

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	26.11.2019	<p style="text-align: center;"><b><u>BEFORE THE YBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b>  <b>Service Appeal No. 324/2019</b></p> <p style="text-align: right;">Date of Institution ..... 04.03.2019  Date of Decision ..... 26.11.2019</p> <p>Mr. Jehan Khan, Junior Clerk, Office of District Attorney, Haripur.  <b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <p>1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.  2. The Secretary Law, Khyber Pakhtunkhwa, Peshawar.  3. Mr. Hassan Muhammad Junior Clerk, office of District Attorney Mardan.</p> <p style="text-align: right;"><b>Respondents</b></p> <p>Mr. Muhammad Hamid Mughal -----Member(J)  Mr. Ahmad Hassan-----Member(E)</p> <p style="text-align: center;"><b><u>JUDGMENT</u></b>  <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Appellant</p> <p>with counsel present. Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Muhammad Ismail Superintendent for official respondents present. Private respondent No.3 with counsel present.</p> <p>2. The appellant (Junior Clerk, office of District Attorney Haripur) has filed the present service appeal being aggrieved against the order dated 23.11.2018 in relation to his transfer from the office</p>

26.11.2019

of District Attorney Mardan and posting at the office of District Attorney, Haripur and posting of private respondent No.3 in his place at the office of District Attorney Mardan.

3. Learned counsel for the appellant argued that the appellant belongs to District Charsadda and his wife is also a Theology Teacher in GGHS in District Charsadda as such transfer of the appellant from District Mardan to District Haripur is in violation of spouse policy and would affect the whole family.

4. As against that learned AAG assisted by learned counsel for private respondent No.3, argued that the private respondent also belongs to District Charsadda; that the appellant was transferred from District Charsadda and posted at District Mardan in the year 2013 and as such has already completed normal tenure of 02 years in District Mardan as mentioned in the transfer/posting policy; that the private respondent was posted at District Haripur in the year 2013 and served there for a period more than normal tenure as mentioned in the posting transfer policy, therefore, the transfer posting order in relation to the appellant and private respondent was correctly issued. Further argued that the spouse policy is applicable in cases when both the civil servants are serving in one district and one of them is transferred out of the district. Moreover, the spouse policy can be implemented only if possible; that the appellant is holding provincial level post and u/s 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1974, a civil servant is liable to serve anywhere in the province; that the civil servant has no right to claim posting of

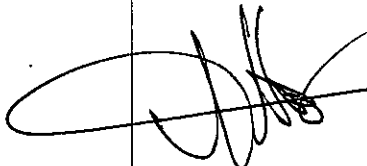
26.11.2019

his choice.

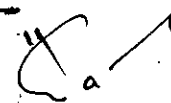
5. Arguments heard. File perused.

6. The appellant was posted at District Charsadda in the year 2009 and he was posted at the adjoining district, Mardan in the year 2013. In the year 2018 when the impugned posting transfer order was issued, the appellant had already completed his normal tenure at District Mardan. During the course of arguments, it also surfaced that during a political regime, large number of persons, belonging to District Charsadda, were employed at the provincial level posts in the Khyber Pakhtunkhwa Law Department and as such it is impossible to accommodate them all in the District Charsadda or at the adjoining districts. Wife of the appellant is serving against district cadre post while the appellant has occupied provincial level post. Spouse policy can be pressed into service where it is practicable. The private respondent who also belongs to District Charsadda has already served at District Haripur for more than 04 years.

7. In view of above, the appellant has not been able to seek indulgence of this Tribunal. Consequently the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)  
Member



(Muhammad Hamid Mughal)  
Member

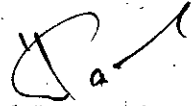
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26.11.2019

26.11.2019

Appellant with counsel present. Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Muhammad Ismail Superintendent for official respondents present. Private respondent No.3 with counsel present. Vide our separate judgment of today of this Tribunal placed on file, the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)  
Member



(Muhammad Hamid Mughal)  
Member

ANNOUNCED.

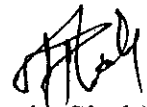
26.11.2019

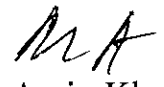
16.10.2019 Counsel for the appellant present. Asst: AG  
alongwith Mr. Muhammad Ismail, Supdt for respondents  
present. Learned counsel for the appellant submitted  
rejoinder which is placed on file. Adjourned. To come up  
for arguments on 21.10.2019 before D.B.

  
Member

  
Member

21.10.2019 Due to general strike on the call of Khyber  
Pakhtunkhwa Bar Council learned counsel for the  
appellant is not in attendance. Mr. Zia Ullah earned  
Deputy District Attorney alongwith Mr. Muhammad  
Ismail Superintendent for the respondents present  
Adjourned. To come up for arguments on 15.11.2019  
before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

15.11.2019 Learned counsel for the appellant present. Mr. Zia Ullah learned  
Deputy District Attorney alongwith Muhammad Ismail  
Superintendent for official respondents present. Private respondent  
No.3 with counsel present. Learned counsel for the appellant  
requested for adjournment to which learned counsel for private  
respondent No.3 raised serious objection. This Tribunal noted with  
concern that the appellant has filed the present service appeal and  
dragged the private respondent No.3 but has not bothered to attend  
the Tribunal. Being posting transfer case, adjourned for 26.11.2019.  
To come up for arguments on 26.11.2019 before D.B.

Member

  
Member

30.08.2019

Counsel for the appellant and Addl. AG along with Hassan Muhammad, Junior Clerk for the respondents present.

Written statement on behalf of respondent No. 3 submitted. The appeal is assigned to D.B for arguments on 16.09.2019. The appellant may submit rejoinder, within a fortnight, if so advised.

  
Chairman

16.09.2019

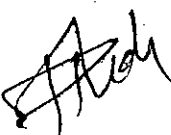
Clerk to counsel for the appellant present. Addl: AG alongwith Mr. M. Ismail, Supdt for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike of the bar: Adjourn. To come up for arguments on 27.09.2019 before D.B.

  
Member

  
Member

27.09.2019

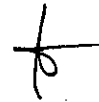
Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for the official respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up ~~for arguments~~ on 16.10.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

12.07.2019

Counsel for the appellant and Addl. AG for respondent Nos. 1 & 2 present. Fresh notice be issued to respondent No. 3. To come up for written reply on 26.07.2019 before S.B.



Member

26.07.2019

Counsel for the appellant, Mr. Usman Ghani, District Attorney alongwith Muhammad Ismaeel, S.O for respondents No. 1 & 2 and private respondent No. 3 in person present.

