Agency/FR
- ii) should have clean record of service and no departmental proceedings should be pending against any of those included in the panel
- iii) Should have the ability to deal with the public tactfully and have moral courage to carry out proper feasibility
- iv) A panel of at least three SETs in order of seniority should be prepared for a single post for selection of one through interview
- v) Recommendation of concerned Agency Education Officer would also be considered but not binding
- vi) Knowledge of Budget/Accounts, PC-IV and APT rules including procedure in disciplinary cases will be considered as additional qualification
- vii) Maximum tenure of the post will be five years based on good performance; otherwise, the incumbent could be posted out any time on administrative grounds/poor performance
- viii) Once an official has completed 05 years tenure, he/she will not be re-posted as AAEO
- (xi) Due to acute shortage of science teachers in high schools SET (Science) will not be considered for the post of AAEO

Signature of Addl. Director (ESTAB)

ADDL. DIRECTOR (ESTAB)

ATTENDED
Amir
Ali

CC

- 1 PS to Secy A&C FATA Secretariat
- 2 PA to DE FATA Local Directorate

ATTENDED
A

ADDL. DIRECTOR (LSTAB)

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar

_____ OF 2015

Akhtar Nawaz

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

A. C. S. FATA & others

(RESPONDENT)
(DEFENDANT)

I/we Akhtar Nawaz

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

Akhtar

CLIENT

16

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

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 278/2016

Akhtar Nawaz.....Appellant.

VERSUS

1. Additional Chief Secretary FATA and Others.....Respondents.

Para-wise comments on behalf of respondent No: 1, 3 & 4.

Respectfully Sheweth:

Preliminary Objection

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the appeal is barred by law and no departmental appeal is made to the competent authority against the impugned order. Hence not maintainable under Section-4 of Service Tribunal Act 1974.

On Facts:

1. Subject to provision of record as to the performance of duty.
2. Incorrect. The appellant was never transferred but redeployed in the office of Agency Education Officer North Waziristan which was later on cancelled in the Public Interest vide order date 26/06/2014, photocopy attached as (**Annexure-A**). Moreover his redeployment order was a temporary arrangement till further order in the interest of Public Service which was in legal per view of the department to withdraw or cancel as required, photocopy attached as (**Annexure-B**). In light of the office orders is crystal clear that the appellant was never regularly transferred/posted as Assistant Agency Education Officer. The posting/transfer of Assistant Agency Education Officer is carried out by a prescribed criteria of the department for a period of five years which have been reduce to three years. The appellant has never gone through for test/interview according to the said criteria, photocopy attached as (**Annexure-C & D**).
3. Incorrect. No Political pressure was involved and the redeployment order of the appellant alongwith others five number of Assistant Agency Education Officers was cancelled in the Public Service. The appellant being Civil Servant is supposed to serve anywhere under the rules as required because no Civil Servant can be posted according to his own wishes and will.
4. No comments. Subject to record.
5. Subject to record.
6. Incorrect. The appellant case was with-drawn pre-maturely by the appellant as admitted by the appellant himself, so the matter has become res-judicata in term of civil procedure code provision which precluded the appellant from knocking door of the Honorable Tribunal again and again. Moreover it is incorrect to suggest that respondent No.3 have no competency to issue an order dated 24/11/2015, whereby the services of the appellant has been placed on disposal of the respondent No. 5. Moreover, certain irregularities was reported in the Office of Agency Education Officer North Waziristan Agency as a result inquiry was conducted into the matter and the appellant was found

part and parcel of such illegal activities/irregularities, inquiry report is attached as (Annexure-E). The appellant was repatriated on administrative ground to parent department for further necessary action under E&D rules 2011, photocopy attached as (Annexure-F). The parent department has also issued a show cause notice to the appellant, photocopy attached as (Annexure-G). As the appellant was resorting to misconduct by pressurizing head of the Department through one way or other and also illegally tried to hampered the official work of Directorate of Education FATA and Agency concerned. So in light of the above administrative grounds respondent No.3 was legally competent for order dated 24/11/2015.

7. Reply on the ground are as under.

Grounds:

- A. Incorrect. The impugned order 24/11/2015 is according to law/rules and fully justified in the eye of law.
- B. Incorrect. The respondents have treated the appellants as per law/rules and there is no violation of Article-4 and 25 of the constitution.
- C. Incorrect. The impugned order dated 24/11/2015 has been issued by the competent Authority because respondent No.3 is legally authorized to issue posting/transfer and repatriation order of BPS-16 and above.
- D. Incorrect. As elucidated in Para-C above.
- E. Incorrect. Hence denied.
- F. Incorrect. Hence denied. As elucidated above in Para-2.
- G. Incorrect. Hence denied.
- H. The respondent department also seeks permission to advance other grounds and poofs at the time of hearing.

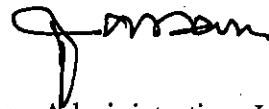
In light of the above facts it is humbly requested to dismiss the appeal with cost.

Respondent No.1.



Additional Chief Secretary FATA

Respondent No. 3.



Secretary Administration, Infrastructure
& Co-Ordination Department FATA.

