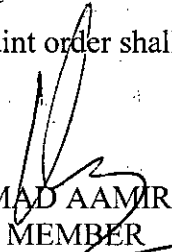


14.03.2017

Appellant with counsel and Mr. Muhammad Jan, Government Pleader for official respondents No. 1 to 4 present. Learned counsel for appellant seeks adjournment. Adjournment granted. To come up for arguments on 18.04.2017 before D.B. The restraint order shall continue.

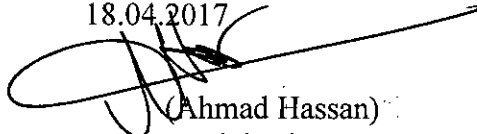
  
(ASHFAQUE TAJ)  
MEMBER

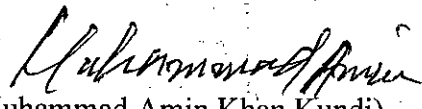
  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

18.04.2017

Appellant alongwith his counsel for the appellant present. Mr. Daud Jan, Superintendent with Mr. Muhammad Jan, Government Pleader for the respondents also present. Learned counsel for the appellant submitted adjustment order of the appellant dated 05.04.2017 and stated that the grievances of the appellant have been redressed and requested for withdrawal of the appeal. In this regard signature of the appellant and his counsel also obtained at the margin of order sheet as a token of proof. The appeal in hand is hereby dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED  
18.04.2017

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

*Identified by  
18/4/17  
18/4/17*

28.11.2016

Counsel for the appellant and Mr. Arif Salim, ASI  
alongwith Mr. Muhammad Jan, GP for respondents present.  
Counsel for the appellant submitted fresh Wakalat Nama  
which is placed on file and requested for adjournment.  
Request accepted. To come up for arguments on  
11-1-17. The restrain order shall continue.



(ABDUL LATIF)  
MEMBER



(MUHAMMAD AAMIR NAZIR)  
MEMBER

11.01.2017

Counsel for the appellant and Mr. Muhammad Jan, GP for  
respondents present. Counsel for the appellant requested for  
adjournment. Request accepted. To come up for arguments on  
09.02.2017. The restrain order shall continue.



(AHMAD HASSAN)  
MEMBER



(MUHAMMAD AAMIR NAZIR)  
MEMBER

09.02.2017

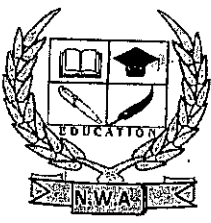
Appellant in person and Addl: AG for respondents present.  
Appellant requested for adjournment. Adjourned. To come up for  
arguments on 14.03.2017. The restrain order shall continue.



(ASHFAQUE TAJ)  
MEMBER



(MUHAMMAD AAMIR NAZIR)  
MEMBER



## **ADJUSTMENT ORDER**

In compliance of Khyber Pakhtunkhwa Service Tribunal Peshawar order dated 12/5/2016 in appeal No. 489/2016 as well as Directorate of Education FATA No. 5257 dated 10-3-2017 Mr: Gul Ahmad J/Clerk is hereby adjusted against vacant J/Clerk Post at AEO Office NWA Miranshah w.e.f the date of taking over charge.

**Note :**

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

Agency Education Officer  
North Waziristan Agency

Endst: No: 2877-82 / Transfer/AEO/NWA/ dated 5 /04/2017.

**Copy to:**

1. The Political Agent NWA for information quoted above.
2. Headquarter 7-Division Camp area Miranshah.
3. The Director of Education FATA K.P.K Peshawar vide his No. 5257 dt 10-3-2017
4. The Agency Accounts Officer N.W.Agency at Miranshah.
5. The Headmaster GHS Miranshah Village.
6. Accountant local Office.
7. Computer Section AEO Office.

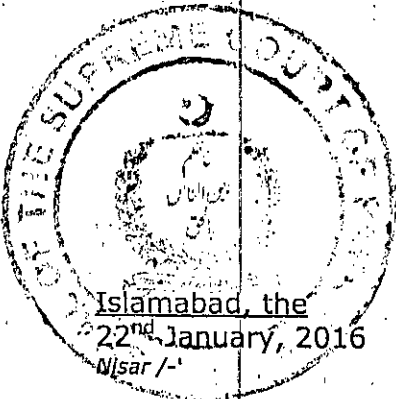
Agency Education Officer  
North Waziristan Agency

the letter was fabricated, he shall take action against those found guilty in the inquiry.

This petition stands disposed of in the above terms.

Sd/- Amir Hani Muslim, J  
Sd/- Dost Muhammad Khan  
Sd/- Umar Ata Bandial, J

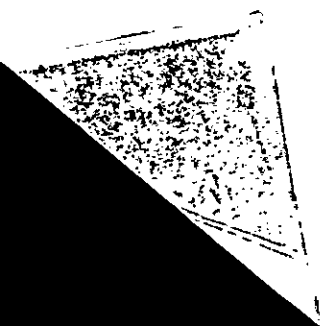
Certified to be True Copy



*[Signature]*  
12/11/16  
Court Associate  
Supreme Court of Pakistan  
Islamabad

01-2-12

CP No. 19499/16 Civil  
No. of Sessions 12-11-16  
No. of Sessions 600  
No. of Sessions 6  
No. of Sessions 0-0  
No. of Sessions 3-25  
No. of Sessions 8-1  
No. of Sessions 12-11-16  
No. of Sessions 12-11-16  
*[Signature]*



**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE AMIR HANI MUSLIM  
MR. JUSTICE DOST MUHAMMAD KHAN  
MR. JUSTICE UMAR ATA BANDIAL

**Civil Petition No.3341/2015**

(On appeal from the judgment dated 21.10.2015  
passed by the KPK Service Tribunal Peshawar in  
Appeal No.1435/13)

Abdul Qadir

...Petitioner

Versus

The Director of Education (FATA), KPK, Peshawar & others

..Respondents

For the petitioner:

Mr. Ghulam Nabi Khan, ASC  
Mr. Mehmood A. Sheikh, ASC

For respondents No.1:

Mr. Ijaz Anwar Khan, ASC

Date of hearing:

22.1.2016

**JUDGEMNT**

**Amir Hani Muslim, J.**— We have heard the learned counsel for the petitioner and learned counsel for respondent No.3 and perused the record.

2. The grievance of the petitioner is that on bogus letter, he has been transferred whereas the record reveals that after that transfer letter was issued, he sought interim order and completed his tenure of three years on the basis of the same and now he has been transferred back to Khazan Gul Kot.

3. Transfer/posting falls within the terms & conditions of service and has not to be interfered with, however we are disturbed by the allegations, in regard to bogus transfer letter, leveled by the petitioner, on the basis of which he was ordered to be transferred. We direct the Social Secretary, FATA to conduct an inquiry into the veracity or otherwise of the said transfer letter, and if it is found that

ATTESTED

12/11/16  
Court Associates  
Supreme Court of Pakistan  
Islamabad

01.09.2016

Appellant with counsel, Mr. Muhammad Jan, GP alongwith Daud Jan, Supdt. for official respondents No. 1 to 4 present. Written reply by respondents No. 3 & 4 submitted. Representative of the respondents relies on the same on behalf of respondents No. 1 & 2. None present for private respondent No. 5 despite issuance of notice. Proceeded ex-parte. The appeal is assigned to D.B for rejoinder and final hearing for 10.10.2016. The restraint order shall continue.

  
Chairman

10.10.2016

Counsel for the appellant and Mr. Murtaz Khan, Stenographer alongwith Assistant AG for respondents present. Counsel for the appellant requested for adjournment. To come up for rejoinder and arguments on 27.10.2016 before D.B. The restrain order shall continue.


Member 

  
Chairman

27.10.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 28.11.2016 before D.B. The restrain order shall continue.

Member 

  
Chairman

24.06.2016

Appellant in person and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned for written reply/comments to 28.7.2016 before S.B. Status-quo be maintained.



Member

28.07.2016

Counsel for the appellant and Mr. Murtaza, Steno alongwith Addl. AG for the respondents present. Counsel for the appellant submitted application for impleadment of Mr. Imran Ullah, Junior Clerk GHS, Miranshah. Notice thereof given to learned Addl. AG.

Arguments on application heard and record perused.

Since the said civil servant namely Imranullah is a necessary party as such application is accepted and appellant allowed to implead the said civil servant as private respondent. Fresh memo. of appeal be submitted within 3 days there-after notice be issued to the newly impleaded respondent. To come up for written reply/comments of all the respondents on 01.09.2016 before S.B.



Chairman



12.05.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Junior Clerk in the office of Agency Education Officer, North Waziristan Agency when transferred there-from to GHS Miranshah N.W.A vide impugned order dated 22.01.2016 where-against the appellant preferred departmental appeal on 27.01.2016 which was not responded and hence the instant service appeal on 10.05.2016.

That earlier the appointment of the appellant as Junior Clerk at Agency Education Office NWA was challenged before this Tribunal in Service Appeal No. 1435/2013 wherein the appointment of the appellant was suspended but the appeal was finally dismissed on 21.10.2015 and that on the strength of the judgment in said service appeal appellant was posted as Junior Clerk at Agency Education Office, NWA with immediate effect. That despite the said judgment and remaining tenure of the appellant the impugned order was passed with malafide intentions on the basis of alleged complaint and with an objection to defeat the judgment of this Tribunal against which CPLA was also dismissed by the august Supreme Court of Pakistan. That the appellant has not yet relieved the charge of the post.

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 24.06.2016 before S.B. Notice of stay application shall also be issued for the date fixed. Status quo be maintained.




Appellant Deposited  
Security & Process Fee

  
Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No. 489/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/05/2016	<p>The appeal of Mr. Gul Ahmad presented to-day by Mr. Sajid Amin Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p> REGISTRAR</p>
2	11-05-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12-05-2016</u>.</p> <p> CHAIRMAN</p> <p></p>

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

Amended Appeal in  
Appeal No. 489 /2016

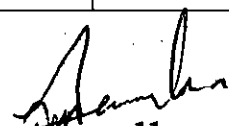
Gul Ahmad Junior clerk.....**Appellant**

**VERSUS**


Additional Chief Secretary FATA and others  
.....**Respondents.**

**I N D E X**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Memo of Amended Appeal		1-5
2.	Stay Application along with Affidavit		6-7
3.	Judgment and order dated 21.10.2015	A	8-9
4.	Order dated 06.11.2015, and charge report	B&C	10-11
5.	Memo of CPLA and Supreme Court Cause List	D&E	12-18
6.	Copy of the order dated 22.01.2016	F	19
7.	Copy of the departmental Appeal dated 27.01.2016.	G	20-22
8.	Order dated 28.07.2016	H	23-23A
9.	Transfer and posting policy	I	24-26
10.	Wakalat Nama		27

  
**Appellant**

Through

  
**Sajid Amin**  
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKWA**  
**SERVICE TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 861

Dated 17-8-2016

**Amended appeal in**  
Appeal No. 489/2016  
Titled:

Gul Ahmad. Junior Clerk BPS-09 Agency Education Office  
North Waziristan Agency.