Respondent No. 3 requests for time to submit reply. Similar request is also made by representative of respondents No. 1 & 2. As a last chance the matter is adjourned to 16.08.2019 for submission of reply/comments by the respondents.



Chairman

16.08.2019

Appellant in person present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Ismail, Section Officer (Litigation) for official respondents No. 1 & 2 and private respondent No. 3 in person present. Representative of official respondents No. 1 & 2 submitted written reply. Written reply on behalf of private respondent No. 3 not submitted despite last chance. Private respondent No. 3 requested for further time to submit written reply. Another last chance is granted to private respondent No. 3 for filing of written reply. Adjourned to 30.08.2019 for written reply/comments on behalf of private respondent No. 3 before S.B.




(MUHAMMAD AMIN KUNDI)

MEMBER


21.05.2019

Appellant in person present. Written reply not submitted. Private respondent No.3 in person present and seeks time to furnish written reply/comments. No one present on behalf of respondents No.1 & 2. Respondents No.1 & 2 be put to notice with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 10.06.2019 before S.B.

  
Member

10.06.2019

Counsel for the appellant, Addl: AG for official respondents and private respondent no.3 in person present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up written reply/comments on 24.06.2019 before S.B.

  
(Ahmad Hassan)  
Member

24.06.2019

Appellant in person and Addl: AG alongwith Mr. Muhammad Ismail, Supdt for official respondents present. Mr. Muhammad Bilal Kakazai, Advocate submitted Wakalat Nama on behalf of private respondent no.3, which is placed on file. Written reply/comments not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 12.07.2019 before S.B.

  
(Ahmad Hassan)  
Member




03.05.2019

Counsel for the appellant present.

Contends that the services of appellant were transferred from the office of District Attorney Mardan to the office of District Attorney Haripur on 23.11.2018. The transfer was in disregard to clause XI of posting/transfer policy of the Provincial Government issued on 10.01.2009. The said clause provided that for posting of husband and wife, if both in Provincial services, efforts should be made to post them at one station subject to the public interest. In the said regard he referred to order dated 22.03.2013 whereby Mst. Rafaqat a Theology Teacher in BPS-15 was posted at Government Girls High School Ali Jan Killi District Charsadda. The said official in the Education Department is the wife of appellant, therefore, the posting of appellant to Haripur was without any justification.

In view of the above, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 21.05.2019 before S.B.

The appeal is accompanied by an application for suspension of order dated 23.11.2018. Notice of the application be also given to the respondents for the date fixed.

  
Appellant Deposited  
Security & Process Fee

  
Chairman

03.05.2019

Counsel for the appellant present.

Contends that the services of appellant were transferred from the office of District Attorney Mardan to the office of District Attorney Haripur on 23.11.2018. The transfer was in disregard to clause XI of posting/transfer policy of the Provincial Government issued on 10.01.2009. The said clause provided that <sup>for</sup> posting of husband and wife, if both in Provincial services, efforts <sup>should</sup> ~~would~~ be made to post <sup>them</sup> ~~such persons~~ at one station subject to the public interest. In the said regard he referred to order dated 22.03.2013 whereby Mst. ~~Rafaqat~~ <sup>Rafaqat</sup> as Theology Teacher in BPS-15 was posted at Government Girls High School Ali Jan Killi District Charsadda. The said official in the Education Department is the wife of appellant, therefore, the posting of appellant to Haripur was without any justification.

In view of the above, instant appeal is ~~also~~ admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 21.05.2019 before S.B.

The appeal is accompanied by an application for suspension of order dated 23.11.2018. Notice of the application be also given to the respondents for the date fixed.





Chairman

*Printed on fresh page  
after request Commissioner*

Form- A  
FORM OF ORDER SHEET

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

Case No. 324/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/03/2019	<p>The appeal of Mr. Jehan Khan presented today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	12/03/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/03/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	21.03.2019	<p>Nemo for the appellant. Due to general strike of the bar, the case is adjourn. To come up for preliminary hearing on 23.04.2019 before S.B.</p> <p style="text-align: right;"> Member</p>
	23.04.2019	<p>Appellant in person present and seeks adjournment due to general strike of the bar. Adjourned. Case to come up for preliminary hearing on 03.05.2019 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 324 /2019

Jehan Khan

V/S

Chief Secretary KPK, etc.

**INDEX**

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	-----	01-03
2.	Stay application	-----	04-05
3.	Copy of appointment order of wife of the appellant	A	06
4.	Copy of order dated 23.11.2018	B	07
5.	Copy of departmental appeal	C	08-09
6.	Copy of posting/transfer policy	D	10-16
7.	Vakalat nama	-----	17

**APPELLANT**

THROUGH:

  
**TAIMUR ALI KHAN**  
(ADVOCATE HIGH COURT)

  
**ASMA MAHMOOD**  
(ADVOCATE HIGH COURT).

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 324 /2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 302

Dated 04/03/2019

Mr. Jehan Khan,  
Junior Clerk, Office of District Attorney, Haripur.

(APPELLANT)

**VERSUS**

1. The Chief Secretary KPK, Civil Secretariat Peshawar.
2. The Secretary Law, KPK, Civil Secretariat, Peshawar.
3. Mr. Hassan Muhammad, Junior Clerk, Office of District Attorney Mardan.

(RESPONDENTS)

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APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 23.11.2018 WHEREBY THE APPELLANT WAS TRANSFERRED FROM DISTRICT MARDAN TO DISTRICT HARIPUR IN UTTER VIOLATION OF INSTRUCTION IX OF THE POSTING TRANSFER POLICY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day  
Registrar  
4/3/19

**PRAYER:**

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDERS DATED 23.11.2018 MAY BE SET ASIDE TO THE DETRIMENT OF THE APPELLANT PASSED IN THE VIOLATION OF INSTRUCTION IX OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT IN VIOLATION OF INSTRUCTION IX OF POSTING/TRANSFER POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND

**APPOPRIATE THAT MAY ALSO BE AWARADED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant is working in law department as Junior Clerk and performing his duty with the entire satisfaction of his superiors and no complaint has been filed against the appellant.
2. That the appellant is belong to Charsadda and his wife is a Government Servant working as Theology Teacher in GGHS Ali Jan Killi Charsadda, which is evident from the appointment order of the wife of the appellant. **(copy of appointment order of the wife of the appellant is attached as Annexure-A)**
3. That the appellant was performing his duty as Junior Clerk with the entire satisfaction in District Mardan and was transferred from District Mardan to District Haripur vide order dated 23.11.2018 in the clear violation of section x of posting transfer policy as the wife is also Government Servant working as Theology Teacher in District Charsadda. **(Copy of order dated 23.11.2018 is attached as Annexure-B)**
4. That against the impugned transfer order, the appellant filed departmental appeal on 27.11.2018, which was not responded within the stipulated period of ninety days. **(Copy of departmental appeal is attached as Annexure-C)**
5. That the appellant has no other remedy except to file the instant appeal for redressal of his grievance on the basis of following grounds amongst others.