Respondent No. 4.



Director Education FATA.

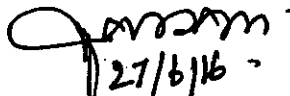
AFFIDAVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our Knowledge and belief that nothing has been concealed from this Honorable Tribunal.

Respondent No.1.


Additional Chief Secretary FATA

Respondent No. 3.


27/6/16
Secretary Administration, Infrastructure
& Co-Ordination Department FATA.

Respondent No. 4.


27/6/16
Director Education FATA.

A

D-9

DIRECTORATE OF EDUCATION, FATA SECRETARIAT PESHAWAR
CANCELLATION OF REDEPLOYMENT

The redeployment order in respect of the following AAEO/SSTs (Male/Female) is hereby cancelled with immediate effect in the interest of public service:-

S/##	Name Designation	Redeployed at	Endst: No & date of redeployment
1	Abdul Khalid I/C HM GHS Manz Ghari Orakzai	AEO Office Orakzai	AEO Endst: No. 64-66 dated 03/01/14
2	Din Muhammad GHS Khecha FR Tank	AEO Office FR Tank	Dir: Endst: No. 20711-14 dated 27/11/2013
3	Akhtar Nawaz GMS Hassan Shah Kohat NWA	AEO Office NWA	Dir: Endst: No. 22026-27 dated 16/12/2013
4	Ainjad GHS Sra Mela Orakzai	AEO office Orakzai	Dir: Endst: No. 87-89 dated 02/01/2014
5	Nasim SS GGMS Sra Kohat F.R Kohat	AEO Office F.R Kohat	Dir: Endst: No. 5601-04 dated 18/04/2014
6	Zulikha AAEO F.R D...	AAEO F.R Tank	Dir: 1383-86 dated 11/02/2014

DIRECTOR EDUCATION FATA

Endst: No. 8414-39 / A-1/Gen/Re-deployment Dated 26/6 /2014

Copy of the above is forwarded for information to the:-

1. All the Agency Education Officers in FATA with the remarks to ensure that all types of redeployment/detailment in addition to the above is cancelled other wise they will be held responsible for the consequences.
2. Principal/Headmasters concerned
3. PS to Secretary AI&C FATA Secretariat
4. P.A to D.E FATA
5. P/Files

Attested
Ahmed

Attested
Ahmed

Due to military operation in NWA the transfer order already issued vide dated 26/6/14 is hereby communicated to Mr. Achter Nawaz AAEO (dew) in o/p AAEO NWA under transfer to GMS Hassan Shah on 20/11/14 with the approval of competent authority.

Attested

Annexure (A)

(5) B'

DIRECTORATE OF EDUCATION, FATA SECRETARIAT, PESHAWAR

REDEPLOYMENT

Mr. Akhtar Nawaz SST Govt: Middle School Hassan Shah Kot North Waziristan Agency is hereby redeployed to work in the Agency Education Office North Waziristan Agency till further orders in the interest of public service.

NOTE:-

1. Charge report should be submitted to all concerned.
2. He will draw his salary from his original school.

(MUHAMMAD ISLAM BANGASH)
DIRECTOR: EDUCATION (FATA)

Endst: No. 2026-27 /A-12/A-12/Akhtar Nawaz SST

Dated Pesh: the 16/11 2013

Copy forwarded to the:-

1. Agency Education Officer, North Waziristan Agency at Miranshah
2. P.A to D.E FATA

V. B. Harani
O/C ADDL DIRECTOR (ESTAB)



FATA SECRETARIAT
DIRECTORATE OF EDUCATION

Warsak Road Peshawar

No. 7351-6/11
A-1/General/AAEO 6/10

2

To

All the Agency Education Officers
in FATA

R-38

Subject: SELECTION CRITERIA FOR THE POST OF AAEO (M/F)

I am directed to convey the following criteria duly approved by the competent authority for transfer against the post of AAEO (M/F) in your respective Agencies for strict compliance while submitting proposal to this Directorate:-

- i) Seniority position of those to be considered for posting as AAEO/MF should be in the top 10 of the SETs seniority list of the concerned Agency/FR
- ii) Should have clean record of service and no departmental proceedings should be pending against any of those included in the panel
- iii) Should have the ability to deal with the public tactfully and have moral courage to carry out proper feasibility
- iv) A panel of at least three SETs in order of seniority should be prepared for a single post for selection of one through interview
- v) Recommendation of concerned Agency Education Officer would also be considered but not binding
- vi) Knowledge of Budget/Accounts, PC-IV and APT rules including procedure in disciplinary cases will be considered as additional qualification
- vii) Maximum tenure of the post will be five years based on good performance otherwise, the incumbent could be posted out any time on administrative grounds/poor performance
- viii) Once an official has completed 05 years tenure, he/she will not be re-posted as AAEO
- xi) Due to acute shortage of science teachers in high schools SET (Science) will not be considered for the post of AAEO

Attested
[Signature]
CC

[Signature]
ABDL DIRECTOR (ESTAB)

PS to Secy A&C FATA Secretariat
PA to DE FATA Local Directorate

[Signature]



FATA SECRETARIAT
DIRECTORATE OF EDUCATION

WARSAK ROAD, PESHAWAR, PAKISTAN
PHONE: 091-9210166 FAX 091-9210216

NO. 3309-21
A-1/GEN/AAEOS

DATED: 21/3/16

OFFICE ORDER

In continuation of this Directorate letter No. 1735-61 dated 06/10/2011, the competent authority is pleased to reduce the tenure of AAEO post from 05 years to 03 years. However, on administrative grounds and other cogent reason, AAEOs could be replaced prematurely in the larger public interest.