(Appellant)

**VERSUS**

1. Additional Chief Secretary FATA, FATA Secretariat, Warsak Road Peshawar.
2. The Secretary, Social Sector FATA, FATA Secretariat, Warsak Road Peshawar.
3. Director, Education FATA, FATA Secretariat, Warsak Road Peshawar.
4. Agency Education Officer, North Waziristan Agency.
5. Inamullah Junior Clerk Government High School Miranshah Village North Waziristan Agency.

(Respondents)

**Appeal Under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, against the office order dated 22.01.2016, whereby the appellant has been transferred from the office of the Agency Education Officer North Waziristan Agency to the Government High School Miranshah Village North Waziristan Agency and one Inamullah Junior Clerk has been posted vice the appellant, against which the departmental appeal dated 27.01.2016, has not been respondent despite the lapse of 90 days statutory period.**

Prayer in Appeal;

**On acceptance of this Service Appeal the impugned order dated 22.01.2016, may please be set-aside and the appellant may be allowed to continue his duties as Junior Clerk at the office of the Agency Education Officer North Waziristan Agency.**

Respectfully Submitted:

1. That the appellant was initially appointed as Junior Clerk BPS-09. Ever since his appointment the appellant remained Posted at different stations as and when directed/posted.
2. That while posted as junior clerk at the office of the Agency Education Officer North Waziristan (hereinafter to be referred as NWA), the appellant was transferred from the said post and one Abdul Qadir was posted vice the appellant on 28.08.2013, however said order was cancelled on the departmental appeal on the same date i.e, 28.08.2013.
3. That the said cancellation order was then challenged by the said Abdul Qadir in Appeal No. 1435/2013, before this Honorable Service Tribunal. Initially the said order was suspended by this Honorable Service Tribunal. Accordingly the appellant was directed to perform his duties at GHS Khazan Gul Kot NWA.
4. That later on the Honorable Service Tribunal dismissed the appeal of the said Abdul Qadir vide judgment and order dated 21.10.2015. **(Copy of the judgment and order dated 21.10.2015, is attached as Annexure A)**
5. That pursuant to the judgment and order of the Honorable Service Tribunal dated 21.10.2015, the appellant was transferred and posted as junior clerk at the office of the Respondent No. 4 vide order dated 06.11.2015. The appellant duly submitted his charge report and started performing his duties. **(Copies of the order dated 06.11.2015, and charge report are attached as Annexure B & C)**
6. That it is pertinent to mention here that the judgment of the Honorable Service Tribunal dated 21.10.2015 was also challenged before the Honorable Supreme Court of Pakistan in CPLA No.3341/2015 by the said Abdul Qadir, however the CPLA was also dismissed on 22.01.2016 by the Honorable Supreme Court of Pakistan. Thus the decision/ judgment of the Honorable Service Tribunal dated 21.10.2015 attained finality. **(Copies of memo of CPLA and Supreme Court Cause List are Attached as Annexure D & E)**
7. That having hardly served for about two months, the appellant has again been transferred from the office of the Agency Education Office to Government High School Miranshah allegedly on the ground of negligence in duties assigned, vide order dated 22.01.2016 i.e, on the same date on which the

CPLA against the Honorable Tribunal Judgment was dismissed. It is pertinent to mention here that one Mr. Inamullah has been posted vice the appellant. **(Copy of the order dated 22.01.2016 is attached as Annexure F)**

8. That the appellant duly submitted his departmental appeal on 27.1.2016, however it has not been responded despite the lapse of 90 days statutory period. **(Copy of the departmental appeal dated 27.01.2016, is attached as Annexure G)**
9. That the respondent No.5, who has been transferred from Government High School Miranshah Village North Waziristan Agency to the office of Agency Education Office, North Waziristan Agency, is necessary party to the instant appeal, however inadvertently he was not made party in the appeal, therefore the appellant has filed an application for his impleadment which has been allowed by this honorable Tribunal vide order dated 28.07.2016, and the appellant has been directed to submit amended appeal hence the instant amended appeal. **(Copy of the order dated 28.07.2016, is attached as Annexure H)**
10. That the impugned transfer order dated 22.01.2016 is illegal, unlawful, against the rules, premature and malafide inter alia on the following grounds:

**GROUND OF SERVICE APPEAL:**

- A. That the appellant has not been treated in accordance with law, hence his rights secured and guaranteed under the Law are badly violated.
- B. That the appellant has not been allowed to complete his normal tenure and thus the order impugned is violation of transfer posting policy of the Government and the judgment of the apex court reported in PLD 1995 SC Page No 530 and PLD 2013 Supreme Court Page No 195. **(Copy of the Transfer and posting policy is attached as Annexure I).**
- C. That the impugned is also passed in violation of the judgment of the Service Tribunal (upheld by the Supreme Court of Pakistan), pursuant to which the appellant was posted at the office of Agency Education Officer NWA, thus the impugned order so issued tantamount to the contempt of court.

- D. That even otherwise it is also not in the interest the Department to make rolling stone its employees, on the one hand the working of the department is disturbed, while on the other hand the employee is humiliated and his family life is disturbed.
- E. That though it has been alleged in the impugned order that the appellant has been transferred due to negligence in the duties assigned, however the appellant has never been served with any charge sheet, show cause or any explanation regarding the alleged negligence. Moreover he has never shown any negligence in performance of his duties the charge so leveled is incorrect it seems to be based on malafide intention so as to justify the impugned transfer order.
- F. That the recently the august Supreme Court of Pakistan has in its Judgment reported in 2013 PLD SC 195, decided a point of law and while committing upon the transfer and posting and other related matters of service held as under:-

- (i) **Appointments, Removals and Promotions:-** Appointments, removals and promotions must be made in accordance with the law and the rules made there under; where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) **Tenure, posting and transfer:** When the ordinary tenure for a posting has been specified in the law or rules made there under; such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- (iii) **Illegal Orders:** Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule, based norms; instead, in such situations, they must record their opinion and; if necessary, dissent.
- (iv) **O.S.D Officers** should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an Officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed as the earliest.

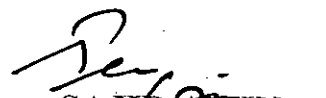
Relying upon the Judgment of the Supreme Court of Pakistan the Respondents are duty bound to have follow the law, judgment of the superior courts, and posting and transfer should not have been influenced in any manner whatsoever.

- G. That even otherwise the immediate officer who is the best Judge of the performance of a subordinate official has never forwarded any complaint against the appellant nor has he been consulted before the issuance of transfer order on administrative ground.
- H. That in-fact there exist no exigencies of service nor can the order of transfer be termed as in the public interest rather the same has been issued in violation of the transfer and posting policy and in ban period.
- I. That during the posting at office of the Agency Education Office NWA, the performance of the appellant remained commendable and there was no complaint whatsoever regarding his performance, moreover his immediate officer has also strongly appreciated my performance, albeit he has been transferred without allowing him to complete his normal tenure of posting.
- J. That the impugned transfer order is illegal, unlawful, without lawful authority and passed without jurisdiction, not in the prescribed period, in violation of transfer and posting policy, thus nullity in the eyes of law and not tenable.
- K. That the appellant seeks permission of this Honourable Tribunal to rely on additional grounds at the time of hearing of appeal.

*It is, therefore, humbly prayed that on acceptance of this Appeal the impugned order dated 22.01.2016, may please be set-aside and the appellant may be allowed to continue his duties as Junior Clerk at the Agency Education Office North Waziristan Agency.*

  
Appellant

Through

  
SAJID AMIN  
Advocate Peshawar.



**BEFORE THE KHYBER PAKHTUNKWA  
SERVICE TRIBUNAL PESHAWAR**

**Amended appeal**

In Appeal No. 489/2016

Titled:

Gul Ahmad. Junior Clerk BPS-09 Agency Education Office  
North Waziristan Agency.

**(Appellant)**

**VERSUS**

Additional Chief Secretary FATA, FATA Secretariat, Warsak  
Road Peshawar and others.

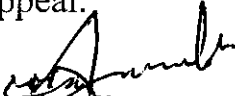
**(Respondents)**

**Application for the suspension of the transfer  
order Dated 22.01.2016, till the decision of the  
above noted Appeal**

**Respectfully Submitted:**

1. That the appellant has filed today the above noted appeal in this Honourable Tribunal in which no date of hearing has been fixed so far.
2. That the facts and ground mentioned in the accompanied appeal may be read as integral part of this application.
3. That the applicant has got a good prima facie case and there is likelihood of it success.
4. That the applicant would be exposed to great hard ship and inconvenience in case the order is not suspended.
5. That the order passed is in violation of law and posting and transfer policy.
6. That it will also serve the interest of justice if the order impugned is suspended till the final decision of the appeal.

It is, therefore, prayed that on acceptance of this application the operation of the impugned transfer order dated 22.01.2016, may please be suspended till the decision of the appeal.


  
Applicant

Through

  
SAJID AMIN  
Advocate, Peshawar

#### AFFIDAVIT

I, **Gul Ahmad. Junior Clerk BPS-09 Agency Education Office North Waziristan Agency**, do hereby solemnly affirm and declare on oath that the contents of the above amended appeal in Appeal No.489/2016 as well as accompanied application are true and correct to best of my knowledge and believe and that nothing has been kept back or concealed from this Honourable Tribunal.

  
Deponent

**ATTESTED**





Sr. No. Date of order/proceedings Order or other proceedings with signature of Judge/Magistrate

1 2 3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No. 1435/2013

Abdul Qadir Versus the Director of Education (FATA)  
Khyber Pakhtunkhwa, Peshawar etc.

JUDGMENT

21.10.2015 PIR BAKHSH SHAH, MEMBER.- Appellant with  
counsel (Mr. Muhammad Asif Yousfzai, Advocate),  
Government Pleader (Mr. Ziaullah) for the official respondents  
and private respondent No. 3 with counsel (Mr. Sajid Amin,  
Advocate) present.

2. The appellant is aggrieved with order dated 28.08.2013, whereby he has been transferred from the post of Junior Clerk in the office of Agency Education Officer, N.W Agency to GHS Khazan Gul Kot, against which he filed departmental appeal on 10.10.2013, which was rejected on 11.10.2013, hence the instant appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

3. The learned counsel for the appellant submitted that the impugned order is factitious and bogus. He further submitted that order on the departmental appeal of the appellant is not a speaking one. The learned counsel for the appellant submitted that the impugned order is premature therefore, the same may be set aside and the relief as prayed for may be

ATTESTED  
JUDGE  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Attested  
[Signature]

granted to the appellant.