**GROUND:**

- A) That not taking action on the departmental appeal of the appellant and the impugned order dated 23.11.2018 are against the law, facts, norms of justice and violation of instruction ix of posting/transfer policy, therefore not tenable and liable to be set aside to the extent of the appellant.
- B) The transfer of the appellant is in total violation of instruction ix of Govt: posting transfer policy. Thus the impugned order is liable to be

set-aside to the extent of the appellant on this score alone. (Copy of posting/ transfer policy is attached as Annexure-D)

- C) That the wife of the appellant is a Government Servant working as Theology Teacher in GGHS Ali Jan Killi Charsadda and as per instruction ix of posting transfer policy, *regarding posting of husband wife, both in provincial services, efforts where possible would be made to post such person at one station* and by transferring the appellant to far flung District Haripur is utter violation of instruction ix of the posting/transfer policy, therefore the impugned is liable to be set aside to the extent of the appellant.
- D) That no summary has been obtained from the competent authority before passing the impugned order of transfer of the appellant which is violation instruction 4 of the posting transfer policy.
- E) That the impugned transfer order is not based on public interest nor any exigencies, but rather to adjust the blue eyed person.
- F) That by transferring to such far flung area is also effecting his whole family as the appellant have school going kids and his wife is also working as Government Teacher in District Charsadda.
- G) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

  
APPELLANT  
Jehan Khan

THROUGH:

  
TAIMUR ALI KHAN  
(ADVOCATE HIGH COURT),

  
ASAD MAHMOOD  
(ADVOCATE HIGH COURT)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2019

Jehan Khan

V/S

Chief Secretary, KPK, etc.

**APPLICATION FOR SUSPENDING THE  
OPERATION OF ORDER DATED 23.11.2018 TO  
THE EXTENT OF THE APPELLANT TILL THE  
DISPOSAL OF MAIN APPEAL.**

**RESPECTFULLY SHEWETH.**

1. That the appellant has filed an appeal along with this application in which no date is fixed so far.
2. That impugned transfer order has passed in violation of instruction ix of posting transfer policy.
3. That the wife of the appellant is a Government Servant working as Theology Teacher in GGHS Ali Jan Killi Charsadda and as per instruction ix of posting transfer policy, *regarding posting of husband wife, both in provincial services, efforts where possible would be made to post such person at one station* and by transferring the appellant to far flung District Haripur is utter violation of instruction ix of the posting/transfer policy, therefore the impugned is liable to be suspended to the extent of the appellant till the disposal of the appeal.
4. That the grounds of main appeal may also be considered as integral part of this application.
5. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.



It is therefore most humbly prayed that on the acceptance of this application, the operation of the order dated 23.11.2018 may be suspended till the decision of main appeal.



APPELLANT

THROUGH:



TAIMUR ALI KHAN  
(ADVOCATE HIGH COURT),

&

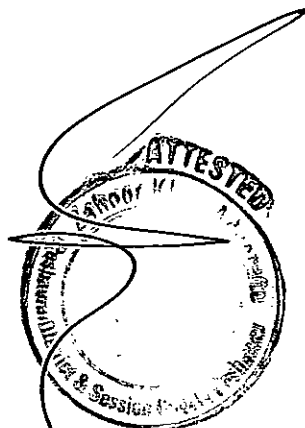


ASAD MAHMOOD  
ADVOCATE HIGH COURT)

AFFIDAVIT.

It is solemnly affirmed that the contents of application is true and correct and nothing has been concealed from this Honourable Tribunal.

  
DEPONENT.



**OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) CHARSA DA**

**ORDER**

Consequent upon the recommendation of Departmental Selection Committee and approval of the competent authority, the Following candidates are hereby appointed as Theology Teachers in BPS-15 (8500-700-29500) (Non pensionable) plus usual allowances as admissible under the rules against the vacant post at the schools mentioned against each in the interest of public service with effect from the date of their taking over charges.

S.No	Name	Father Name	Address	Posted at:	Remarks
1	Musarat Shaheen	Ajab Noor	Utmanzai	GGMS Dheri Hamid Mian	A.V.Post
2	Rifaqat	Qadeem Ullah	Utmanzai	GGHS Ali Jan Killi	A.V.Post
3	Aisha Bibi	Bashir- ud-Din	Papra Chd	GGMS Kaptan Killi	A.V.Post
4	Khkula	Muhammad Ijaz	Wardaga	GGMS Arsala Killi	A.V.Post
5	Rohi Gul	Gul Rahman	Lalazar Utmanzai	GGMS Qandaro Killi	A.V.Post
6	Rukhsana Begum	Abdul Khaliq	Umarzai	GGMS Sheikhan Bari Band	A.V.Post
7	Hajira	Muhammad Munir	Purdil Khan Killi	GGMS Sheikhan Dosehra	A.V.Post
8	Musarat	Ziarat Gul	Marchaki	GGMS Mahzara	A.V.Post
9	Zainab Begum	S.Bashir Ahmad Shah	Utmanzai	GGMS Nazo Killi	A.V.Post

Note: - All the Drawing & Disbursing Officers are directed to verify their academic and professional Certificate/Degrees etc. from the quarters concerned before starting their Salaries otherwise they will be held responsible for the consequences if occurred in this regard.

**TERMS & CONDITIONS**

1. The appointment is made purely on temporary basis and is liable to termination at any time without assigning any reason or notice.
2. Their Service will be on regular basis.
3. They will be abide by the rules and regulations issued from time to time by the provincial Govt.
4. They should obtain Medical Fitness certificate from the Medical Superintendent concerned.
5. Their age will be 18-35 years on 18-06-2011.
6. In case of resignation from service, they will have to submit one month prior notice or forfeit one month pay to Government.
7. They should take over charge within one month after the receipt of this appointment letter.
8. No TA/DA etc. is allowed on joining duty being 1<sup>st</sup> appointment.