DIRECTOR EDUCATION (FATA)

CC

Copy to:-

- 1 All the Agency Education Officers in FATA
- 2 PS to Secretary SSD FATA
- 3 PS to Secretary AI&C FATA
- 4 P.A to D.E FATA

ASSTT: DIRECTOR (ESTAB:)

07/

21/3/16

DIRECTORATE OF EDUCATION FATA, PESHAWAR.

No. 5655-56/Dated 05/06/2015

E

To: The Director Education FATA,
KPK Peshawar.

Subject: Enquiry Report of Community Schools of NWA

Respected Sir,

I Fanoos Jamal Assistant Director (M&E) has been appointed as an enquiry officer vide DE FATA No 5655-56 Dated 05-06-015 for the allegations leveled against staff of community schools located in NWA. The detailed report is as under.

Allegations;

The complainant application consists of the following allegations.

- 1; That, most of the teaching staff doesn't have physical presence while their salaries are taken by the AEO office.
- 2; That Akhtar Nawaz (SET) is illegally taking salaries of 10 teachers & 5 class IV posted in the community schools.
- 3; That, Akhtar Nawaz (SET) has pressurized the AEO office and they are compel to give him all the salaries of the five alleged schools named, FCS Akhtar khan kor Miran Shah, BCS Rahim kor, FCS Masroor kot, BCS Naeem kot, FCS Saleman kot.

Procedure adopted;

- 1; visited the office of AEO NWA and called the teaching staff and class IV of the community schools for physical verification.
- 2; The AEO was already informed to call all the teaching staff and Class IV to the office for the verification.
- 3; The ID cards of the teaching staff and Class IV were checked during the enquiry.

Findings;

1. The enquiry started on 8th June 2015 and only a few teaching staff and Class IV participated/appeared before the enquiry officer.
2. Out of 168 staff only 104 staff appeared (verified list attached) before the enquiry officer for the physical verification.
3. The enquiry continued for one week ie. 8 to 15 June 2015 and only 3 to 4 person appeared before the enquiry officer on daily basis. According to the AAEOs most of the people are scattered and they sometime face communication/traveling problem. The AEO-NWA requested that the enquiry time/period should be extended up to 27th June, 2015.
- 4 On the request of AEO-NWA the duration of enquiry has been extended accordingly.
5. But even then only 104 staff members were physically verified and the rest did not appear before the enquiry officer.

ایکسپریس ڈیپارٹمنٹ، پشاور

has been noted on the spot during the enquiry that there is some reality in the allegations. Out of 168 teaching and nonteaching staff 64 failed to appear before the enquiry officer it seems that they have no physical appearance and their salaries are taken illegally.

7. The alleged SET teacher named Aktar Nawaz ensured presence of all the 10 teaching staff and 5 numbers of class IV before the enquiry officer. Their ID cards were verified with their physical presence.

8. The AEO office time and again mentioned/requested that the people of NWA are IDPs and they are scattered but these are unjustified statement as if they can take salaries and being a govt employee they had to ensure their presence before the enquiry team.

9. AAE-development, Mr. Syed Muhammad gave statement on the attached sheet against 6 class IV that these are regular in their duty but will mark their presence after the upcoming Eid ul fitar.

Recommendation;

1: Salaries of all the teaching staff and Class IV who failed to appear before the enquiry officer should be stopped.

2: The AEO NWA should be strictly warned to tighten the administration as this is sole responsibility of team leader to ensure judicial utilization of the resources.

3: Re-enquiry should be appointed to probe into the case of the absent staff.

Conclusion;

After detail enquiry and discussion with staff of the AEO concerned and discussion with the community, the enquiry officer has reached to the conclusion that some of the teaching staff and Class IV don't have physical presence and their salaries are illegally withdrawn. Out of 168 staff only 104 appeared (list attached) before the enquiry officer for the physical verification despite the fact that one week extra time was given to them on the request of AEO-NWA.

The salaries of all the staff who failed to appear before the enquiry officer should be stopped and re-enquiry should be appointed in order to give them some extra time if they can ensure their physical presence.

The AEO concerned should be held responsible for the wrong distribution of the salaries. Recovery of the salaries should be done once it is proved that a particular person has taken it illegally.



(Mst. Fanoos Jamal)
Asstt; Director (M&E)
Directorate of Education FATA
Peshawar.

F/63



Establishment Section

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

ORDER:-

Mr. Akhtar Nawaz SET, Government Middle School Hassan Shah Kot North Waziristan Agency is repatriated to Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa with immediate effect, on administrative grounds.