4. Learned Government Pleader counsel for private respondent No. 3 submitted that the appeal is incompetent and that the appeal is incompetent and ti submitted that the impugned order was suspended on 29.10.2013 where-after sufficient time has passed and the appellant has already completed his tenure.

5. We have heard learned counsel for the parties and perused the record with their assistance.

6. From arguments of the learned counsel for the parties and perusal of the record, the Tribunal came to know that due to patch up between the appellant and private respondent No. 3, the transfer order was recalled on the same day, hence the same may be an incorrect view of the matter that the appellant was not aware of the cancellation order. The appellant has already completed his tenure on the disputed place. It was not found that the transfer of respondent No. 3 and appellant was the result of any political interference or malafide. The appeal is time barred. There is no merit in the appeal and the same is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

*sd/- Mr. Rajendra Singh, member*  
*sd/- Mr. Anil Kumar, member*

**ANNOUNCED**  
21.10.2015.

Certified to be a true copy

EX-111111  
LAWYER P. S. SINGH  
Senior Advocate  
Kohat

Date of Presentation of Application 30-10-2015

Number of Words 300

Copying Fee 6

Urgent 2

Total 8

Name of Copyist \_\_\_\_\_

Date of Completion of Copy 30-10-2015

Date of Delivery of Copy 30-10-2015

*A. J. S. S.*  
*W*

ANNEX B  
(10)

OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY

OFFICE ORDER:-

In response of Appeal No:1435/2013, service Tribunal has been  
khatoon Khawa Peshawar court order announced on 21.10.2015 and 13.10.  
2015 received from the Assistant Director (Litigation) Director of  
Education FATA KPK Peshawar vide his letter No:11211 dated:05.11.2015  
that Ahmad Khan is hereby posted as Junior clerk at AEO Office 3FVA, 3FVA  
mediate effect.

Agency Education Officer  
North Waziristan Agency

Serial No: 8741-857/Implementation/AEO/NWA dated: 07/11/2015

Registrar Service Tribunal KPK Peshawar with reference to decision of

Appeal No: 1435/2013.

The Director of Education FATA KPK Peshawar with reference to his NO

Quoted above.

The Agency Accounts officer NWA at Bannu.

Head Master GHS Khazan Gul Kot Miami Rogha Manzara Khel for information.

please.

Mr. Abdul Qader Khan J/c GHS Khazan Gul Kot Miami Rogha Manzara Khel

for information please.

Mr. Gul Ahmad Khan J/c A.E.O Office NWA.

Office Record.

Agency Education Officer  
North Waziristan Agency

*(Signature)*


11


FAHIMAN C

OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY.

CHARGE REPORT:-

Incompliance with the office order of Agency Education officer North Waziristan agency vide Endst No: 801-807/Implementation/AEO/NWA dated: 06 / 11 /2015, Mr: Gul Ahmad Khan J/c took over charge the junior clerk post at AEO office NWA to day on: 06 / 11 /2015.

  
6/11/15  
GUL AHMAD KHAN, junior clerk  
AGENCY EDUCATION OFFICE,  
NORTH WAZIRISTAN AGENCY.

  
Agency Education officer,  
North Waziristan Agency  
Agency Education Officer  
North Waziristan Agency

Access  
to

(12)

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

C.P.L.A.No. \_\_\_\_\_ of 2015

Abdul Qadir ..... (Petitioner)

VERSUS

The Director Education (FATA)  
KPK, Peshawar and others. .... (Respondents)

*Court appealed from* : *KPK Service Tribunal, Pesh:*

*Counsel for the Appellant* : *Mr. Ghulam Nabi Khan, ASC*  
*Mehmood Ahmad Sheikh, AOR*

*Counsel for the respondents* :

INDEX

<i>Sr.No.</i>	<i>Description of documents.</i>	<i>Dates</i>	<i>Pages</i>
1.	<i>Concise Statement.</i>	<i>06-11-2015</i>	<i>A-B</i>
2.	<i>Memo of CPLA</i>	<i>06-11-2015</i>	<i>1-5</i>
3.	<i>Judgment of Service Tribunal</i>	<i>21.10.2015</i>	<i>6-8</i>
4.	<i>Grounds of appeal</i>	<i>24-10-2013</i>	<i>9-13</i>
5.	<i>Parawise comments</i>		<i>14-16</i>
6.	<i>Written reply of respondent No.3</i>	<i>23-02-2015</i>	<i>17-19</i>
7.	<i>Rejoinder</i>	<i>22-11-2013</i>	<i>20-21</i>
8.	<i>Transfer Order</i>	<i>28-08-2013</i>	<i>22</i>
9.	<i>Charge Report</i>	<i>28-08-2013</i>	<i>23</i>
10.	<i>Attendance Register</i>		<i>24-25</i>
11.	<i>Cancellation of transfer order</i>	<i>28-08-2013</i>	<i>26</i>
12.	<i>Copy of letter</i>	<i>30-09-2013</i>	<i>27</i>

*Wajid*

||     ||     ||     ||     ||

13.	Departmental appeal	10-10-2013	28
14.	Posting/Transfer policy	15-02-2003	29-32
15.	Copy of application	16-01-2014	33
16.	Extract from Dispatch register		34-38
17.	Arbitrator opinion	28-08-2013	39
18.	Copy of appeal	28-08-2013	40
19.	Copy of letter	07-09-2013	41
20.	Extract from Attendance register		42-50
21.	Copy of letter	11-10-2013	51
22.	Order sheets		52-53
23.	Stay application	06-11-2015	54-55
24.	Affidavit of Facts:	06-11-2015	56-57
25.	Affidavit of Service	06-11-2015	58
26.	Copy of notice in original	06-11-2015	59

Certified that the paper book has been prepared in accordance with the rules of the Supreme Court and all the documents necessary for due appreciation of the case have been included in it.

(MEHMOOD AHMAD SHEIKH)  
ADVOCATE-ON-RECORD

*Mulla*  
*W*



14

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

C.P.L.A.NO. \_\_\_\_\_ 2015

Abdul Qadir ..... (Petitioner)

VERSUS

The Director Education (FATA)  
KPK, Peshawar and others. .... (Respondents)

CONCISE STATEMENT

I.	Subject matter and the law.	Service matter
II	Which side has filed this petition.	Petitioner / Plaintiff
III	Court / forums	a) filing b) decision
	Who filed it and with what results.	
	1 <sup>st</sup> Khyber Pakhtunkhwa Service Tribunal, Peshawar.	a) 24-10-2013 b) 21.10.2015
	Appeal filed by the petitioner was dismissed.	
IV.	Point noted in the impugned Judgment.	Treatment of the point noted in the impugned judgment and pages
	The learned counsel for the appellant submitted that the impugned order is factitious and bogus. He further submitted that order on the departmental appeal of the appellant is not a speaking one. The learned counsel for the appellant submitted that the impugned order is premature therefore, the same may be set aside and the relief as prayed for may be granted to the appellant.	From arguments of the learned counsel for the parties and perusal of the record, the Tribunal came to know that due to patch up between the appellant and private respondent No.3, the transfer order was recalled on the same day, hence the same may be an incorrect view of the matter that the appellant was not aware of the cancellation order. The appellant has already completed his tenure on the disputed place. It was not found that the transfer of respondent No.3 and appellant was the result of any political interference or malafide.. The appeal is time barred. There is no merit in the appeal and the same is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

*Handwritten signature*

V.	Case / law Ruling involved on the points	
	<u>For</u>	<u>Against</u>
1.	Constitution of Pakistan, 1973	
2.	Service Law	

Certified that I have myself prepared this point noted index and found correct.

(MEHMOOD AHMAD SHEIKHI)  
ADVOCATE-ON-RECORD

*Attested to*

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

16

C.P.L.A. No. \_\_\_\_\_ of 2015

Mr. Abdul Qadir,  
J/Clerk, Office of the Agency  
Education Officer, North  
Waziristan Agency. .... (Petitioner)

VERSUS.

1. The Director of Education (FATA),  
KPK, Peshawar.
2. The Agency Education Officer, North  
Waziristan Agency, (NWA).
3. Mr. Gul Ahmad, J/Clerk, GHS Khazan  
Gul Kot, NWA. .... (Respondents)

CIVIL PETITION FOR LEAVE TO APPEAL  
UNDER ARTICLE 212 (3) OF THE  
CONSTITUTION OF THE ISLAMIC  
REPUBLIC OF PAKISTAN, 1973, AGAINST  
THE IMPUGNED JUDGMENT AND ORDER  
OF THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR DATED 21.10.2015  
PASSED IN APPEAL NO.1435 OF 2013.

Respectfully Sheweth:

*Attested  
to*

(17) (Signature)

Amir Khan

and C.P.3559/2015 (Election Matters / Challenge of Nomination Papers)	Mehr Allah Wasaya Sumra v. Appellate Authority/Additional District Judge, Layyah & others	Mr. Mahmood A. Sheikh, AOR Syed Asghar Hussain, ASC Syed Nayyer Hussain Bokhari, ASC A.G. Punjab D.A.G. R - Notice Mr. Tariq Aziz, AOR Mr. Mubeen Uddin Qazi, ASC	(Ibd) (Rwp) (Lhr)
13 C.P.3802/2015 (NAB/Ehtesab Cases / Bail) (21.01.2016)	Agha Faisal v. The Federation of Pakistan thr. its Secretary M/o Interior, Islamabad & another	Syed Rifaqat Hussain Shah, AOR Mr. Kamran Murtaza, ASC Prosecutor General NAB	(Rwp) (Qta)
and C.P.4/2016 (NAB/Ehtesab Cases / Bail)	Ahmad Pathan v. Federation of Pakistan thr. its Federal Secretary M/o Interior, Islamabad & another	Syed Rifaqat Hussain Shah, AOR Mr. Tariq Mahmood, Sr, ASC	(Rwp) (Qta)