(ULFAT BEGUM)  
DISTRICT EDUCATION OFFICER  
(FEMALE) CHARSA DDA

Endst: No.2108-20/Appointment/TT/Dated Charsadda the 22/03/2013

Copy for information & necessary action to the:-

1. District Coordination Officer (Now Deputy Commissioner ) Charsadda
2. District Account officer Charsadda
3. Principal/ Headmistress Concerned.
4. Cashier Local Office
5. Candidate Concerned
6. Office File

DISTRICT EDUCATION OFFICER  
(FEMALE) CHARSA DDA



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS &  
HUMAN RIGHTS DEPARTMENT

Dated Peshawar the 23.11.2018

**ORDER**

SO(G)LD/15-11/2018/ The Competent Authority has been pleased to order posting/transfer of the following officials of Law Department in the public interest with immediate effect.

S.No	Name of Official	Transfer from	To
1.	Mr. Muhammad Tayyab, Junior Clerk	Office of District Attorney Swat	Office of District Attorney Labour Court Peshawar
2.	Syed Amamt Hussain, Junior Clerk	Office of DA Labour Court	Office of District Attorney Swat
3.	Mr. Ijaz Ahmed, Junior Clerk	Office of District Shangla	Office of District Attorney Service Tribunal Peshawar
4.	Mr. Zahid Khan, Junior Clerk	Office of District Attorney Service Tribunal Peshawar	Office of District Attorney Shangla
5.	Mr. Riaz Muhammad, Computer Operator	Office of District Buner	Office of District Attorney Service Tribunal Peshawar
6.	Muhammad Humayun, Computer Operator	Office of District Attorney Service Tribunal Peshawar	Office of District Attorney Buner
7.	Mr. Hassan Muhammad, Junior Clerk	Office of District Haripur	Office of District Attorney Mardan
8.	Mr. Jehan Khan, Junior Clerk	Office of District Mardan	Office of District Attorney Haripur

Sd/-  
**SECRETARY LAW**  
**KHYBER PAKHTUNKHWA**

**Endst: No. & Date Even:**

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa.
2. District Accounts Officer, Swat, Shangla, Buner, Haripur Mardan.
3. District Attorney Peshawar, Labour Court, Service Tribunal Peshawar Swat, Shangla, Buner, Haripur, Mardan
4. PS to Minister Law Khyber Pakhtunkhwa.
5. PS to Secretary Law Department.
6. Officers concerned.
7. Personal File
8. Master file.

ATTACHED

Section Officer (General)



OFFICE OF THE DISTRICT ATTORNEY  
DISTRICT COURTS MARDAN  
PHONE/FAX 0937-9230264

No. 3426

Dated: 27/11/2018

To

The Worthy Secretary,  
to the Government of Khyber Pakhtunkhwa,  
Law Parliamentary Affairs & Human Rights Department,  
Peshawar.



SUBJECT: - REPRESENTATION AGAINST THE ORDER DATED 23/11/2018 WHEREBY  
THE PETITIONER WAS TRANSFER TO THE OFFICE OF THE DISTRICT  
ATTORNEY HARIPUR.

Respected Sir,

Enclosed find herewith a representation of Mr. Jehan Khan for onward  
submission to the office of Chief Secretary Khyber Pakhtunkhwa for necessary action  
please.

**Syed Abdus Sami Shah**  
District Attorney  
Mardan

**ATTESTED**

THROUGH PROPER CHANNEL.

*(Handwritten marks: a circled 'S', a circled 'B', and a circled '9')*

To

The Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

**SUBJECT: REPRESENTATION AGAINST THE ORDER DATED: 23-11-2018  
WHEREBY THE PETITIONER WAS TRANSFERRED TO THE  
OFFICE OF THE DISTRICT ATTORNEY HARIPUR.**

Dear Sir,

Most humbly submit as under:

- (i) That the petitioner is a Junior Clerk serving under the administrative control of Law Department, since 2009 in till date my performance is upto the mark without any stigma.
- (ii) That the petitioner is basically belonging to District Charsadda and before the transfer order dated: 23-11-2018, the petitioner was serving as Junior Clerk in the Office of District Attorney Mardan (**order dated: 23-11-2018 is Annex-A**).
- (iii) That the transfer order dated 23-11-2018 is liable to be set aside on the following grounds:
  - (a) That under the posting transfer policy of the Provincial Government, every transfer order is required to be issued in public interest whereas the transfer order dated: 23-11-2018 is the result of political motivation (**posting transfer policy is Annex-B**).
  - (b) That the transfer order is also against clause-IX of the posting/transfer policy which provides posting of husband and wife at the same station. It is worthy to mention that the wife of the petitioner is servant in education Department and presently posted as T.T at Government Girls High School, Ali Jan Kelay, Umerzai District Charsadda (**posting order, payroll, CNIC are Annex-C, D and E**).
  - (c) That dictates of Law and judgment of superior courts also provide that provincial Government should show respect to its policies. That if the transfer order is not canceled, the school going children of the petitioner will suffer badly in terms of their education which will be an irreparable lose.

It is requested that either the transfer order may be canceled or the petitioner may be adjusted in any other nearest District.

Yours faithfully,

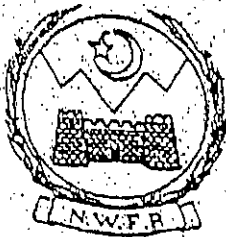
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**JEHAN KHAN (J/C)**  
**Office of District Attorney,**  
**Mardan.**

**ATTESTED**

*(Handwritten mark)*

D. 10/2/09



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.

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

ATTESTED

- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- (xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement. 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:	

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

ATTESTED

12

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

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

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

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

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

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

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

APPROVED

*[Signature]*

ATTESTED



13 (20)

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

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

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

.....

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

.....

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

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

SPECIMEN NOTIFICATION.

GOVERNMENT OF NWFP  
NAME OF ADMINISTRATIVE  
DEPARTMENT

Dated Peshawar, \_\_\_\_\_

NOTIFICATION

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

CHIEF SECRETARY  
GOVERNMENT OF NWFP

Endst. No. and date even.

Copy forwarded

- 1.
- 2.
- 3.
- 4.

ATTESTED

*[Signature]*

ATTESTED

(NAME)  
SECTION OFFICER  
Administrative Department

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

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

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

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

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

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

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

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

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

- 15  
11/25  
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- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

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

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

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

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

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.  
{Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007}.