SECRETARY (ADMN, INFRA: & COORD)

No.FS/E/100-96 (Vol-9)/16004-13

Dated 24/11/2015

Copy to:-

1. Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa
2. Secretary Social Sectors Department FATA Secretariat
3. Accountant General Khyber Pakhtunkhwa
4. Director Elementary & Secondary Education Khyber Pakhtunkhwa
5. Director Education (FATA)
6. Agency Education Officer North Waziristan Agency
7. Headmaster, GMS Hassan Shah Kot North Waziristan Agency
8. Agency Accounts Officer North Waziristan Agency
9. PS to Secretary A,I&C Department FATA Secretariat
10. SET concerned

ADD (E)

[Handwritten signature]

[Handwritten initials]

27/11/15

[Handwritten signature]
27/11/15

IAE

[Handwritten signature]
Section Officer (Estab)

8323

27/11/2015

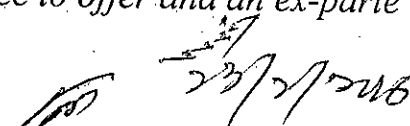
SHOW CAUSE NOTICE

I, Muhammad Rafiq Khattak Director Elementary & Secondary Education Khyber Pakhtunkhwa, as competent authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you Mr. Akhtar Nawaz SST GMS, Hassan Shah Kot N.W. Agency as follows:-

- i. That you pressurizing the immediate boss and interference in official work.
- ii. I am satisfied that you are guilty of misconduct and inefficiency as specified in rules 3 of the said rules. Thus you have rendered yourself liable to be proceeded against under the said rules.

2. In exercise of the powers conferred by the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, the competent authority, is hereby pleased to dispense with the conduct of a formal enquiry and serve you with the instant show cause notice with the direction to submit your defence in writing within 07 (Seven) days of the receipt of this notice as to why one of the major or minor penalty of rule-4 of the said rules should not be imposed upon you and also intimate whether you desire to be heard in person.

3. In case you failed to submit your reply within the stipulated period, it will be presumed that you have no defence to offer and an ex-parte decision will be taken against you.


COMPETENT AUTHORITY

Mr. Akhtar Nawaz SST
GMS, Hassan Shah Kot NWA.

BEFORE THE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 278/2016

Akhtar Nawaz Khan AAEO(Dev:) NW Agency .

.....Appellant.

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.Respondents

PARAWISE COMMENTS ON & FOR BEHALF OF RESPONDENTS No: 2&5.

Respectfully Sheweth :-

The Respondents submit as under:-

Preliminary Objections

- 1 That the appellant has got no cause of action / locus standi .
- 2 That the instant Service Appeal is badly time barred.
- 3 That the appellant has concealed material facts from this Honorable Tribunal in the instant service appeal.
- 4 That the instant service appeal is based on mala fide intentions.
- 5 That the appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the appellant is not entitled for the relief, he has sought from this Honorable Tribunal .
- 7 That the instant Service Appeal is against the prevailing law & rules.
- 8 That the instant appeal is based on mala fide intentions just to put extra pressure on the Respondents for gaining the post of his choice & illegal service benefits.
- 9 That the appeal is not maintainable in its present form.
- 10 That the appeal is bad for mis joinder & non joinder of the necessary parties.
- 11 That the instant Service Appeal is barred by law.
- 12 That the appellant is not competent to file the instant appeal against the Respondents.
- 13 That the impugned Notification / orders dated 26/06/2014 & 24/11/2015, are not only legally competent but is also in accordance with the provisions of Section-10 of Civil Servants Act 1973, hence is liable to be maintained in favour of the Respondents.

ON FACTS

- 1 That Para-I needs no comments, being pertains to the service record of the Appellant.
- 2 That Para-2 is also needs no comments, being pertains to the service record of the appellant.

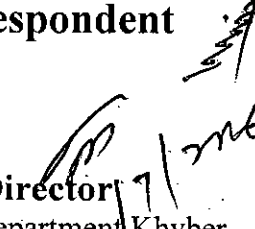
- 3 That Para-3 is incorrect & denied. The Appellant is basically and SET teacher & has been posted against the Asst: Agency Education Officer(Dev) vide an office order dated 02/12/2013 with the directions that the Appellant will monitor schools situated in North Waziristan Agency. However later on, he was transferred & adjusted against his original post of SET vide the impugned order dated 26/06/2014 by the competent authority under the mandatory provisions of Section-10 of Civil Servants Act 1973, whereas the rest of the Para regarding the adjustment of an another official against the above mentioned post vide order dated 01/01/2014 is against the law, facts & circumstances of the case as under the constitution of 1973 read with Section-2(b) of the above said act treat a Civil Servant equal footings having no question of junior & senior for the adjustment against the said post.
- 4 That Para-4 is correct to the extent that the appellant has been transferred vide the impugned order dated 26/6/2014, issued by the Respondent o: 4/ Director Education (FATA) in the interest of public service, whereas rest of the Para regarding filing of Departmental Appeal the impugned transfer order dated 26/6/2014 is baseless & without any solid proof & justification, hence denied.
- 5 That Para-5 is correct that this Honorable Tribunal vide order dated 03/4/;2015 has granted status quo against the impugned transfer order dated 26/6/2016 & 01/01/2014, in response to his Service Appeal No: 249/2015 on the same title as mentioned above & in compliance of the same order dated 03/4/2015, of this Honorable Tribunal, the Respondent No: 3 has withdrawn the implemented transfer order & restored the appellant against the AAEO(Dev:) post vide his office order dated 17/6/2015
- 6 That Para-6 is correct. That appellant has withdrawn his previous Service Appeal No: 249/2015 on his own will & later on under the provision of Section-10 of Civil Savants Act 1973, the services of the appellant have been placed at the disposal of the Respondent No: 5 vide office order dated 24/11/2015 on the grounds that the whole service record including seniority , promotion fall within the competency of the Respondents No: 2 & 5. Hence the order dated 24/11/2015, is legally competent, whereas the Para relating to the filing of Departmental Appeal against the order dated 24/11/2015, before the Respondent No: I is baseless (Copies of the cited orders are attached as Annexures-A, B &C).
- 7 That Para-7 is legal, however the Respondents No: 2&5 further submit on the following grounds inter alia :-

