


17.02.2017 Counsel for petitioner and Mr. Daud jan, Superintendent alongwith Mr. Ziaullah, GP for respondents present. Learned Member (Judicial) Mr. Ishfaqe Taj is on leave therefore, bench is incomplete. To come up for further proceedings alongwith main service appeal No. 278/2016 on 26.05.2017 before D.B.

  
(AHMAD/HASSAN)  
MEMBER


26.05.2017 Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional AG for respondents also present. Learned counsel for petitioner requested for adjournment. Adjourned. To come up for further proceedings alongwith main service appeal No. 278/2016 on 04.07.2016 before D.B.

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

10. 04.07.2017 Counsel for the petitioner present. Mr. Usman Ghani, District Attorney for the respondent present. Learned counsel for the petitioner requested for adjournment. Adjourned. To come up for further proceedings alongwith main service appeal No. 278/2016 on 01. 08.2017 before D.B.

(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

Younas Javed

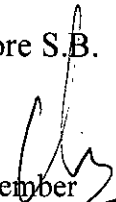
02.09.2016

Petitioner with counsel and Mr. Falak Nawaz, DSP alongwith Mr. Usman Ghani Sr. GP for respondents present and submitted that the de-novo inquiry as per the court directions is in process. Representative of the respondents is directed to make sure the conclusion of the inquiry and submit the implementation report. To come up for implementation report on 18.11.2016 before S.B.

  
Member

18.11.2016

*18-11-2016*  
Clerk to counsel petitioner and Hameed ur Rehman, AD (Litigation) alongwith Mr. Ziaullah, GP for respondents present. Representative of the respondent No. 1 submitted para-wise comments while representative of other respondents seeks adjournment for submission of comments. Request accepted. To come up for submission of comments/implementation report on 20.01.2017 before S.B.

  
Member

20.01.2017





Counsel for the petitioner and Mr. Hameed ur Rehman, AD (Litigation) alongwith Mr. Ziaullah, GP for respondents present. The instant COC petition is hereby directed to be clubbed with the main appeal. To come up for further proceedings on 17-2-17 before S.B.

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 98/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20.05.2016	<p>The Execution Petition of Mr. Akhtar Nawaz submitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	23-5-2016	<p>This Execution Petition be put up before S. Bench on <u>25-5-16</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	25.05.2016	<p>Counsel for the petitioner present. Notices be issued to the respondents. To come up for implementation report on 29.7.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	29.07.2016	<p>Counsel for the petitioner, M/S Hameedur Rahman, AD and Murtaza Khan, Steno for the respondents present. Reply of respondent No. 3 submitted while request made on behalf of the other respondents. To come up for reply/comments of respondents No. 1 &amp; 2 on 02.09.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

COC NO. 98 /2016

IN  
Appeal NO.278/2016

**AKHTAR NAWAZ**

**VS**

**HAMEED ULLAH  
& OTHERS**

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**PETITIONER/APPLICANT**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

**MOBILE NO.0345-9383141**

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

COC NO. 97 /2016  
IN  
Appeal NO.278/2016

K.W.F. Tribunal  
Service Tribunal  
Diary No. 399  
dated 20-5-2016

Mr. Akhtar Nawaz, 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..... **APPLICANT/ PETITIONER**

**VERSUS**

- 1- Mr. Hameed Ullah Jan, Director Education FATA, FATA Secretariat, Warsak Road, Peshawar.
- 2- Mr. Mohammad Nabi, Agency Education Officer, North Waziristan Agency Mran Shah at Bannu.
- 3- Mohammad Rafiq Khattak, Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS/ CONTEMNORS**

**APPLICATION FOR INITIATING CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENTS/ CONTEMNORS**

**R/SHEWETH:**

- 1- That the applicant/ petitioner had filed service appeal No.278/2016 in this august Tribunal in which this august Tribunal granted/ allowed status quo vide order sheet dated 29.03.2016. Copy of the order sheet is attached as annexure ..... **A.**
- 2- That after obtaining the attested copy of the order/Judgment, the applicant/petitioner submitted the said order of this august Tribunal before the respondents/ contemnors for implementation but the same has been ignored by the respondents and till date the order has not been implemented in spite of repeated requests.
- 3- That so much so the respondents/ contemnors issued show cause notice to the petitioner/ applicant to submit arrival report at the new station inspite of the fact that this august Tribunal allowed status quo order in favor of the applicant/ petitioner. Copies of the show cause notice and reminders are attached as annexure ..... **B.**
- 4- That the acts and actions of the Respondents/Contemnors squarely fall within the ambit of the Contempt of the Court

and as such they are liable to be proceeded for the Contempt and for the punishment under the law.