Friday, 22-Jan-2016

1. C.M.A.48/2015 in C.P.2124/2013 (Service Laws Matters / Promotion) (Report (C.O.)	Ghulam Rasool v. Government of Pakistan, thr. Secretary Establishment Division, Islamabad & others	Mr. M. S. Khattak, AOR Mr. Abdul Rahim Bhatti, ASC Attorney General for Pakistan Deputy Attorney General R - Notice Secretary Establishment Division Secretary Law & Justice & Human Rights Mr. Tariq Aziz, AOR Mr. Khurram Mumtaz Hashmi, ASC	(Rwp) (Rwp) (Rwp) (Ibd)
and C.M.A.1482/2015 (Miscellaneous Matters)	Report from Secretary, Establishment Division, Islamabad		
and CrI.O.P.106/2013 in Const.P.33/2013 (Contempt of Court Matters/Disobedience of Court Orders) (D.B.)	Syed Mehmood Akhtar Naqvi v. Mian Nawaz Sharif, Prime Minister of Pakistan	P - In Person Attorney General for Pakistan Mr. Mir Aurang Zaib, AOR Malik Qamar Afzal, ASC	(Qta) (Rwp)
and CrI.O.P.60/2015 (Contempt of Court Matters / Disobedience of Court Orders) (S.J.)	Pakistan Airline Pilot Association thr. General Secretary v. Mian Muhammad Nawaz Sharif & another	Mr. Ahmed Nawaz Chaudhry, AOR Mr. Muhammad Ilyas Siddiqui, ASC Mr. Tariq Aziz, AOR Mr. Muhammad Makhdoom Ali Khan, Sr. ASC	(Rwp) (Rwp) (Keh)
2 C.M.A.3764/2015 in C.A.406/2004 (Application under section 12(2), CPC) (S.J.)	Muhammad Qasim v. Subedar Muhammad Fazil	Syed Rifaqat Hussain Shah, AOR Mr. Muhammad Amir Butt, ASC R - Notice Mr. Ahmed Nawaz Chaudhry, AOR Ch. Afrasiab Khan, ASC	(Rwp) (Lhr) (Rwp)
3 C.M.Appeal.97/2010 in Const.P.Nil/2010 (Misc. Appeal Against the order of The Registrar)	Dr. Muhammad Aslam Khaki v. Federation of Pakistan, etc	A - In Person Attorney General for Pakistan	
4 C.P.3271/2015 (Service Laws Matters / Promotion)	Muhammad Afras v. Inspector General of Police, Islamabad & another	Mir Adam Khan, AOR Rai Muhammad Nawaz Khan Kharal, ASC	(Pesh) (Ibd)
5 C.P.3274/2015 (Suit for Possession / Through Partition)	Muhammad Ramzan & others v. Muhammad Yousaf & others	Mr. Arshad Ali Ch, AOR	
6 C.P.3284/2015 (Declaratory Suit Matters / Others)	Muhammad Miskeen Bhatti & others v. Haji Manzoor Hussain & others	Syed Rifaqat Hussain Shah, AOR Sh. Iftikhar Ahmad, ASC	(Rwp)
7 C.P.3288/2015 (Service Laws Matters / Promotion)	Water and Power Development Authority	Mr. Tariq Aziz, AOR	(Rwp)

Signature

(18)

8	C.P.3335/2015 (Election Matters / of Bar Council)	Chaudhry Khalid Hussain & another v: Pakistan Bar Council thr. its Vice Chairman & others	Mr. Ahmed Nawaz Chaudhry, AOR Mr. Taufiq Asif, ASC	(Rwp)
9	C.P.3341/2015 (Service Laws Matters / Transfer)	Abdul Qadir v. The Director of Education (FATA), KPK, Peshawar & others	Mr. Mahmood A. Sheikh, AOR Mr. Ghulam Nabi Khan, ASC Mr. M. S. Khattak, AOR Mr. Ijaz Anwar, ASC	(Rwp) (Pesh)
10	C.P.3345/2015 (Guardian and Ward / Custody of Minor)	Mst. Humaira Amjad & another v. Faisal Mahmood & others	Mr. Ahmed Nawaz Chaudhry, AOR Raja Muhammad Idrees, ASC	

*Alleged to*

Approved F (19)

FATA

employees feeling aggrieved due to the  
by from the next higher authority  
an appeal to be submitted  
shall be disposed of  
for orders could be

**TRANSFER / ADJUSTMENT**

The following Junior  
hereby transferred in their own pay  
their assigned duties and frequent com

S#	Name of Official with Designation/Station	Grade
1.	Mr. Gul Ahmad Junior Clerk, Agency Education Office North Waziristan Agency.	GS-11 North
2	Mr. Inammullah GHS Miranshah Village North Waziristan Agency.	Agency North Wa

Note: - 1. Charge report should be submitted to all concerned.  
2. TA/ DA etc: is not allowed.

Director Education FATA

Endst: No. 993-97

Dated 22-1-2016

Copy to the:-

1. Agency Education Officer North Waziristan Agency.
2. Agency Accounts Officer North Waziristan Agency.
3. Head Master GHS Miran Shah Village North Waziristan Agency.
4. PA to Director Education FATA.
5. Officials concerned.

Deputy Director (F&A)

21/01/16

*As per  
to*

*Handwritten signature*

1. That the undersigned was initially appointed as Junior Clerk BPS-09. Ever since my appointment I remained Posted at different stations as and when directed/posted.
2. That while posted as junior clerk at the office of the Agency Education Officer North Waziristan (hereinafter to be referred as NWA), the undersigned was transferred from the said post and one Abdul Qadir was posted vice the appellant on 28.08.2013, however said order was cancelled on my appeal by the AEO on the same date i.e, 28.08.2013.
3. That the said cancellation order was then challenged by the said Abdul Qadir in Appeal before the Honorable Service Tribunal. Initially the said order was suspended by the Honorable Service Tribunal and I was directed to perform my duties at GHS Khazan Gul Kot NWA.
4. That vide order and judgment 21.10.2015 the Honorable Service Tribunal dismissed the appeal of the said Abdul Qadir and in accordance with the judgment of the Honorable Service Tribunal dated 21.10.2015, the undersigned was transferred and posted as junior clerk at the office of the AEO NWA. In compliance of the order I duly submitted my arrival report and started performing my duties.

Respectfully Submitted:

On acceptance of this Departmental Appeal the impugned order dated 22.01.2016, may please be set-aside and I may be allowed to continue my duties at the office of the Agency Education Officer North Waziristan Agency.

Prayer in Departmental Appeal:

Departmental Appeal against the office order dated 22.01.2016, whereby the undersigned has been transferred from the office of the Agency Education Officer NWA to the Government High School Miranshah Village North Waziristan Agency and one Inamullah Junior Clerk has been posted vice the undersigned.

Subject:

The Worthy Secretary,  
Social Sector, FATA Secretariat,  
Peshawar.

*Handwritten signature*  
ANNEX-G  
(96)

To,

(21)

5. That it is pertinent to mention here that the judgment of the Honorable Service Tribunal dated 21.10.2015 was also challenged before the Honorable Supreme Court of Pakistan in CPLA by the said Abdul Qadir, however the CPLA was also dismissed on 22.01.2016 by the Honorable Supreme Court. Thus the decision/ judgment of the Honorable Service Tribunal dated 21.10.2015 attained finality.
6. That having hardly served for about two months, the undersigned has again been transferred from the office of post of transferred from the Agency Education Office to Government High School Miranshah allegedly on the ground of negligence in duties assigned vide order dated 22.01.2016 i.e, on the same date on which the CPLA against the Honorable Tribunal Judgment was dismissed. It is pertinent to mention here that one Mr. Inamullah has been posted vice the undersigned.
7. That the impugned transfer order dated 22.01.2016 is illegal, unlawful, against the rules, premature and malafide inter alia on the following grounds:

GROUND OF DEPARTMENTAL APPEAL:

- A. That the undersigned has not been treated in accordance with law, hence my rights secured and guaranteed under the Law are badly violated.
- B. That having hardly served for about two months, the undersigned has again been transferred from the office of Agency Education Office to Government High School Miran Shah vide order dated 22.01.2016 and have not yet completed my normal tenure of posting, thus the transfer order is illegal and unlawful, moreover the same is in violation of posting and transfer policy of the Provincial Government and also against the Judgments of the Superior Courts.
- C. That the impugned is also passed in violation of the judgment of the Service Tribunal (upheld by the Supreme Court of Pakistan), pursuant to which the undersigned was posted at the office of AEO NWA, thus the impugned order so issued tantamount to the contempt of court.
- D. That even otherwise it is also not in the interest the Department to make rolling stone its employees, on the one hand the working of the department is disturbed, while on the other hand the employee is humiliated and his family life is disturbed.

*Asghar*  
*Asghar*



(22)

- E. That though it has been alleged in the impugned order that the undersigned has been transferred due to negligence in the duties assigned, however I have never been served with any charge sheet, show cause or any explanation regarding the alleged negligence. Moreover I have never shown any negligence in performance of my duties the charge so leveled is incorrect in seems to be based on malafide intention so as to justify the impugned transfer order.
- F. That even otherwise the immediate officer who is the best Judge of the performance of a subordinate official has never forwarded any complaint against the appellant nor has he been consulted before the issuance of my transfer order on administrative ground.
- G. That in-fact there exist no exigencies of service nor can the order of transfer be termed as in the public interest rather the same has been issued in violation of the transfer and posting policy and in ban period.
- H. That during my posting at office of the AEO NWA, my performance remained commendable and there was no complaint whatsoever regarding my performance, moreover my immediate officer has also strongly appreciated my performance, albeit I have been transferred without allowing me to complete my normal tenure of posting.
- I. That the impugned transfer order is illegal, unlawful, without lawful authority and passed without jurisdiction, not in the prescribed period, in violation of transfer and posting policy, thus nullity in the eyes of law and not tenable.

*It is, therefore, humbly prayed that On acceptance of this Departmental Appeal the impugned order dated 22.01.2016, may please be set-aside and I may be allowed to continue my duties at the Agency Education Office NWA.*

Yours obediently

  
GUL AHMAD.

Junior Clerk BPS-09  
Agency Education Office  
North Waziristan Agency.

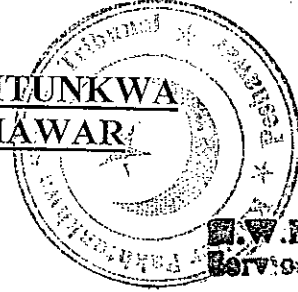


Dated: 27/01/2016

23

APPROVED: M

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**



Appeal No. 489 /2016

N.W.F. Province  
Service Tribunal  
Diary No. 459  
Dated 10-5-2016

Gul Ahmad. Junior Clerk BPS-09 Agency Education Office  
North Waziristan Agency.

(Appellant)

VERSUS

1. Additional Chief Secretary FATA, FATA Secretariat, Warsak Road Peshawar.
2. The Secretary, Social Sector FATA, FATA Secretariat, Warsak Road Peshawar.
3. Director, Education FATA, FATA Secretariat, Warsak Road Peshawar.
4. Agency Education Officer, North Waziristan Agency.

(Respondents)

Appeal Under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, against the office order dated 22.01.2016, whereby the appellant has been transferred from the office of the Agency Education Officer North Waziristan Agency to the Government High School Miranshah Village North Waziristan Agency and one Inamullah Junior Clerk has been posted vice the appellant, against which the departmental appeal dated 27.01.2016, has not been respondent despite the lapse of 90 days statutory period.