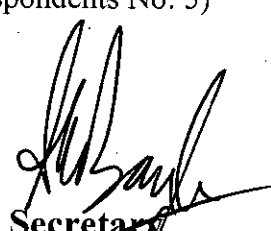
Grounds

- A Incorrect & denied. The impugned transfer order is within legal sphere & is liable to be maintained.
- B Incorrect & not admitted, the statement of the appellant is baseless & is liable to be dismissed in terms of the above made submissions mentioned in the foregoing Paras.
- C Incorrect & denied. The order dated 24/11/2015 has been issued by the competent authority on the grounds that the appellant has willingly accepted & obeyed his adjustment order against the AAEO(Dev) post issued by the same authority, whereas, when his services have been placed at the disposal of the Respondent No: 5, now the appellant has challenged the competency of the Respondent No: I on mala fide intentions.
- D Incorrect and not admitted. Detailed reply has been given in the foregoing Paras. Hence needs no further comments.
- E Incorrect & denied. The impugned transfer order dated 24/11/2015 is legal & has been issued in the interest of public service.
- F Incorrect & denied. The Respondent have acted as per law, rules & policy prior to issuance of the said Notification/ order dated 24/11/2015.

- G Incorrect & denied. Detailed reply has been given above.
- H Legal, Hence needs no comments. However the Respondents seek leave of this Honorable Tribunal to submit additional case law & record at the time of arguments on main appeal.

In view of the above made submissions, it is requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent Department.


Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 5)


Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 2)

(A) 10

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



APPEAL NO. 249 /2015

Mr. Akhtar Nawaz Khan, Assistant Agency Education Officer (Dev),
O/O the Agency Education Officer North Waziristan Agency.
..... APPELLANT

K-22

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 2- The Director of Education FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 3- The Agency Education Officer, North Waziristan Agency Miran Shah at Bannu.
- 4- Mr. Said Muhammad, SET science (BPS-16), GHS Shamazan Kot, North Waziristan Agency Miranshah at Bannu.

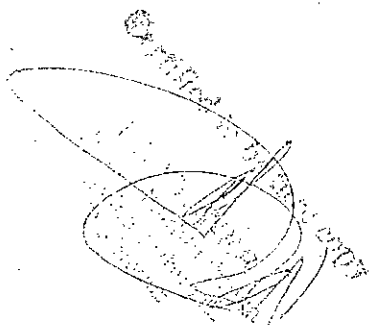
..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDERS DATED 1.1.2014 AND 26.6.2014 COMMUNICATED TO THE APPELLANT ON 20.11.2014 WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE POST OF ASSISTANT AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY PRE MATURELY AND DUE TO POLITICAL INTERFERENCE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

7

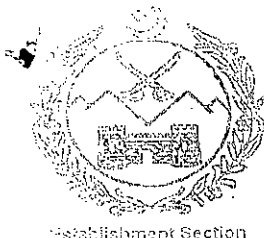
30.06.2015

Counsel for the appellant, Mr. Daud Jan, Supdt. alongwith Addl: A.G for official respondents No. 1 to 3 and private respondent No. 4 in person present. Learned counsel for the appellant requested for withdrawal of appeal as the grievances of the appellant have been redressed. Dismissed as withdrawn. *File be closed* the record. 11/11



ANNOUNCED
30.6.2015

Signature
Chairman



Establishment Section

(B)

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

(9)

ANNEXURE (B)

L-237

ORDER:

Mr. Akhtar Nawaz SET, Government Middle School Hassan Shah Kot North Waziristan Agency is repatriated to Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa with immediate effect, on administrative grounds.