### PLACEMENT POLICY.

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

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

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

16

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

- a) Permanent posting of an officer to the training institutions for 2-3 years;
- b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
- c) Earmarked as a visiting faculty member for specific subject.
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participant will decline/represent against his/her posting.

\*\*\*\*\*

ATTESTED

*Ar*

ATTESTED

جہاں خان 2 منجانب (اعلانیت)  
جہاں خان بنام یو جی سی

مورخہ

مقدمہ

دعویٰ

جرم

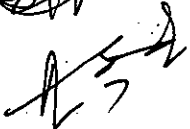
### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام لکھنؤ کیلئے جموں میں خان اور اسد محمد (مذکورہ) کی

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

Attested  
&  
Accepted





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ماہ

المرقوم

الع د گ و الع

کے لئے منظور ہے۔

مقام



8

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

Service Appeal No. 324/2019

Jehan Khan.....Appellant.

Versus

Chief Secretary, Khyber Pakhtunkhwa and others  
.....Respondents.

Parawise Comments on behalf of Respondents No 1-2.

Respectfully Sheweth.

**PRELIMINARY OBJECTION:**

1. That the appeal is not maintainable and is incompetent.
2. That the appellant is estopped due to his own conduct to file the present appeal.
3. That the appellant has got no cause of action and locus standi.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the appeal is bad for misjoinder and non-joinder of necessary parties.
6. That the appellant has concealed the material facts from Hon'ble Tribunal.
7. That the Hon'able Service Tribunal has no jurisdiction to entertain the instant appeal.

**ON FACTS:**

1. Pertains to the record hence, no comments.
2. Pertains to the record hence, no comments.
3. Correct to the extent of transfer from Mardan to Haripur. The appellant and his wife were working in separate districts before the impugned order. He was working in Mardan and his wife was Theology Teacher in District Charsadda. So far as the transfer is concerned, every civil servant shall serve anywhere in the Province in the exigencies of service. The appellant can be transferred to other offices of the District Attorneys in Khyber Pakhtunkhwa. *any*
4. The appellant has got no cause of action.
5. No comments.

**GROUND:**

- A. As explained vide para-3 of facts.
- B. As explained vide para-3 of facts. No violation has been made.
- C. As explained vide para-3 of facts.
- D. Respondent No. 2 Secretary to Government of Khyber Pakhtunkhwa Law Department is competent to transfer the appellant under the rules.
- E. Incorrect. As explained vide para-3 of facts.
- F. As explained vide para-3 of facts.

G. With utmost respect, this Hon'ble Court has got no jurisdiction to entertain the matter under appeal.

**PRAYER:**

It is, therefore, most humbly prayed that on acceptance of the parawise comments, the appeal being a frivolous litigation and devoid of legal footings and merit may graciously be dismissed with cost.



**SECRETARY**

Law Department

Respondent No. 2 & on behalf of

Respondent N0.1

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

Service Appeal No. 324/2019

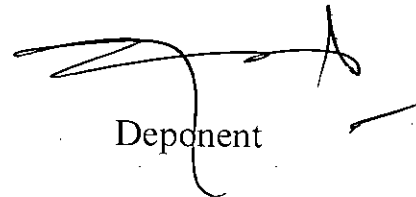
Jehan Khan.....Appellant.

Versus

Chief Secretary, Khyber Pakhtunkhwa and others  
.....Respondents.

**AFFIDAVIT**

I, Mr. Muhammad Ismail Superintendent (Lit) Directorate General of Law and Human Rights, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that contents of parawise comments on behalf of Respondents No.01 and 02 are true to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Tribunal.

  
Deponent

NIC No. 17301-0876331-9  
Cell# 03459782603



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No: 324 / 2019

JEHAN KHAN

Versus

Government of KPK etc

WRITTEN STATEMENT / REPLY ON BEHALF OF PRIVATE  
RESPONDENT NO. 3.

Respectfully Sheweth,

Written Statement / Reply, on behalf of Private Respondent  
No. 3, is as under:

Preliminary Objections:

- A. That, Appellant has got no cause of action against the Answering Respondent.
- B. That Appellant has got no locus-standi to institute the present Service Appeal.
- C. That, the Appeal of the Appellant is not maintainable in its present form.
- D. That, the Appellant has been estopped by his own conduct to file the instant Appeal.
- E. That, Appellant has not come to the Court with clean hands and has suppressed material facts from this Honourable Tribunal.

- F. That, Appeal of the Appellant is time barred.
- G. That, Posting / Transfer Policy of Government of Khyber Pakhtunkhwa has not been violated, in any manner, by the Competent Authority as the Appellant has completed his tenure at District Mardan.
- H. That, according to Impugned Order, no one from District Charsadda has been transferred hence Appellant cannot claim choice posting according to his own whims and wishes.
- I. That, every Civil Servant is bound to perform anywhere in the Province and it is the right and prerogative of Employer / Government to place the Civil Servant at any station, according to needs and demand of work.
- J. That, Appellant has already took the charge of his new assignment at Haripur, without recording any protest in this respect hence the Impugned Order has been acted upon and Appellant's Appeal has become in-fructuous, copy of the Charge Reports of the Appellant are attached as Annexure WS/1.

REPLY TO THE FACTS:

- 1) Pertains to record.
- 2) Para 2 of the Appeal does not relate with the Answering Respondent hence need no Reply.
- 3) In response to Para 3 of the Appeal, it is submitted that Appellant has been transferred from District Mardan to District Haripur while his wife is allegedly serving in District Charsadda. The Appellant should have challenged the Transfer Order passed in August 2013 when he was transferred from his Home District Charsadda to Mardan. The Posting / Transfer Policy is applicable in the cases when

both the Civil Servants are serving in one District and one of them is transferred to some other place.

It is important to mention here that Posting / Transfer Policy contains obligatory directions only where posting of spouses is possible and there is no strict / hard and fast rule / direction for the Government that spouses shall be accommodated in one station whether or not post is available in the concerned Department / District or not.

- 4) Incorrect. Appellant has got no cause of action against the Answering Respondent or Official Respondents hence no Appeal / Representation is maintainable.
- 5) Needs no Reply.