Filed to file  
10/5/16

Prayer in Appeal;

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

On acceptance of this Service Appeal the impugned order dated 22.01.2016, may please be set-aside and the appellant may be allowed to continue his duties as Junior Clerk at the office of the Agency Education Officer North Waziristan Agency.

23A

A. No. 489/2016  
Civil Ahmed vs Govt



28.07.2016

Counsel for the appellant and Mr. Murtaza, Steno  
alongwith Addl. AG for the respondents present. Counsel  
for the appellant submitted application for impleadment of  
Mr. Imran Ullah, Junior Clerk GHS, Miranshah. Notice  
thereof given to learned Addl. AG.

Arguments on application heard and record  
perused.

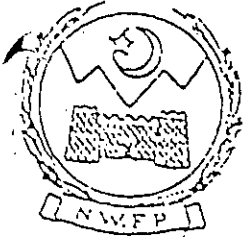
Since the said civil servant namely Imranullah is a  
necessary party as such application is accepted and  
appellant allowed to implead the said civil servant as private  
respondent. Fresh memo. of appeal be submitted within 3  
days there-after notice be issued to the newly impleaded  
respondent. To come up for written reply/comments of all  
the respondents on 01.09.2016 before S.B.

*Self*  
Chairman

Certified to be true copy

Service Tribunal,  
Peshawar

Date of Presentation of Application	15-8-16
Number of Volumes	800
Copying Fee	600
Urgent	✓
Total	800
Name of Copyist	800
Date of Completion of Work	15-8-16
Date of Delivery of Copy	15-8-16



ANSWER I 24

GOVERNMENT OF NWFP  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) {
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained  
While 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.

*Answer to*

*24*

25

xii) 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;

xiii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

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

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

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

ATTESTED  
*[Signature]*

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

*[Signature]*

48000/-

26

DB

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.  
{Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued in the 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 Notifications.

*Signature*

of Attached  
Administrative  
for issuance of  
**ATTEST**

as Per  
Agent  
be

20

**POWER OF ATTORNEY**

In the Court of

Khayr Pakistan Open Society Trust  
Gul Ahmed

} For Pastor  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

**VERSUS**

Additional Chief Secretary  
and Others

} Defendant  
} Respondent  
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

**SAJID AMIN ADVOCATE, HIGH COURT**

\_\_\_\_\_ my true and lawful attorney, for me in my same and on my behalf to appear at \_\_\_\_\_ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

Sajid Amin  
**SAJID AMIN**  
Advocate High Court



10/10

10/10

10/10

**BEFORE THE KHYBER PAKHTUNKWA**  
**SERVICE TRIBUNAL PESHAWAR**

Appeal No. 489/2016

Gul Ahmad. Junior Clerk BPS-09 Agency Education Office  
North Waziristan Agency.

(Appellant)

**VERSUS**

Additional Chief Secretary FATA, FATA Secretariat, Warsak  
Road Peshawar and others.

(Respondents)

**INDEX**

<i>S.No</i>	<i>Description of Documents</i>	<i>Annexure</i>	<i>Page No</i>
1.	Memo of Appeal		1- 5
2.	Stay Application along with Affidavit		6- 7
3.	judgment and order dated 21.10.2015	A	8-9
4.	order dated 06.11.2015, and charge report	B & C	10-11
5.	Memo of CPLA and Supreme Court Cause List	D & E	12-18
6.	Copy of the order dated 22.01.2016.	F	19
7.	Copy of the departmental appeal dated 27.01.2016	G	20-22
8.	Transfer and posting policy	I	23-25
9.	Vakalatnama		26-

  
Appellant

Through

  
**SAJID AMIN**  
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKWA**  
**SERVICE TRIBUNAL PESHAWAR**

Appeal No. 489 /2016

N.W.F. Province  
Service Tribunal  
Diary No. 459  
Dated 10-5-2016

Gul Ahmad. Junior Clerk BPS-09 Agency Education Office  
North Waziristan Agency.

(Appellant)

VERSUS

1. Additional Chief Secretary FATA, FATA Secretariat, Warsak Road Peshawar.
2. The Secretary, Social Sector FATA, FATA Secretariat, Warsak Road Peshawar.
3. Director, Education FATA, FATA Secretariat, Warsak Road Peshawar.
4. Agency Education Officer, North Waziristan Agency.

(Respondents)

Appeal Under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, against the office order dated 22.01.2016, whereby the appellant has been transferred from the office of the Agency Education Officer North Waziristan Agency to the Government High School Miranshah Village North Waziristan Agency and one Inamullah Junior Clerk has been posted vice the appellant, against which the departmental appeal dated 27.01.2016, has not been respondent despite the lapse of 90 days statutory period.

Filed to file  
10/5/16

Prayer in Appeal;

On acceptance of this Service Appeal the impugned order dated 22.01.2016, may please be set-aside and the appellant may be allowed to continue his duties as Junior Clerk at the office of the Agency Education Officer North Waziristan Agency.

Respectfully Submitted:

1. That the appellant was initially appointed as Junior Clerk BPS-09. Ever since his appointment the appellant remained Posted at different stations as and when directed/posted.
2. That while posted as junior clerk at the office of the Agency Education Officer North Waziristan (hereinafter to be referred as NWA), the appellant was transferred from the said post and one Abdul Qadir was posted vice the appellant on 28.08.2013, however said order was cancelled on the departmental appeal on the same date i.e, 28.08.2013.
3. That the said cancellation order was then challenged by the said Abdul Qadir in Appeal No. 1435/2013, before this Honorable Service Tribunal. Initially the said order was suspended by this Honorable Service Tribunal. Accordingly the appellant was directed to perform his duties at GHS Khazan Gul Kot NWA.
4. That later on the Honorable Service Tribunal dismissed the appeal of the said Abdul Qadir vide judgment and order dated 21.10.2015. **(Copy of the judgment and order dated 21.10.2015, is attached as Annexure A)**
5. That pursuant to the judgment and order of the Honorable Service Tribunal dated 21.10.2015, the appellant was transferred and posted as junior clerk at the office of the Respondent No. 4 vide order dated 06.11.2015. The appellant duly submitted his charge report and started performing his duties. **(Copies of the order dated 06.11.2015, and charge report are attached as Annexure B & C)**
6. That it is pertinent to mention here that the judgment of the Honorable Service Tribunal dated 21.10.2015 was also challenged before the Honorable Supreme Court of Pakistan in CPLA No.3341/2015 by the said Abdul Qadir, however the CPLA was also dismissed on 22.01.2016 by the Honorable Supreme Court of Pakistan. Thus the decision/ judgment of the Honorable Service Tribunal dated 21.10.2015 attained finality. **(Copies of memo of CPLA and Supreme Court Cause List are Attached as Annexure D & E)**
7. That having hardly served for about two months, the appellant has again been transferred from the office of the Agency Education Office to Government High School Miranshah allegedly on the ground of negligence in duties assigned, vide order dated 22.01.2016 i.e, on the same date on which the

CPLA against the Honorable Tribunal Judgment was dismissed. It is pertinent to mention here that one Mr. Inamullah has been posted vice the appellant. **(Copy of the order dated 22.01.2016 is attached as Annexure F)**

8. That the appellant duly submitted his departmental appeal on 27.1.2016, however it has not been responded despite the lapse of 90 days statutory period. **(Copy of the departmental appeal dated 27.01.2016, is attached as Annexure G)**
9. That the impugned transfer order dated 22.01.2016 is illegal, unlawful, against the rules, premature and malafide inter alia on the following grounds:

**GROUND OF SERVICE APPEAL:**

- A. That the appellant has not been treated in accordance with law, hence his rights secured and guaranteed under the Law are badly violated.
- B. That the appellant has not been allowed to complete his normal tenure and thus the order impugned is violation of transfer posting policy of the Government and the judgment of the apex court reported in PLD 1995 SC Page No 530 and PLD 2013 Supreme Court Page No 195. *(Copy of the Transfer and posting policy is attached as Annexure H).*
- C. That the impugned is also passed in violation of the judgment of the Service Tribunal (upheld by the Supreme Court of Pakistan), pursuant to which the appellant was posted at the office of Agency Education Officer NWA, thus the impugned order so issued tantamount to the contempt of court.
- D. That even otherwise it is also not in the interest the Department to make rolling stone its employees, on the one hand the working of the department is disturbed, while on the other hand the employee is humiliated and his family life is disturbed.
- E. That though it has been alleged in the impugned order that the appellant has been transferred due to negligence in the duties assigned, however the appellant has never been served with any charge sheet, show cause or any explanation regarding the alleged negligence. Moreover he has never shown any negligence in performance of his duties the charge so leveled is incorrect it seems to be

based on malafide intention so as to justify the impugned transfer order.

F. That the recently the august Supreme Court of Pakistan has in its Judgment reported in 2013 PLD SC 195, decided a point of law and while committing upon the transfer and posting and other related matters of service held as under:-

- (i) **Appointments, Removals and Promotions:-** Appointments, removals and promotions must be made in accordance with the law and the rules made there under; where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) **Tenure, posting and transfer:** When the ordinary tenure for a posting has been specified in the law or rules made there under; such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- (iii) **Illegal Orders:** Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule, based norms; instead, in such situations, they must record their opinion and; if necessary, dissent.
- (iv) **O.S.D Officers** should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an Officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed as the earliest.

Relying upon the Judgment of the Supreme Court of Pakistan the Respondents are duty bound to have follow the law, judgment of the superior courts, and posting and transfer should not have been influenced in any manner whatsoever.

- G. That even otherwise the immediate officer who is the best Judge of the performance of a subordinate official has never forwarded any complaint against the appellant nor has he been consulted before the issuance of transfer order on administrative ground.
- H. That in-fact there exist no exigencies of service nor can the order of transfer be termed as in the public interest rather the same has been issued in violation of the transfer and posting policy and in ban period.
- I. That during the posting at office of the Agency Education Office NWA, the performance of the appellant remained commendable and there was no complaint whatsoever regarding his performance, moreover his immediate officer has also strongly appreciated my performance, albeit he has been transferred without allowing him to complete his normal tenure of posting.
- J. That the impugned transfer order is illegal, unlawful, without lawful authority and passed without jurisdiction, not in the prescribed period, in violation of transfer and posting policy, thus nullity in the eyes of law and not tenable.
- K. That the appellant seeks permission of this Honourable Tribunal to rely on additional grounds at the time of hearing of appeal.

*It is, therefore, humbly prayed that on acceptance of this Appeal the impugned order dated 22.01.2016, may please be set-aside and the appellant may be allowed to continue his duties as Junior Clerk at the Agency Education Office North Waziristan Agency.*

  
Appellant

Through

  
SAJID AMIN  
Advocate Peshawar.