SECRETARY (ADMN, INFRA: & COORD)

FS/E/100-96 (Vol-9) 16024-B

Dated: /11/2015

Copy to:-

1. Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa
2. Secretary Social Sectors Department FATA Secretariat
3. Accountant General Khyber Pakhtunkhwa
4. Director Elementary & Secondary Education Khyber Pakhtunkhwa
5. Director Education (FATA)
6. Agency Education Officer North Waziristan Agency
7. Headmaster, GMS Hassan Shah Kot North Waziristan Agency
8. Agency Accounts Officer North Waziristan Agency
9. PS to Secretary A,I&C Department FATA Secretariat
10. SET concerned

Received on 7/12/2015

Section Officer (Estab)

4.11.2015

ATTESTED

(C)

DIRECTORATE OF EDUCATION, FATA SECRETARIAT PESHAWAR
CANCELLATION OF REDEPLOYMENT

93

The redeployment order in respect of the following AEO/SSTs (Male/Female) is hereby cancelled with immediate effect in the interest of public service:-

D-9

S/No	Name Designation	Redeployed at	Endst: No & date of redeployment
1	Abdul Khalid I/C HM GHS Manz Ghari Orakzai	AEO Office Orakzai	AEO Endst: No. 64-66 dated 03/01/14
2	Din Muhammad GHS Khairata FR Tank	AEO Office FR Tank	Dir: Endst: No. 20711-14 dated 27/11/2013
3	Akhter Manz GMS Hassan Shah Kot, NWA	AEO Office NWA	Dir: Endst: No. 22026-27 dated 16/12/2013
4	Arifad GHS Sra Mela Orakzai	AEO office Orakzai	Dir: Endst: No. 87-89 dated 02/01/2014
5	Nasim SST GGMS Tank F.R Kohat	AEO Office F.R Kohat	Dir: Endst: No. 5601-04 dated 18/04/2014
6	Zulkhara AEO F.R Tank	AAEO F.R Tank	Dir: 1383-86 dated 11/02/2014

DIRECTOR EDUCATION FATA

Endst: No. 8414-38 / A-1/Gen/Re-deployment Dated 26/6 /2014

Copy of the above is forwarded for information to the:-

1. All the Agency Education Officers in FATA with the remarks to ensure that all types of redeployment/detailment in addition to the above is cancelled other wise they will be held responsible for the consequences.

- 2. Principal/Headmasters concerned
- 3. P.S to Secretary AI&C FATA Secretariat
- 4. P.A to D.E FATA
- 5. P/Files

Attested
Asuli

Attested

Due to military operation in NWA the transfer order already issued vide dated 26/6/14 is hereby communicated to Mr. Archer Nazki AEO (dw) in o/p AEO NWA under transfer to GMS Hassan Shah on 20/11/14 with the approval of competent authority.

Attested
D-9/11/14

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No.278/2016

AKHTAR NAWAZ

VS

A.C.S. FATA

REJOINDER ON BEHALF OF THE APPELLANT IN RESPONSE
TO THE REPLY SUBMITTED BY THE RESPONDENTS

R/SHEWETH:

(1-6):

All the objections raised by the respondent are in correct, baseless and not in accordance with law and rules rather the respondent is estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Admitted correct by the respondents hence need no comments.
- 2- Incorrect and not replied accordingly to extent of respondent No.1,3 and 4. That appellant has been posted as Assistant Agency Education Officer North Waziristan Agency in light of the selection criteria/ policy for the post of AAEO. That in response the appellant has took over the charge of the said and started performing his duty as AAEO North Waziristan Agency quite efficiently and up to the entire satisfaction of his superiors but astonishingly vide impugned order the appellant services were placed at the disposal of settle Directorate of (E&SE) Department without any reason and clear justification. Moreover the appellant has been transferred prematurely and against the spirit of E&D Rules 2011.
- 3- Incorrect and not replied accordingly. That the appellant has been transferred to settle side without of his substitute. Moreover the impugned transfer order is clearly violative of transfer/ posting policy of the provincial Government.
- 4- Incorrect and not replied accordingly hence denied
- 5- Incorrect and not replied accordingly hence denied.

- 6- Incorrect and not replied accordingly. That during appellant tenure as AAEO North Waziristan Agency the appellant has served the respondent Department quite efficiently and as such no complaint whatsoever was filed against the appellant. Moreover the stance of the respondents regarding the posting and cancellation of previous order and again the issuance of the present impugned transfer order is squarely fall within the ambient of contempt of Court.
- 7- Incorrect and not replied accordingly hence denied.

GROUND:
(A to H):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondent are incorrect and baseless hence denied. That the impugned order dated 24-11-2015 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside. That the impugned order 24-11-2015 is the violation of clause I, II and IV of the transfer/posting policy of the provincial Government of Khyber Pakhtunkhwa. That the respondent Department issued the impugned order dated 24-11-2015 with malafide intent just to accommodate his blue eyed person. That the impugned order dated 24-11-2015 has been issued in violation of the criteria for selection of AAEO's. That the impugned order dated 24-11-2015 has not been issued in the public interest nor exigencies of service, therefore, not tenable and liable to be set aside.

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

APPELLANT



AKHTAR NAWAZ

THROUGH:



NOOR MOHAMMAD KHATTAK
DVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 278/2016

Akhtar Nawaz Khan AAEO(Dev:) NW Agency.

.....Applicant.

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.Respondents

REPLY TO THE STAY APPLICATION ON & FOR BEHALF OF RESPONDENTS No: 2&5.