**REPLY TO THE GROUNDS:**

- A. Incorrect: Impugned Order has been passed according to need of the Government, in accordance with law, keeping in view the tenure of the Appellant. Rules (ix) of the Posting / Transfer Policy of Government of Khyber Pakhtunkhwa is not applicable in the instant case as the Appellant has been transferred from District Mardan to Haripur and not from his home District Charsadda where spouse of the Appellant is allegedly employed.
- B. Incorrect. As per the contents of above paragraph.
- C. Incorrect. According to Posting / Transfer Policy, the Government, at his discretion can place the spouses at one station, keeping in view the availability of post however in the instant case the Appellant is already working in District Mardan from 2013 and has been transferred from District Mardan to District Haripur hence contents of Posting / Transfer Policy are not attracted to the Appellant.

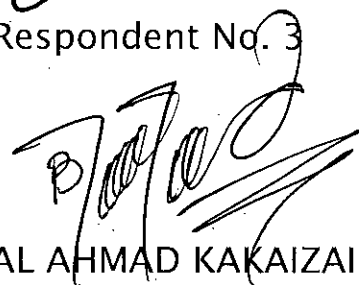
- D. Incorrect. The Respondent No. 2 i.e. Secretary Law is a Competent Authority.
- E. Incorrect. The Impugned Posting / Transfer Order have been issued by the Competent Authority keeping in view the tenure of the Appellant as well as Answering Respondent.
- F. Incorrect. The Appellant is bound to perform duties at any station within the territorial limits of Khyber Pakhtunkhwa.
- G. Needs no Writ Statement however it is added that the grounds / facts not mentioned / raised in memo of Appeal, cannot be allowed to be raised or argued later on.

It is, therefore, requested that Appeal be dismissed with cost.



Respondent No. 3

Through:



BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)

5

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No: 324 / 2019

JEHAN KHAN

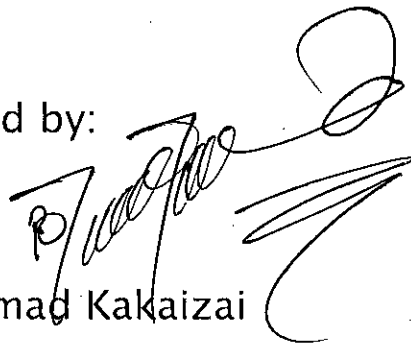
Versus

Government of KPK etc

AFFIDAVIT

I, Hassan Muhammad, Junior Clerk, Respondent No. 3, do hereby on oath affirm and declare that the contents of the Reply / Written Statement are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

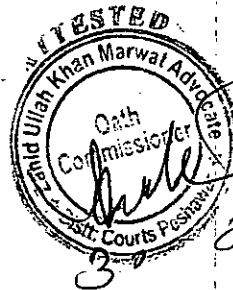
Identified by:



Bilal Ahmad Kakaizai  
(Advocate, Peshawar)



Deponent



6

WS/1

To

The Additional Government Pleader,  
Charsadda.

SUBJECT: ARRIVAL REPORT.

Dear Sir,

In compliance of Government of the NWFP, Law Department Order No. E&A(LD)2-77/206, dated 21-02-2009 I, the undersigned do hereby submit my arrival report for duty today on 21-02-2009 (Forenoon).

Yours Obediently



(JEHAN KHAN)  
Junior Clerk, Charsadda


To,

The Additional Govt. Pleader,  
District Charsadda.

(7)

Subject: ARRIVAL REPORT

In compliance with the order of the worthy Secretary to Govt. of NWFP Law Parliamentary Affairs & Human Rights Department Peshawar bearing No. E & A (LD) /2-77/2006, dated 21-02-2009. I Mr. Jehan Khan Junior Clerk submit my arrival report of my duties as Junior Clerk, in the office of Additional Govt. Pleader Charsadda today i.e. on 22/02/2009 (Fore Noon)

  
Jehan Khan  
Junior Clerk  
A.G.P Office, Charsadda.

OFFICE OF THE  
ADDITIONAL GOVT. PLEADER CHARSADDA.

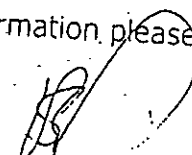
Endst: No. 313 /AGP/Chd.

Dated. 23/02/2009

Arrival Report along with Medical Fitness Certificate of Mr. Jehan Khan J/C received, he is directed to assume his duties on the same date.

Copy of the Arrival Report is forwarded to:

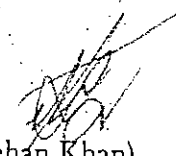
- 1: The P.S to Secretary Govt. of NWFP, Law Deptt: Peshawar.
- 2: The Section Officer (G) Law Department, Peshawar.
- 3: The District Account Office, Charsadda for information please.

  
STIKANDAR KHAN  
Additional Govt. Pleader  
Charsadda.

8

CHARGE ASSUMPTION REPORT

In compliance with the order No. E&A/LD/4-4(2)/2010/15494-15555, dated 01-08-2013 of the Deputy Secretary (Admin) to Government of Khyber Pakhtunkhwa, Law, Parliamentary Affairs and Human Rights Department, Peshawar, I, Jehan Khan, do hereby assume charge as Junior Clerk (BPS-07), in the office of Senior Government Pleader Mardan, today on 20/8/2013 (F.N.)

  
(Jehan Khan)  
Junior Clerk  
Mardan

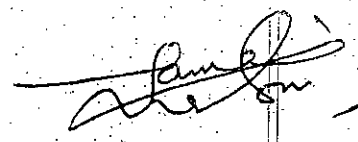
OFFICE OF THE SENIOR GOVERNMENT PLEADER DISTRICT COURTS MARDAN

Ends: No 2136 /SGP/GP

Dated: 20/8/2013

Copy forwarded to:-

1. Deputy Secretary (Admin) to Government of Khyber Pakhtunkhwa, Law, Parliamentary affairs and Human Rights Department, Peshawar.
2. The District Account officer, Mardan.
3. Personal File.
4. Official concerned.

  
(JAMAL ABDUL NASIR)  
Senior Government Pleader  
Mardan.

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**NT PLEADER**  
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**Affairs & Human**  
**Government of**  
**inkhwa**



(10)

**OFFICE OF THE DISTRICT ATTORNEY HARIPUR**

No: 324 /DA/HR

DATED HARIPUR THE 24 / 10 / 2017


To,

THE SECRETARY,  
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT, PESHAWAR.

SUBJECT: - REQUEST FOR TRANSFER.

Respected Sir,

Enclosed please find herewith an application of  
Mr. Hassan Mohammad, Junior Clerk (BPS-11) of the office of the undersigned  
which is self explanatory for further necessary action at your end, please.

  
District Attorney  
Haripur

Copy to:

Office Record.

District Attorney  
Haripur

(11)

To,

THE WORTHY DISTRICT ATTORNEY,  
DISTRICT HARIPUR.