It is therefore, humbly prayed that on acceptance of this application, the Contempt of Court proceedings may graciously be initiated against the Respondents/Contemnors and they may be punished accordingly.

**DATED: 17.5.2016**

**APPLICANT/ PETITIONER**

*Akhtar*

**AKHTAR NAWAZ**

**THROUGH:**

*N.M. Khattak*

**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

COC NO. \_\_\_\_\_/2016

IN

Appeal NO.278/2016

**AKHTAR NAWAZ**

**VS**

**HAMEED ULLAH  
& OTHERS**

**AFFIDAVIT**

I Noor Mohammad Khattak Advocate on the instructions and on behalf of the petitioner do hereby solemnly affirm that the contents of this COC are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**COC NO. \_\_\_\_\_/2016**

**IN**

**Appeal NO.278/2016**

**ADDRESSES OF PARTIES**

Mr. Akhtar Nawaz, 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..... **APPLICANT/ PETITIONER**

**VERSUS**

- 1- Mr. Hameed Ullah Jan, Director Education FATA, FATA Secretariat, Warsak Road, Peshawar.
- 2- Mr. Mohammad Nabi, Agency Education Officer, North Waziristan Agency Mran Shah at Bannu.
- 3- Mohammad Rafiq Khattak, Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS/ CONTEMNORS**

**PETITIONER**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

**MOBILE NO.0345-9383141**



A 5



**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 INVIOATION OF TRANSFER/POSTING POLICY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTARY PERIOD**

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

22/3/16

**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:**

Appeal No. 278/2016  
AKhtar Nawaz



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.

*Sd/-*  
Chairman

Certified true copy

*[Signature]*  
Chairman  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 31-03-2016  
Number of Pages 800  
Copying Fee 6000  
Urgent 2  
T.M.I 8  
Name of Copyholder [Signature]  
Date of Completion 31-03-2016  
Date of Delivery of 31-03-2016

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA 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) at  
Miranshah (FATA). .....Appellant.**

**VERSUS**

**Hameed Ullah Jan, Director Education (FATA) Warsak Road, Peshawar & others.  
.....Respondents**

**JOINT PARAWISE COMMENTS ON & FOR BEHALF OF RESPONDENT No: 3.**

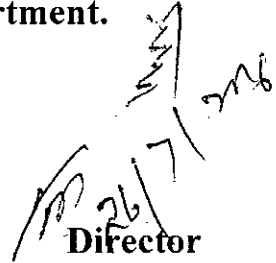
Respectfully Sheweth :-

The Respondent No: 3 submits as under:-

**ON FACTS**

- 1 That Para-1 is correct to the extent that the titled Service Appeal is pending for disposal, before the Honorable Tribunal & is fixed for hearing on 29/7/2016(today) wherein Status Quo has been granted vide order dated 29/3/2016 against the impugned transfer order dated 24/11/2015 in favour of the appellant (Copy of the order sheet is annexure-A).
- 2 That Para-2 is incorrect & misleading on the grounds that the order dated 29/3/2015 has been implemented & where after no further adjustment / transfer of the appellant as been made by the Respondents. Hence, the stand of the appellant is not only baseless but also liable to be struck down.
- 3 That Para-3 is also incorrect & denied. The statement of the appellant is against the facts & law as the said Show Cause Notice has been issued on 23/2/2016 by the Respondent No: 3, whereas the status quo has been granted on 29/3/2016 much later than the said Show Cause Notice. Hence, the same does not fall within the ambit of contempt of Court. Because the Petitioner / Appellant was reluctant to obey the lawful transfer order dated 24/11/ 2015 of the Respondents & has thus been found guilty of misconduct & inefficiency as specified in rules-3 of E&D rules, 2011. Therefore, the instant COC Petition is liable to be dismissed.
- 4 That Para-4 is incorrect & denied. The Respondents have acted as per law, rules & transfer policy vide the impugned transfer order dated 24/11/2015 vide which the services of the Petitioner /Appellant has been repatriated to the Directorate of E&SE Department by the Respondent No: 1 of being the original employee of the Respondent No: 3 / E&SE Department, which is not only legal but is also liable to be maintained in favour of the Respondents in the interest of justice (Copies of the status quo order, Show Cause Notice & impugned transfer order dated 24/11/2015 are attached as Annexures-A, B & C).