Respectfully Sheweth :-

The Respondents submit as under:-

Preliminary Objections

- 1 That the Applicant has got no cause of action / locus standi .
- 2 That the instant Application is badly time barred.
- 3 That the Applicant has concealed material facts from this Honorable Tribunal in the instant service appeal.
- 4 That the instant Application is based on mala fide intentions.
- 5 That the Applicant has not come to this Honorable Tribunal with clean hands.
- 6 That the Applicant is not entitled for the relief, he has sought from this Honorable Tribunal .
- 7 That the instant Application is against the prevailing law & rules.
- 8 That the instant Application is based on mala fide intentions. just to put extra pressure on the Respondents for gaining the post of his choice & illegal service benefits.
- 9 That the Application is not maintainable in its present form.
- 10 That the Application is bad for mis joinder & non joinder of the necessary parties.
- 11 That the instant Application is barred by law.
- 12 That the Applicant is not competent to file the instant appeal against the Respondents.
- 13 That the impugned Notification dated 26/06/2014 & 24/11/2015, are not only legally competent but is also in accordance with the provisions of Section-10 of Civil Servants Act 1973, hence is liable to be maintained in favour of the Respondents.

ON FACTS

- 1 That Para-I needs no comments, being pertains to the record of this Honorable Tribunal.
- 2 That Para-2 is incorrect & denied. All the three ingredients necessary for the dismissal of the instant application are also in favour of the Respondents, hence the application in hand is liable to be dismissed in favour of the Respondents.

- 3 Incorrect & denied. The above mentioned impugned orders are legally competent & are liable to maintained in favour of the Respondents .
- 4 Needs no comments. However the facts & grounds may also be treated as an integral part of the reply of this application on behalf of the Respondents.

In view of the above made submissions, it is humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant application with cost in favour of the Respondents.

26/7/2016
[Signature]
Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 5).

[Signature]
Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 2)

AFFIDAVIT

I, Khaista Rehman Asstt: Director (Lit: II) E&SE Department Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments of the replies of the main Appeal & Application in the titled case are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal.

[Signature]
Deponent

BEFORE THE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 278/2016

Akhtar Nawaz Khan AAEO(Dev:) NW Agency.

.....Applicant.

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.Respondents

REPLY TO THE STAY APPLICATION ON & FOR BEHALF OF RESPONDENTS No: 2&5.

Respectfully Sheweth :-

The Respondents submit as under:-

Preliminary Objections

- 1 That the Applicant has got no cause of action / locus standi .
- 2 That the instant Application is badly time barred.
- 3 That the Applicant has concealed material facts from this Honorable Tribunal in the instant service appeal.
- 4 That the instant Application is based on mala fide intentions.
- 5 That the Applicant has not come to this Honorable Tribunal with clean hands.
- 6 That the Applicant is not entitled for the relief, he has sought from this Honorable Tribunal .
- 7 That the instant Application is against the prevailing law & rules.
- 8 That the instant Application is based on mala fide intentions just to put extra pressure on the Respondents for gaining the post of his choice & illegal service benefits.
- 9 That the Application is not maintainable in its present form.
- 10 That the Application is bad for mis joinder & non joinder of the necessary parties.
- 11 That the instant Application is barred by law.
- 12 That the Applicant is not competent to file the instant appeal against the Respondents.
- 13 That the impugned Notification dated 26/06/2014 & 24/11/2015, are not only legally competent but is also in accordance with the provisions of Section-10 of Civil Servants Act 1973, hence is liable to be maintained in favour of the Respondents.

ON FACTS

- 1 That Para-1 needs no comments, being pertains to the record of this Honorable Tribunal.
- 2 That Para-2 is incorrect & denied. All the three ingredients necessary for the dismissal of the instant application are also in favour of the Respondents, hence the application in hand is liable to be dismissed in favour of the Respondents.

- 3 Incorrect & denied. The above mentioned impugned orders are legally competent & are liable to maintained in favour of the Respondents .
- 4 Needs no comments. However the facts & grounds may also be treated as an integral part of the reply of this application on behalf of the Respondents.

In view of the above made submissions, it is humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant application with cost in favour of the Respondents.

24/7/2016
Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 5).

Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 2)

AFFIDAVIT

I, Khaista Rehman Asstt: Director (Lit: II) E&SE Department Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments of the replies of the main Appeal & Application in the titled case are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal.

Deponent

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

COC No. 98/2016

In Service Appeal No: 278/2016

Akhtar Nawaz Khan AAEO (Dev) office of the Agency Education Officer (NWA)Appellant.

VERSUS

Hameed Ullah Jan, Director Education (FATA) and Others..... Respondents.

Para-wise comments on behalf of respondent No: 1.

Respectfully Sheweth:

Preliminary Objection

1. That the appellant has got no cause of action to file the instant application.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present application.
5. That the Tribunal being administrative Tribunal has got no jurisdiction in COC cases.
6. The application was not maintainable because it is not supported with an affidavit duly attested by oath commissioner.
7. The application is based on malafide intention to pressurize the respondents.