**BEFORE THE KHYBER PAKHTUNKWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. \_\_\_\_\_/2016

Gul Ahmad. Junior Clerk BPS-09 Agency Education Office  
North Waziristan Agency.

**(Appellant)**

**VERSUS**

Additional Chief Secretary FATA, FATA Secretariat, Warsak  
Road Peshawar and others.

**(Respondents)**

**Application for the suspension of the transfer  
order Dated 22.01.2016, till the decision of the  
above noted Appeal**

**Respectfully Submitted:**

1. That the appellant has filed today the above noted appeal in this Honourable Tribunal in which no date of hearing has been fixed so far.
2. That the facts and ground mentioned in the accompanied appeal may be read as integral part of this application.
3. That the applicant has got a good prima facie case and there is likelihood of it success.
4. That the applicant would be exposed to great hard ship and inconvenience in case the order is not suspended.
5. That the order passed is in violation of law and posting and transfer policy.
6. That it will also serve the interest of justice if the order impugned is suspended till the final decision of the appeal.



It is, therefore, prayed that on acceptance of this application the operation of the impugned transfer order dated 22.01.2016, may please be suspended till the decision of the appeal.



**Applicant**

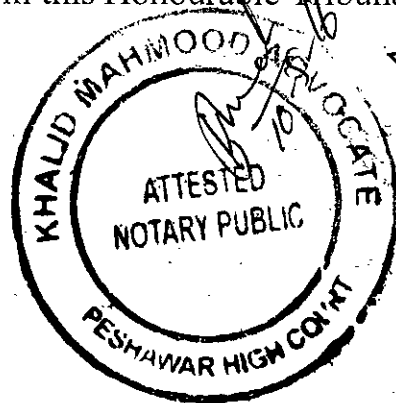
Through



**SAJID AMIN**  
Advocate, Peshawar

### AFFIDAVIT

I, **Gul Ahmad. Junior Clerk BPS-09 Agency Education Office North Waziristan Agency**, do hereby solemnly affirm and declare on oath that the contents of the above Appeal as well as application are true and correct to best of my knowledge and believe and that nothing has been kept back or concealed from this Honourable Tribunal.




**Deponent**

8

ANNEX 1



Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	21.10.2015	<p>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p>Service Appeal No. 1435/2013</p> <p>Abdul Qadir Versus the Director of Education (FATA) Khyber Pakhtunkhwa, Peshawar etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Muhammad Asif Yousfzai, Advocate), Government Pleader (Mr. Ziaullah) for the official respondents and private respondent No. 3 with counsel (Mr. Sajid Amin, Advocate) present.</p> <p>2. The appellant is aggrieved with order dated 28.08.2013, whereby he has been transferred from the post of Junior Clerk in the office of Agency Education Officer, N.W Agency to GHS Khazan Gul Kot, against which he filed departmental appeal on 10.10.2013, which was rejected on 11.10.2013, hence the instant appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. The learned counsel for the appellant submitted that the impugned order is factitious and bogus. He further submitted that order on the departmental appeal of the appellant is not a speaking one. The learned counsel for the appellant submitted that the impugned order is premature therefore, the same may be set aside and the relief as prayed for may be</p>

ATTESTED  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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granted to the appellant.

4. Learned Government Pleader duly assisted by learned counsel for private respondent No. 3 resisted this appeal stated that the appeal is incompetent and time barred. It was further submitted that the impugned order was suspended on 29.10.2013 where-after sufficient time has passed and the appellant has already completed his tenure.

5. We have heard learned counsel for the parties and perused the record with their assistance.

6. From arguments of the learned counsel for the parties and perusal of the record, the Tribunal came to know that due to patch up between the appellant and private respondent No. 3, the transfer order was recalled on the same day, hence the same may be an incorrect view of the matter that the appellant was not aware of the cancellation order. The appellant has already completed his tenure on the disputed place. It was not found that the transfer of respondent No. 3 and appellant was the result of any political interference or malafide. The appeal is time barred. There is no merit in the appeal and the same is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

*bdp Mr. Devesh Singh, member*  
*bdp Mr. Abdul Latif, member*

ANNOUNCED  
21.10.2015.

*Certified for the copy*  
**EX-DIRECTOR**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 30-10-2015

Number of Words 300

Copying Fee 6

Urgent 2

Total 8

Name of Copyist [Signature]

Date of Completion of Copy 30-10-2015

Date of Delivery of Copy 30-10-2015

*Usha*  
*46*


(10)

ANNEX B

OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY.

OFFICE ORDER:-

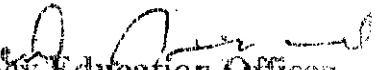
In response of Appeal No:1435/2013,service Tribunal Khyber Pakhtoon Khawa Peshawar court order announced on 21.10.2015 and issued date;30.10.2015,received from the Assistant Director (Litigation) Directorate of Education FATA KPK Peshawar vide his letter No:11211 dated:05.11.2015, Mr:Gul Ahmad khan is hereby posted as Junior clerk at AEO Office NWA with immediate effect.

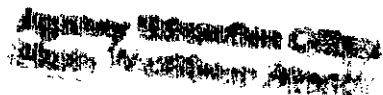
  
Agency Education Officer,  
North Waziristan Agency.

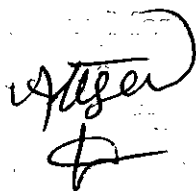
Endst NO: 801-807/Implimentision/AEO/NWA.dated: 06/11/2015.

Copy to:-

1. Registrar Service Tribunal KPK Peshawar with reference to decision of Appeal No: 1435/2013.
2. The Director of Education FATA KPK Peshawar with reference to his NO Quoted above.
3. The Agency Accounts officer NWA at Bannu.
4. Head Master GHS Khazan Gul Kot Mami Rogha Manzar Khel for information please.
5. Mr: Abdul Qader Khan J/c GHS Khazan Gul Kot Mami Rogha Manzar Khel for information please.
6. Mr. Gul Ahmad Khan J/C A.E.O Office NWA.
7. Office Record.

  
Agency Education Officer  
North Waziristan Agency.






11


ANNEXURE C

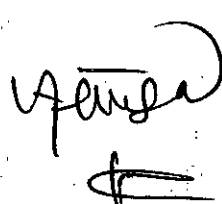
OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY.

CHARGE REPORT:-

Incompliance with the office order of Agency Education officer North Waziristan agency vide Endst No: 801-807/Implementation/AEO/NWA dated: 06 / 11 /2015, I Mr: Gul Ahmad Khan J/c took over charge the junior clerk post at AEO office NWA to day on: 06 - 11 - /2015.

  
6/11/15  
GUL AHMAD KHAN, junior clerk  
AGENCY EDUCATION OFFICE,  
NORTH WAZIRISTAN AGENCY.

  
Agency Education officer,  
North Waziristan Agency  
Agency Education Officer  
North Waziristan Agency



12 ANNEX 'D'

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

C.P.L.A.No. \_\_\_\_\_ of 2015

Abdul Qadir ..... (Petitioner)

VERSUS

The Director Education (FATA)  
KPK, Peshawar and others. .... (Respondents)

Court appealed from : KPK Service Tribunal, Pesh:

Counsel for the Appellant : Mr. Ghulam Nabi Khan, ASC  
Mehmood Ahmad Sheikh, AOR

Counsel for the respondents :

INDEX

Sr.No.	Description of documents.	Dates	Pages
1.	Concise Statement.	06-11-2015	A-B
2.	Memo of CPLA	06-11-2015	1-5
3.	Judgment of Service Tribunal	21.10.2015	6-8
4.	Grounds of appeal	24-10-2013	9-13
5.	Parawise comments		14-16
6.	Written reply of respondent No.3	23-02-2015	17-19
7.	Rejoinder	22-11-2013	20-21
8.	Transfer Order	28-08-2013	22
9.	Charge Report	28-08-2013	23
10.	Attendance Register		24-25
11.	Cancellation of transfer order	28-08-2013	26
12.	Copy of letter	30-09-2013	27

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13.	<i>Departmental appeal</i>	10-10-2013	28
14.	<i>Posting/Transfer policy</i>	15-02-2003	29-32
15.	<i>Copy of application</i>	16-01-2014	33
16.	<i>Extract from Dispatch register</i>		34-38
17.	<i>Arbitrator opinion</i>	28-08-2013	39
18.	<i>Copy of appeal</i>	28-08-2013	40
19.	<i>Copy of letter</i>	07-09-2013	41
20.	<i>Extract from Attendance register</i>		42-50
21.	<i>Copy of letter</i>	11-10-2013	51
22.	<i>Order sheets</i>		52-53
23.	<i>Stay application</i>	06-11-2015	54-55
24.	<i>Affidavit of Facts.</i>	06-11-2015	56-57
25.	<i>Affidavit of Service</i>	06-11-2015	58
26.	<i>Copy of notice in original</i>	06-11-2015	59

Certified that the paper book has been prepared in accordance with the rules of the Supreme Court and all the documents necessary for due appreciation of the case have been included in it.

(MEHMOOD AHMAD SHEIKH)  
ADVOCATE-ON-RECORD

*Attest*  
*[Signature]*

14

**IN THE SUPREME COURT OF PAKISTAN**  
(APPELLATE JURISDICTION)

C.P.L.A.NO. \_\_\_\_\_ 2015

Abdul Qadir ..... (Petitioner)

**VERSUS**

The Director Education (FATA)  
KPK, Peshawar and others ..... (Respondents)

**CONCISE STATEMENT**

I.	Subject matter and the law.	Service matter
II.	Which side has filed this petition.	Petitioner / Plaintiff
III.	Court / forums	a) filing b) decision
	<u>1<sup>st</sup></u> Khyber Pakhtunkhwa Service Tribunal, Peshawar.	Who filed it and with what results.  Appeal filed by the petitioner was dismissed.
IV.	Point noted in the impugned Judgment.	Treatment of the point noted in the impugned judgment and pages
	The learned counsel for the appellant submitted that the impugned order is factitious and bogus. He further submitted that order on the departmental appeal of the appellant is not a speaking one. The learned counsel for the appellant submitted that the impugned order is premature therefore, the same may be set aside and the relief as prayed for may be granted to the appellant.	From arguments of the learned counsel for the parties and perusal of the record, the Tribunal came to know that due to patch up between the appellant and private respondent No.3, the transfer order was recalled on the same day, hence the same may be an incorrect view of the matter that the appellant was not aware of the cancellation order. The appellant has already completed his tenure on the disputed place. It was not found that the transfer of respondent No.3 and appellant was the result of any political interference or malafide.. The appeal is time barred. There is no merit in the appeal and the same is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

*Attested*  
*[Signature]*



V.	Case / law Ruling involved on the points						
	<table><tr><td><u>For</u></td><td><u>Against</u></td></tr><tr><td>1. Constitution of Pakistan, 1973</td><td></td></tr><tr><td>2. Service Law</td><td></td></tr></table>	<u>For</u>	<u>Against</u>	1. Constitution of Pakistan, 1973		2. Service Law	
<u>For</u>	<u>Against</u>						
1. Constitution of Pakistan, 1973							
2. Service Law							

Certified that I have myself prepared this point noted index and found correct.