APPLICATION THROUGH PROPER CHANNEL.

SUBJECT: - REQUEST FOR TRANSFER TO DISTRICT CHARSADDA/MARDAN  
OR NEAREST DISTRICT.

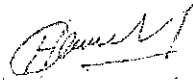
Respected Sir,

It is humbly submitted that I am a regular employee of Government of Khyber Pakhtunkhwa, Law Parliamentary Affairs and Human Rights Department Peshawar, working as Junior Clerk (BPS-11) in the Office of the District Attorney, Haripur. I am posted in district Haripur on 01-08-2013 vide Order No. E&A(LD)4-4(2)/2010/15494-15555. (Copy of Order is attached herewith)

I am serving at district Haripur since last five years and have completed my tenure on 01-08-2016. The undersigned is diabetic patient, extreme old age parents and minor children. There is no other person at home who can take proper care of my parents and children, therefore, the undersigned want to avail transfer from the office of district Attorney Haripur to Charsadda/Mardan or nearest district.

It is, therefore, requested before your goodself to kindly transfer me to the office of the District Attorney, in one of the above stations. I shall be very thankful to you for sympathetic consideration of my application and obliged.

Yours Obediently



(HASSAN MOHAMMAD)

Junior Clerk  
At the Office of the  
District Attorney  
Haripur

18

OFFICE OF THE DISTRICT ATTORNEY HARIPUR

No: 322 /DA/HR

DATED HARIPUR THE 22 / 12 / 2017

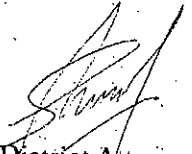
To,

THE SECRETARY,  
LAW PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT, PESHAWAR.

SUBJECT: - REQUEST FOR TRANSFER.

Respected Sir,

Enclosed please find herewith an application of  
Mr. Hassan Mohammad, Junior Clerk (BPS-11) of the office of the undersigned,  
which is self explanatory for further necessary action at your end, please.

  
District Attorney  
Haripur

Copy to:

Office-Record.

District Attorney  
Haripur

(13)

To,

THE WORTHY DISTRICT ATTORNEY,  
DISTRICT HARIPUR.

APPLICATION THROUGH PROPER CHANNEL.

SUBJECT: - REQUEST FOR TRANSFER TO DISTRICT CHARSADDA/MARDAN  
OR NEAREST DISTRICT.

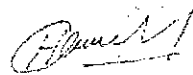
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It is, therefore, requested before your goodself to kindly transfer me to the office of the District Attorney, in one of the above stations. I shall be very thankful to you for sympathetic consideration of my application and obliged.

Yours Obediently



(HASSAN MOHAMMAD)

Junior Clerk  
At the Office of the  
District Attorney  
Haripur



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS  
& HUMAN RIGHTS DEPARTMENT

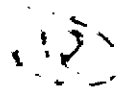
Dated: Peshawar the 01-08-2013

**ORDER:**

No. E&A(LD)4-4(2)/2010: In partial modifications of this Department order No. E&A(LD)4-4(2)/2010/12612-12614, dated 01-07-2013, the Competent Authority is pleased to order the postings/transfers of the following Junior Clerks (BPS-07) with immediate effect in public interest.

S. No	Name of Officials	From	To
1.	Imran Khan	Senior Government Pleader Office, Peshawar.	Senior Government Pleader Office, Peshawar.
2.	Tubna	Senior Government Pleader Office, Peshawar.	Senior Government Pleader Office, Peshawar.
3.	Nayab Bibi	Senior Government Pleader Office, Peshawar.	Senior Government Pleader Office, Peshawar.
4.	Alamzeb	Senior Government Pleader Office, Peshawar.	Senior Government Pleader Office, Peshawar.
5.	Fayaz Ullah	Senior Government Pleader Office, Haripur.	Senior Government Pleader Office, Peshawar.
6.	Muhammad Tariq Bashir	Senior Government Pleader Office, Peshawar.	Senior Government Pleader Office, Peshawar.
7.	Muhammad Tahir Zeh	Senior Government Pleader Office, Peshawar.	Senior Government Pleader Office, Peshawar.
8.	Muhammad Riaz	Senior Government Pleader Office, Bunner	Senior Government Pleader Office, Peshawar.
9.	Ijaz Ahmed	Senior Government Pleader Office, Service Tribunal Peshawar.	Senior Government Pleader Office, Service Tribunal Peshawar.
10.	Asfand Yar	Senior Government Pleader Office, Service Tribunal Peshawar.	Senior Government Pleader Office, Service Tribunal Peshawar.
11.	Zahid Khan	Senior Government Pleader Office, Service Tribunal Peshawar.	Senior Government Pleader Office, Service Tribunal Peshawar.
12.	Shah Abdur Rehman	Senior Government Pleader Office, Service Tribunal Peshawar.	Senior Government Pleader Office, Service Tribunal Peshawar.
13.	Sohail Khan	Senior Government Pleader Office, Labour Court Peshawar.	Senior Government Pleader Office, Labour Court Peshawar.
14.	Syed Inamat Hussain	Senior Government Pleader Office, Haripur.	Senior Government Pleader Office, Labour Court Peshawar.
15.	Faizullah Khan	Senior Government Pleader Office, Charsadda.	Senior Government Pleader Office, Charsadda.
16.	Muhammad Khawas Khan	Senior Government Pleader Office, Charsadda.	Senior Government Pleader Office, Charsadda.
17.	Abbas Ali	Senior Government Pleader Office, Charsadda.	Senior Government Pleader Office, Charsadda.
18.	Hammad Khan	Senior Government Pleader Office, Nowshera.	Senior Government Pleader Office, Nowshera.
19.	Fazal Karim	Senior Government Pleader Office, Chitral.	Senior Government Pleader Office, Nowshera.