On Facts:

1. That Para-I is correct to extent that the titled Service Appeal is pending for disposal, before the Honorable Tribunal & fixed for hearing on 29/7/2016. The rest of para is incorrect because the applicant was already stood repatriated at the time of issuance of status quo order. Thus the said position is still maintained by respondents. The repatriated order is annexed-A.
2. Incorrect & misleading. The appellant was never transferred but redeployed in the office of Agency Education Officer North Waziristan which was later on cancelled in the Public Interest vide order date 26/06/2014. Moreover his redeployment order was a temporary arrangement till further order in the interest of Public Service which was in legal per view of the department to withdraw or cancel as required. In light of the office orders is crystal clear that the appellant was never regularly transferred/posted as Assistant Agency Education Officer. The posting/transfer of Assistant Agency Education Officer is carried out by a prescribed criteria of the department for a period of five years which has now been reduced to three years. The appellant has never gone through for test/interview according to the said criteria. Moreover, being SST(Science)teacher he legally can not be posted against Management Cadre/Administrative post as per AAEO appointment criteria (Annexure -B&C).
3. Incorrect and mis-concealed. As the status quo order was issued by this honorable Tribunal. The position was that the appellant stood repatriated by that date the appellant was under legal obligation to report his arrival at new station, but he is still absent.
4. Incorrect. The respondent did nothing, which could amount to contempt of court. Moreover, as the appellant was not obeying legal order and to pressurize the respondents the instant application has been filed.

It is, therefore, humbly prayed that the COC application may be dismissed being not maintainable, meritless and devoid of legal force.

Respondent No. 1.


Director Education FATA

AFFIDAVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our Knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Respondent No. 1.


Director Education FATA

8/11/15
63



Establishment Section

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

ORDER:-

Mr. Akhtar Nawaz SET, Government Middle School Hassan Shah Kot North Waziristan Agency is repatriated to Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa with immediate effect, on administrative grounds.

SECRETARY (ADMN, INFRA: & COORD)

No.FS/E/100-96 (Vol-9)/16024-13

Dated 24/11/2015

Copy to:-

1. Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa
2. Secretary Social Sectors Department FATA Secretariat
3. Accountant General Khyber Pakhtunkhwa
4. Director Elementary & Secondary Education Khyber Pakhtunkhwa
5. Director Education (FATA)
6. Agency Education Officer North Waziristan Agency
7. Headmaster, GMS Hassan Shah Kot North Waziristan Agency
8. Agency Accounts Officer North Waziristan Agency
9. PS to Secretary A,I&C Department FATA Secretariat
10. SET concerned

ADD (E)

27/11/15

CA

27/11/15

27/11/15

IAE

Section Officer (Estab)

8323

27/11/2015



FATA SECRETARIAT
DIRECTORATE OF EDUCATION

Warsak Road Peshawar

No. 2351-11
A-7/General/AAEO

6/10

B

R-38

To

All the Agency Education Officers
in FATA

Subject: SELECTION CRITERIA FOR THE POST OF AAEO (M/F)

I am directed to convey the following criteria duly approved by the competent authority for transfer against the post of AAEO (M/F) in your respective Agencies for strict compliance while submitting proposal to this Directorate:-

- i) Seniority position of those to be considered for posting as AAEO/MF should be in the top 10 of the SETs seniority list of the concerned Agency/FR
- ii) Should have clean record of service and no departmental proceedings should be pending against any of those included in the panel
- iii) Should have the ability to deal with the public tactfully and have moral courage to carry out proper feasibility
- iv) A panel of at least three SETs in order of seniority should be prepared for a single post for selection of one through interview
- v) Recommendation of concerned Agency Education Officer would also be considered but not binding
- vi) Knowledge of Budget/Accounts, PC-IV and APT rules including procedure in disciplinary cases will be considered as additional qualification
- vii) Maximum tenure of the post will be five years based on good performance otherwise, the incumbent could be posted out any time on administrative grounds/poor performance
- viii) Once an official has completed 05 years tenure, he/she will not be re-posted as AAEO
- ix) Due to acute shortage of science teachers in high schools SET (Science) will not be considered for the post of AAEO

Attested
[Signature]
CC

[Signature]
ADDL DIRECTOR (ESTAB)

PS to Secy A&C FATA Secretariat
PA to DE FATA Local Directorate

[Signature]
ADDL DIRECTOR (ESTAB)



FATA SECRETARI,
DIRECTORATE OF EDUCATION

WARSAK ROAD PESHAWAR, PAKISTAN
PHONE: 091-9210166 FAX 091-9210216

NO. 3307-21
A-1/GEN/AAEOS

DATED 21/3/16

OFFICE ORDER

In continuation of this Directorate letter No. 1735-61 dated 06/10/2011, the competent authority is pleased to reduce the tenure of AAEO post from 05 years to 03 years. However, on administrative grounds and other cogent reason, AAEOs could be replaced prematurely in the larger public interest.

DIRECTOR EDUCATION (FATA)

CC

Copy to:-

- 1 All the Agency Education Officers in FATA
- 2 PS to Secretary SSD FATA
- 3 PS to Secretary AI&C FATA
- 4 P.A to D.E.FATA

ASSTT: DIRECTOR (ESTAB:)

07/

21/3/16