(MEHMOOD AHMAD SHEIKH)  
ADVOCATE-ON-RECORD

Attested  
[Signature]

(16)

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

C.P.L.A. No. \_\_\_\_\_ of 2015

*Mr. Abdul Qadir,*  
*J/Clerk, Office of the Agency*  
*Education Officer, North*  
*Waziristan Agency. ....(Petitioner)*

VERSUS.

1. *The Director of Education (FATA),*  
*KPK, Peshawar.*
2. *The Agency Education Officer, North*  
*Waziristan Agency, (NWA).*
3. *Mr. Gul Ahmad, J/Clerk, GHS Khazan*  
*Gul Kot, NWA. ....(Respondents)*

CIVIL PETITION FOR LEAVE TO APPEAL  
UNDER ARTICLE 212 (3) OF THE  
CONSTITUTION OF THE ISLAMIC  
REPUBLIC OF PAKISTAN, 1973, AGAINST  
THE IMPUGNED JUDGMENT AND ORDER  
OF THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR DATED 21.10.2015  
PASSED IN APPEAL NO.1435 OF 2013.

*Attest*  
*FD*

Respectfully Sheweth:



- M. That the Petitioner is jobless since his illegal termination from service.
- L. That the Petitioner has a long and spotless service career at his credit, the penalty imposed upon him is harsh and liable to be set aside.
- N. That the petitioner seeks permission of this Honorable Court to rely on additional grounds at the time of hearing of the petition

*It is, therefore, humbly prayed that on acceptance of this grievance petition the order of termination of service of the petitioner may please be set aside and the petitioner may kindly be reinstated into service with all back wages and benefits.*

That the contents of the petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honorable Court.

*Petitioner*

Through,

*It is therefore humbly prayed that on acceptance of this grievance petition the order of termination of service of the petitioner may please be set aside and the petitioner may kindly be reinstated into service with all back wages and benefits.*

VERIFICATION

*Petitioner*

I do here by verify on solemn affirmation on this 13<sup>th</sup> day of January, 2016, at Peshawar that the contents of above Grievance Petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Court.

*Petitioner*

VERIFICATION

I do here by verify on solemn affirmation on this 13<sup>th</sup> day of January, 2016, at Peshawar that the contents of above Grievance Petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Court.

*Petitioner*

13

8	C.P.3335/2015 (Election Matters / of Bar Council)	Chaudhry Khalid Hussain & another v. Pakistan Bar Council thr. its Vice Chairman & others	Mr. Ahmed Nawaz Chaudhry, AOR Mr. Taufiq Asif, ASC	(Rwp)
9	C.P.3341/2015 (Service Laws Matters / Transfer)	Abdul Qadir v. The Director of Education (FATA), KPK, Peshawar & others	Mr. Mahmood A. Sheikh, AOR Mr. Ghulam Nabi Khan, ASC Mr. M. S. Khattak, AOR Mr. Ijaz Anwar, ASC	(Rwp) (Pesh)
10	C.P.3345/2015 (Guardian and Ward / Custody of Minor)	Mst. Humaira Amjad & another v. Faisal Mahmood & others	Mr. Ahmed Nawaz Chaudhry, AOR Raja Muhammad Idrees, ASC	

*Handwritten signature*

*Faint, illegible text, likely bleed-through from the reverse side of the page.*

COC NO. /2016

In W.P No. 1087/2011

Decided on 19.2.2013

Chief Justice Peshawar High Court  
Peshawar

Attorney General  
Government of Punjab  
Lahore

Advocate General  
Government of Punjab  
Lahore

Secretary  
Government of Punjab  
Lahore

Member  
Government of Punjab  
Lahore

Member  
Government of Punjab  
Lahore

Member  
Government of Punjab  
Lahore

Member  
Government of Punjab  
Lahore



19

AMINAH P

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

### TRANSFER / ADJUSTMENT ORDER

The following Junior Clerks of Agency Education Office / Schools are hereby transferred in their own pay and scale with immediate effect due to negligence in their assigned duties and frequent complaints in respect of S.No.1

S#	Name of Official with Designation/Station.	Adjusted at	Remarks
1.	Mr. Gul Ahmad Junior Clerk, Agency Education Office North Waziristan Agency.	GHS Miranshah Village North Waziristan Agency.	V. S No.2
2	Mr. Inammullah GHS Miranshah Village North Waziristan Agency.	Agency Education Office North Waziristan Agency.	V. S No.1

Note: - 1. Charge report should be submitted to all concerned.  
2. TA/ DA etc: is not allowed.

Director Education FATA

Endst: No. 993-97

Dated 22/1/2016

Copy to the:-

1. Agency Education Officer North Waziristan Agency.
2. Agency Accounts Officer North Waziristan Agency.
3. Head Master GHS Miran Shah Village North Waziristan Agency.
4. PA to Director Education FATA.
5. Officials concerned.

Deputy Director (F&A)

21/1/16

Attest

1  
(20)

ANNEX "G"

To,

The Worthy Secretary,  
Social Sector, FATA Secretariat,  
Peshawar.

**Subject:** Departmental Appeal against the office order dated 22.01.2016, whereby the undersigned has been transferred from the office of the Agency Education Officer NWA to the Government High School Miranshah Village North Waziristan Agency and one Inamullah Junior Clerk has been posted vice the undersigned .

Prayer in Departmental Appeal;

On acceptance of this Departmental Appeal the impugned order dated 22.01.2016, may please be set-aside and I may be allowed to continue my duties at the office of the Agency Education Officer North Waziristan Agency.

Respectfully Submitted:

1. That the undersigned was initially appointed as Junior Clerk BPS-09. Ever since my appointment I remained Posted at different stations as and when directed/posted.
2. That while posted as junior clerk at the office of the Agency Education Officer North Waziristan (hereinafter to be referred as NWA), the undersigned was transferred from the said post and one Abdul Qadir was posted vice the appellant on 28.08.2013, however said order was cancelled on my appeal by the AEO on the same date i.e, 28.08.2013.
3. That the said cancellation order was then challenged by the said Abdul Qadir in Appeal before the Honorable Service Tribunal. Initially the said order was suspended by the Honorable Service Tribunal and I was directed to perform my duties at GHS Khazan Gul Kot NWA.
4. That vide order and judgment 21.10.2015 the Honorable Service Tribunal dismissed the appeal of the said Abdul Qadir and in accordance with the Judgment of the Honorable Service Tribunal dated 21.10.2015, the undersigned was transferred and posted as junior clerk at the office of the AEO NWA. In compliance of the order I duly submitted my arrival report and started performing my duties.

Aliyau  
(Signature)



5. That it is pertinent to mention here that the judgment of the Honorable Service Tribunal dated 21.10.2015 was also challenged before the Honorable Supreme Court of Pakistan in CPLA by the said Abdul Qadir, however the CPLA was also dismissed on 22.01.2016 by the Honorable Supreme Court. Thus the decision/ judgment of the Honorable Service Tribunal dated 21.10.2015 attained finality.
6. That having hardly served for about two months, the undersigned has again been transferred from the office of post of transferred from the Agency Education Office to Government High School Miranshah allegedly on the ground of negligence in duties assigned vide order dated 22.01.2016 i.e, on the same date on which the CPLA against the Honorable Tribunal Judgment was dismissed. It is pertinent to mention here that one Mr. Inamullah has been posted vice the undersigned.
7. That the impugned transfer order dated 22.01.2016 is illegal, unlawful, against the rules, premature and malafide inter alia on the following grounds:

**GROUND OF DEPARTMENTAL APPEAL:**

- A. That the undersigned has not been treated in accordance with law, hence my rights secured and guaranteed under the Law are badly violated.
- B. That having hardly served for about two months, the undersigned has again been transferred from the office of Agency Education Office to Government High School Miran Shah vide order dated 22.01.2016 and have not yet completed my normal tenure of posting, thus the transfer order is illegal and unlawful, moreover the same is in violation of posting and transfer policy of the Provincial Government and also against the Judgments of the Superior Courts.
- C. That the impugned is also passed in violation of the judgment of the Service Tribunal (upheld by the Supreme Court of Pakistan), pursuant to which the undersigned was posted at the office of AEO NWA, thus the impugned order so issued tantamount to the contempt of court.
- D. That even otherwise it is also not in the interest the Department to make rolling stone its employees, on the one hand the working of the department is disturbed, while on the other hand the employee is humiliated and his family life is disturbed.

*Adnan*  
*D*

22

- E. That though it has been alleged in the impugned order that the undersigned has been transferred due to negligence in the duties assigned, however I have never been served with any charge sheet, show cause or any explanation regarding the alleged negligence. Moreover I have never shown any negligence in performance of my duties the charge so leveled is incorrect in seems to be based on malafide intention so as to justify the impugned transfer order.
- F. That even otherwise the immediate officer who is the best Judge of the performance of a subordinate official has never forwarded any complaint against the appellant nor has he been consulted before the issuance of my transfer order on administrative ground.
- G. That in-fact there exist no exigencies of service nor can the order of transfer be termed as in the public interest rather the same has been issued in violation of the transfer and posting policy and in ban period.
- H. That during my posting at office of the AEO NWA, my performance remained commendable and there was no complaint whatsoever regarding my performance, moreover my immediate officer has also strongly appreciated my performance, albeit I have been transferred without allowing me to complete my normal tenure of posting.
- I. That the impugned transfer order is illegal, unlawful, without lawful authority and passed without jurisdiction, not in the prescribed period, in violation of transfer and posting policy, thus nullity in the eyes of law and not tenable.

*It is, therefore, humbly prayed that On acceptance of this Departmental Appeal the impugned order dated 22.01.2016, may please be set-aside and I may be allowed to continue my duties at the Agency Education Office NWA.*

Yours obediently

  
GUL AHMAD.

Junior Clerk BPS-09  
Agency Education Office  
North Waziristan Agency.

Dated: 27 / 01 / 2016



GOVERNMENT OF NWFP  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) { }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained  
  
<sup>2</sup>While 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

*Atiqul*

ATTES  
*[Signature]*

(24)

- 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.