20.	Muhammad Fahad	Senior Government Pleader Office, Nowshera.	Senior Government Pleader Office, Nowshera.
21.	Ubaidullah	Senior Government Pleader Office, Swabi.	Senior Government Pleader Office, Swabi.
22.	Muhammad Siddique	Senior Government Pleader Office, Labour Court Peshawar.	Senior Government Pleader Office, Swabi.
23.	Tariq Ahmed	Senior Government Pleader Office, Labour Court Peshawar.	Senior Government Pleader Office, Swabi.
24.	Muhammad Shahid	Senior Government Pleader Office, Mardan.	Senior Government Pleader Office, Mardan.
25.	Fazal-e-Sattar	Senior Government Pleader Office, Mardan.	Senior Government Pleader Office, Mardan.
26.	Waheed Jan	Senior Government Pleader Office, Mardan.	Senior Government Pleader Office, Mardan.
27.	Muhammad Faheem	Senior Government Pleader Office, Peshawar.	Senior Government Pleader Office, Mardan.
28.	Jehan Khan	Senior Government Pleader Office, Charsadda.	Senior Government Pleader Office, Mardan.
29.	Naeem Razaq	Senior Government Pleader Office, Charsadda.	Senior Government Pleader Office, Bunner.
30.	Asif Ali	Senior Government Pleader Office, Mardan.	Senior Government Pleader Office, Bunner.
31.	Shahid Khan	Senior Government Pleader Office, Malakand.	Senior Government Pleader Office, Malakand.
32.	Abbas Khan (By promotion)	Senior Government Pleader Office, Malakand.	Senior Government Pleader Office, Malakand.
33.	Hamid Ali (By promotion)	Senior Government Pleader Office, Dir Lower.	Senior Government Pleader Office, Dir Lower.
34.	Muhammad Shoaib	Senior Government Pleader Office, Labour Court Peshawar.	Senior Government Pleader Office, Dir Lower.
35.	Anwar Iqbal (By promotion)	Senior Government Pleader Office, Dir Upper.	Senior Government Pleader Office, Dir Upper.
36.	Nazir Jan	Senior Government Pleader Office, Nowshera.	Senior Government Pleader Office, Dir Upper.
37.	Ismail Shah	Senior Government Pleader Office, Swat.	Senior Government Pleader Office, Swat.
38.	Abid Shah (By Promotion)	Senior Government Pleader Office, Charsadda.	Senior Government Pleader Office, Swat.
39.	Hidayat Ullah (By Promotion)	Senior Government Pleader Office, Battagram.	Senior Government Pleader Office, Swat.
40.	Tahir Shah (By Promotion)	Senior Government Pleader Office, Peshawar.	Senior Government Pleader Office, Shangla.
41.	Muhammad Shakeel	Senior Government Pleader Office, Mansehra.	Senior Government Pleader Office, Mansehra.
42.	Ihsan Muhammad (By Promotion)	Senior Government Pleader Office, Labour Court Peshawar.	Senior Government Pleader Office, Mansehra.
43.	Minhaj Ud Din	Senior Government Pleader Office, Labour Court Peshawar.	Senior Government Pleader Office, Abbottabad.
44.	Hassan Muhammad	Senior Government Pleader Office, Mardan.	Senior Government Pleader Office, Haripur.
45.	Shah Saud	Senior Government Pleader Office, Labour Court Peshawar.	Senior Government Pleader Office, Haripur.
46.	Zakir Shah (By Promotion)	Senior Government Pleader Office, Mansehra.	Senior Government Pleader Office, Kohat.
47.	Muhammad Israr	Senior Government Pleader Office, Labour Court Peshawar.	Senior Government Pleader Office, Kohat.
48.	Abdul Wahab	Senior Government Pleader Office, Hangu.	Senior Government Pleader Office, Hangu.
49.	Abdul Rehman	Senior Government Pleader Office, Karak.	Senior Government Pleader Office, Karak.



(16)

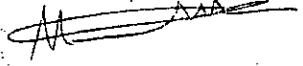
50.	Mubarak Shah	Senior Government Pleader Office, Karak.	Senior Government Pleader Office, Karak.
51.	Ghulam Dastgir	Senior Government Pleader Office, Bannu.	Senior Government Pleader Office, Bannu.
52.	Abdul Sammad	Senior Government Pleader Office, Lakki Marwat.	Senior Government Pleader Office, Lakki Marwat.
53.	Muhammad Rafiq	Senior Government Pleader Office, Tank.	Senior Government Pleader Office, Tank.
54.	Muhammad Tariq Khan	Senior Government Pleader Office, D.I Khan.	Senior Government Pleader Office, D.I Khan.
55.	Shahid Khan	Senior Government Pleader Office, Battagram.	Senior Government Pleader Office, D.I Khan.

Deputy Secretary (Admn)  
Law, Parliamentary Affairs & Human  
Rights Department

Endst: No. & Date Even. / 15494-15555 - Dated: Peshawar the 01-08-2013

Copy forwarded to:

1. The Accountant General Khyber Pakhtunkhwa, Peshawar.
2. The District/Agency Account Officers in Khyber Pakhtunkhwa.
3. The Government Pleader Offices/ Government Pleader offices in Khyber Pakhtunkhwa.
4. The PA to Deputy Secretary (Admin) Law Department.
5. Personal files.
6. Officials concerned.

  
Section Officer (General)  
Law Department



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

Service Appeal No.324/2019

Jehan khan

V/S

Govt: of KPK.

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-7) All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:-**

1. Admitted correct as the service of the appellant is present with the department.
2. No comments.
3. Correct to the extent that the appellant was working in Mardan District before the impugned transfer order and his wife is working in Charsadda District, but there is half and hour distance between Charsadda and Mardan Districts and the appellant was easily travel to Mardan from Charsadda daily, but by passing the impugned order the appellant was transfer to far flung area of District Haripur, due to which he is residing there for performing his duty there and being a low paid employee he is not only suffering financially but his family is also badly effected as his family is residing in District Charsadda while he is residing at District Haripur due that impugned transfer. Moreover one of the official who was transferred to Shangla District in the same impugned order was again transferred to District Charsadda on political approach vide order dated 07.03.2019, which means that the appellant was discriminated by not treating like that official. (copy of order dated 07.03.2019 is attached as annexure R-1)
4. Incorrect. The appellant have good cause of action and the instant appeal of appellant is liable to be accepted on the given grounds.
5. No comments.

**GROUND:**

- A) Incorrect. As explained in para-3 of the facts.
- B) Incorrect. As explained in para-3 of the facts.
- C) Incorrect. As explained in para-3 of the facts.
- D) Incorrect. While para D of the appeal is correct.
- E) Incorrect. As explained in para-3 of the facts.
- F) Incorrect. As explained in para-3 of the facts.
- G) Incorrect. The instant appeal is about transfer and transfer comes in terms and condition of a civil servant, hence the Honorable Tribunal has jurisdiction to entertain the instant appeal.

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

APPELLANT

Through:



TAIMUR ALI KHAN  
ADVOCATE HIGH COURT

**AFFIDAVIT**

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



DEPONENT