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

Handwritten signature and date: 26/7/2018

**Director**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondent No: 3)

B  
7

22

**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 writting 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.

12

NO \_\_\_\_\_ AEO/MRN/Akhtar Nawaz SET Dated \_\_\_\_\_ / \_\_\_\_\_ /2016.

REMINDER:

From

The Agency Education Officer,  
North Waziristan Agency.

To

✓  
Mr: Akhtar Nawaz SET S/O Mir Daray Jan



Subject:-

DEPARTMENTAL ACTION / SHOW CAUSE NOTICE:

MEMO:-

I am directed to enclose herewith a Copy of Directorate of Education FATA Khyber Pakhtunkhwa Peshawar letter No 3487-90 dated 28/03/2016 on the subject cited above along with two copies of Show Cause notice.


You are here by directed once again to submit reply with in time for on ward submission to the quarter concerned.

  
AGENCY EDUCATION OFFICER,  
NORTH WAZIRISTAN AGENCY. 

Endst:NO: 2814-16 /AEO/MRN Akhtar Nawaz SET Dated 13 / 5 /2016.

Copy to the:-

- 1- PA to Director Education FATA Peshawar K.P.K.
- 2- PS to Secretary SSD FATA Peshawar K.P.K.
- 3- Political Agent North Waziristan Agency.
- 4- Office Copy.

  
AGENCY EDUCATION OFFICER,  
NORTH WAZIRISTAN AGENCY.

*Remind on 08/5/16.*

*Handwritten signature*

9

No \_\_\_\_\_/AEO/MRN/AKH

dated \_\_\_\_/04/016

From The Agency Education Officer  
North Waziristan Agency Miran shah

To Mr. Akhtar Nawaz SET S/O Mir Daray Jan

Subject:- **DEPARTMENTAL ACTION / SHOW CAUSE NOTICE**

Memo,

I am directed to enclose herewith a copy of Directorate of Education FATA Khyber Pakhtunkhwa Peshawar letter No 3487-90 dated 28/03/2016 on the subject cited above along with two copies of show cause notice.

You are here by directed to submit reply with in time for on ward submission to the quarter concerned.



AGENCY EDUCATION OFFICER  
NORTH WAZIRISTAN AGENCY

Encds:- 2058-63/AEO/MRN/AKH dated 1/04/016

Copy to:-

- 1 Director of Education FATA KPK.Peshawar
- 2 Mr Akhtar Nawaz S/O Mir Daray khan vill;Darpa Khel Tehsil Miranshah NWA
- 3 PS to Secretary SSD FATA
- 4 Office record



AGENCY EDUCATION OFFICER  
NORTH WAZIRISTAN AGENCY

B



FATA SECRETARIAT  
DIRECTORATE OF EDUCATION

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

NO. 3486 / DATED 28/3/16  
A-127 AKHTAR NAWAZ SET

To

**IMMEDIATE/TIME BOUND**

The Agency Education Officer  
N.W Agency at Miranshah

(10)

Subject: DEPARTMENTAL ACTION/SHOW CAUSE NOTICE

I am directed to enclose herewith a copy of Directorate of E&SE Khyber Pakhtunkhwa letter No. 163/F.No. 454-B/SST(M) FATA dated 02/03/2016 on the subject cited above along with two copies of show cause notice in respect of Mr. Akhtar Nawaz SET GMS Hassan Shah Kot NWA which may be served upon the accused SST on home address and returned to this office duly signed by the accused for onward submission to the quarter concerned.

Encls AA

ASSTT: DIRECTOR (ESTAB:)

C.C

Copy to:-

- 1 Director E&SE Khyber Pakhtunkhwa, Peshawar w/r to his letter mentioned above
- 2 Mr. Akhtar Nawaz S/O Mir Daray Khan Vill: Darpa Khel Tehsil Miranshah N.W. Agency. He may sign the documents at AEO N.W. Agency Office on priority.
- 3 PS to secretary SSD FATA
- 4 P.A to D.E FATA

ASSTT: DIRECTOR (ESTAB:)



VAKALATNAMA

IN THE COURT OF Peshawar High Court Peshawar

OF 2016

Akhtar Nawaz

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

Hameed Ullah & 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: \_\_\_/\_\_\_/2016

Akhtar

CLIENT

N.M.

ACCEPTED

NOOR MOHAMMAD KHATTAK  
(ADVOCATE)

OFFICE:

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

Phone: 091-2211391

Mobile No 0345-0323141