**ATTESTED**

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

*Attested*

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds:

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule – IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

{Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

ATTEST

**POWER OF ATTORNEY**

In the Court of Higher Pakistan where Service Tehsil Peshawar

Gul Ahmad

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

**VERSUS**

Additional Chief Secretary and  
Spee

} Defendant  
} Respondent  
} Accused

Apptal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

**SAJID AMIN ADVOCATE, HIGH COURT**


\_\_\_\_\_ my true and lawful attorney, for me in my same and on my behalf to appear at \_\_\_\_\_ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

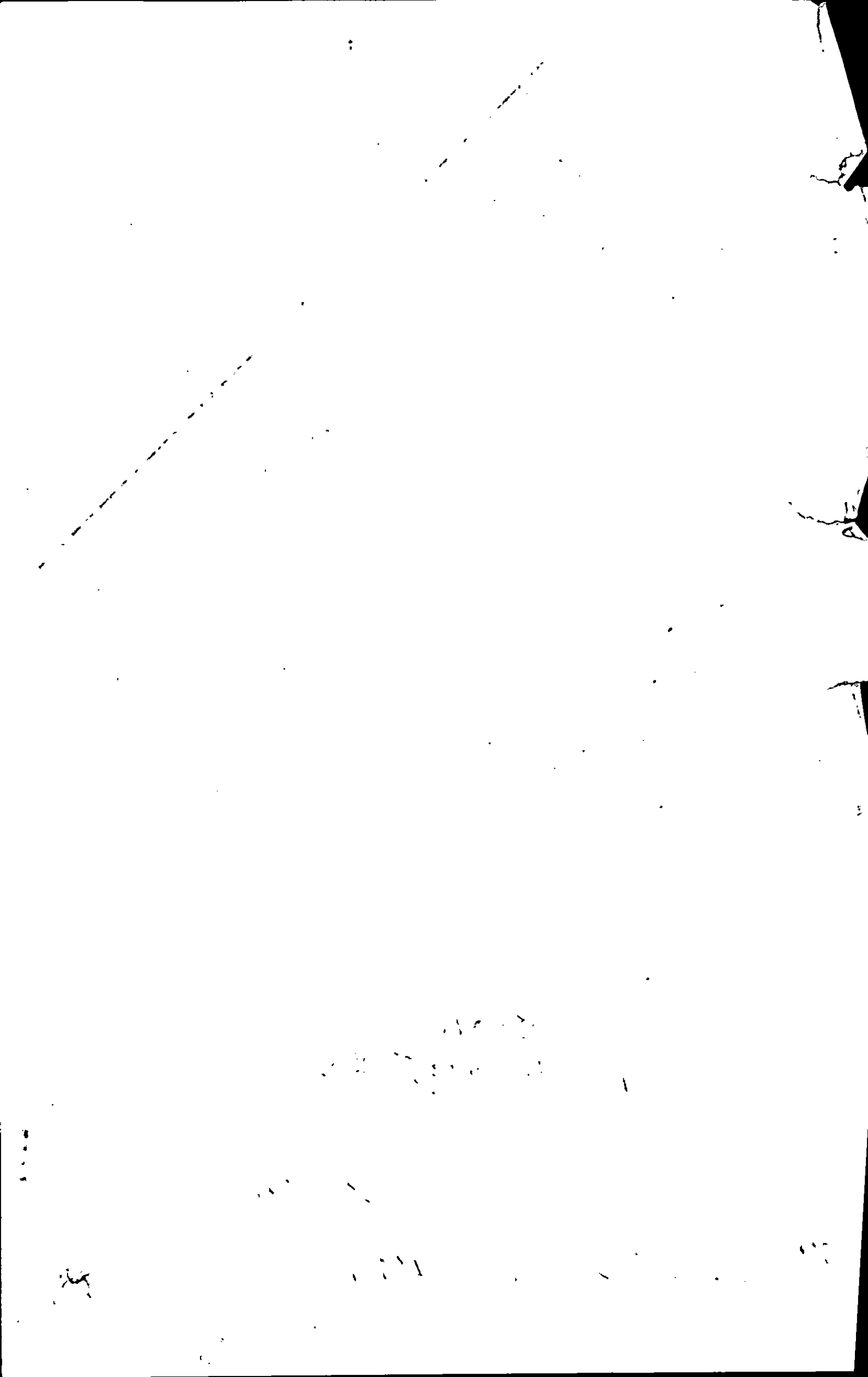
AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

  
**SAJID AMIN**  
Advocate High Court



**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Appeal No: 489/2016

Gul Ahmad Junior Clerk ..... Appellant.

VERSUS

1. Additional Chief Secretary FATA Secretariat Warsak Road Peshawar.
2. The Secretary, Social Sector FATA, FATA Secretariat Warsak Road Peshawar.
3. Director Education FATA, FATA Secretariat, Warsak Road Peshawar.
4. Agency Education Officer North Waziristan Agency ..... Respondents.

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

**Respectively 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.

**On Facts:**

1. No comments. However posting transfer of Government Servants is mandate of the competent authority.
2. No comments. Subject to record.
3. Correct. The respondents honored the judgment of the Honorable Court in letter and spirit.
4. No comments.
5. Correct to the extent that the appellant honored the judgment of honorable Court but the respondents were not satisfied from the performance of the appellant.
6. No comments.
7. Correct to the extent that the appellant was transferred due to his negligence in duties assigned and a public servant is bound to obey the orders passed in the interest of Public Service by the Competent Authority.
8. No comments. Subject to record.
9. Incorrect. Transfer of a Government servant is mandatory and the appellant is bound to serve the Department in the place of posting in the public interest, with no malafide intentions on behalf of the respondents being legal and under the rules.

**Grounds:**

- A. Incorrect. No right of the appellant has been violated and the respondents acted under the vested rights to transfer the appellant due to his own conduct/negligence in duty and bad performance.
- B. The transfer of appellant is subject to bad performance and tentamounts him for transfer and disciplinary action.



- C. Incorrect. The respondents have to take action to sustain law and order and for smooth running of the office in interest of public service.
- D. Incorrect. The officials are bound to take keen interest in performing hisr official duties and negligence in duty cannot be forgiven in the interest of public service being user of the public exchequer.
- E. Incorrect. No malafide intentions on behalf of the respondents, by taking action or transfer of the official in the public interest for smooth running of the official business.
- F. I, II, III & IV. According to judgment of Honorable Supreme Court of Pakistan "Each and every case has its own merit".
- G. No comments. Pertains to record.
- H. Incorrect. No action has been taken by the respondent which is against the rules and no order has been passed by the Competent Authority in violation of rules.
- I. No comments. Pertains to record.
- J. Incorrect. Transfer order has been issued by the Competent Authority in accordance with law and rules in the interest of public service.
- K. Respondents are also seek permission to advance other grounds at the time of argument.

In light of the above facts, it is humbly requested to please dismiss the appeal having no legal grounds with cost.

Respondent NO. 3

  
For Director Education FATA  
Peshawar.

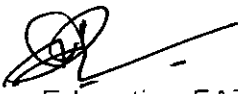
Respondent NO. 4

  
For Agency Education Officer  
North Waziristan Agency.


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. 3

  
FOO Director Education FATA  
Peshawar.

Respondent NO. 4

  
FOO Agency Education Officer  
North Waziristan Agency.

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

In the matter of

Appeal No. 489/2016

Gul Ahmad, Junior Clerk BPS-09 Agency Education Office  
North Waziristan Agency. **(Appellant)**

**VERSUS**

Additional Chief Secretary FATA, FATA Secretariat, Warsak  
Road Peshawar and others. **(Respondents)**

**REJOINDER ON BEHALF OF THE APPELLANT**

Respectfully submitted:

**ON PRELIMINARY OBJECTIONS:**

1. Contents incorrect and misleading, the appellant has illegally been transferred hence he has got the necessary cause action and locus standi to file the instant appeal.
2. Contents incorrect and misleading, the appellant has come to the court with clean hands.
- 3: Contents incorrect and misleading, all necessary facts are brought before this Honourable Tribunal and nothing has been concealed.
4. Contents incorrect and misleading no rule of estoppel is applicable in the instant case.
5. Contents incorrect and misleading, all parties necessary for the disposal of the appeal are arrayed in the instant appeal.

**ON FACTS**

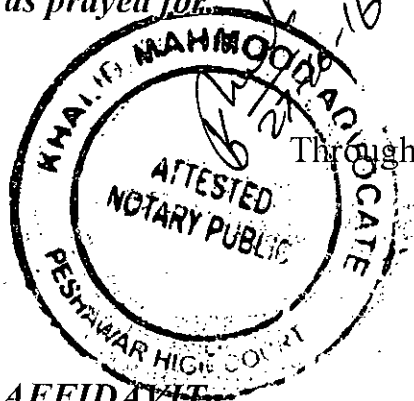
1. Contents need no comments, however contents of para 1 of the appeal are true and correct. Moreover posting and transfer of a civil servant being term and condition of service is governed by the Civil Servant Act. When the ordinary tenure for a posting has been specified in the law or rules made there under; such tenure must be respected and cannot be varied, except for compelling reasons.
2. Contents need no reply, however contents of Para 2 of the appeal are true and correct.

3. Contents being admitted hence need no reply.
4. Contents need no reply, however contents of Para 4 of the appeal are true and correct.
5. Contents of Para 5 of the appeal is correct, the reply submitted to the Para being partially admitted hence to the extent of admission needs no comments, however the contention of the respondents regarding the performance of the appellant is incorrect and misleading and without any proof.
6. Contents need no reply, however contents of Para 6 of the appeal are true and correct.
7. Contents of Para 7 of the appeal are correct, the reply submitted to the Para is incorrect false and misleading and without any proof. The appellant duly performed his duties as assigned and never obeyed the lawful orders of the competent Authority.
8. Contents need no reply, however contents of Para 8 of the appeal are true and correct.
9. Contents of Para 9 of the appeal are correct, the reply submitted to the para is incorrect and misleading.

### GROUNDS

The Grounds (A to K) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

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



*Khalid Mahmood*  
Appellant

*Sajid Amin*  
SAJID AMIN  
Advocate, Peshawar.

### AFFIDAVIT

*I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.*

*Khalid Mahmood*  
Deponent

**VAKALAT NAMA**

NO. 489 /2016 .

IN THE COURT OF Service Tribunal Peshawar

Gul Ahmed (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

ACS FATA eto (Respondent)  
(Defendant)

I/We, Gul Ahmed (Appellant).

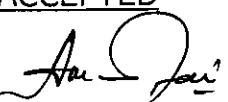
Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.


I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 28.11 /2016 .

  
(CLIENT)

ACCEPTED

  
**M. ASIF YOUSAFZAI**  
Advocate Supreme Court  
Peshawar.

  
**Taimur Ali Khan**  
Advocate

**Syed Nauman Ali Bukhari**  
Advocate

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)