

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	05.09.2019	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center">Appeal No. 646/2019</p> <p>Date of Institution ... 08.05.2019 Date of Decision ... 05.09.2019</p> <p align="center">-----</p> <p>Ijaz Ul Haq S/o Muhammad Ismail R/o Arkot, Matta, District Swat -----Appellant</p> <p align="center"><u>Versus</u></p> <p>The Government of Khyber Pakhtunkhwa through Fisheries Civil Secretariat Peshawar and others -----Respondent</p> <p>Mr. Muhammad Amin Khan Kundi.....Member(J) Mr. Hussain Shah.....Member (E)</p> <p><u>JUDGMENT</u></p> <p><u>Mr. HUSSAIN SHAH:-</u>Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Gulzar Assistant Director for the respondents present.</p> <p>2. The appellant joined the Fisheries Department on regular basis as Fisheries Watcher (BPS-7) Vide office order No. 1229-31/DF/E dated 18.01.2017. The appellant was posted as Fisheries Watcher (BPS-7) in the office of District Office Fisheries, Swat at Madyan, Swat. The appellant performed his duties as Fisheries Watcher (BPS-7) in the office District Officer Fisheries, Swat at Madyan from 18.01.2017 till 17.07.2017 and served the department in Madyan for six months. The appellant was transferred alongwith his post from the office of District Officer Fisheries, at Madyan to the office of Assistant Director fisheries Matta Swat through order No. BO-VII/FD/1-4/BE-2017-18 dated 17.07.2017 and relieved by relieving order No. 805-19/AD/F-34 dated 31.07.2017. The appellant was again transferred from the office of District Officer Fisheries, Matta, Swat, to the office of District Officer Fisheries D.I .Khan vide order dated 11.03.2019. Being aggrieved the</p>

appellant preferred a departmental appeal to DG Fisheries, against his pre-mature transferred to D.I Khan which is far away from his home District, Swat on 11.04.2019 which was rejected on 23.04.2019 where after the appellant preferred the instant service appeal on 09.05.2019.

3. The learned counsel for the appellant argued that the impugned transfer order dated 11.03.2019 and subsequent relieving order dated 13.03.2019 is illegal, unlawful, without lawful authority, without jurisdiction and ineffective hence and untenable in the eyes of law and liable to be set aside/cancelled on the grounds that the appellant was transferred on the political grounds moreover the posting order dated 11.03.2019 is against the relevant provisions of the terms and conditions of a Civil Servant as expressed in the Civil Servant Act 1973, the Appointment Promotion Transfer Rules and the Posting Transfer Policy of the Government of Khyber Pakhtunkhwa issued under the mandatory statutory provision as to express specifically the tenure of posting at a place be not list then two (02) years. Further argued that the appellant being a low paid employee has been posted out from District Swat to D.I Khan which causes tremendous financial difficulties. The learned counsel for the appellant also invited the attention of this Tribunal to the order of Director General Fisheries in connection to his departmental appeal wherein the explanation of the appellant was called upon for submitting departmental appeal directly to Director General Fisheries instead of through proper channel. The learned counsel also invited the attention of this Tribunal the revised relieving order of Assistant Director Matta Swat dated 13.03.2019 with a copy endorsed to Director General Fisheries Khyber Pakhtunkhwa in reference to the order of Director General Fisheries convey vide No. 8056-59/DGF/Estt;/ T7P dated 11.03.2019. The learned counsel for the appellant argued that this relieving order and

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endorsing a copy to the Director General establishes the connection between the transfer of the appellant and higher ups in the Fisheries Department. The learned counsel for the appellant relied upon the judgment of this Tribunal reported on 2011 PLC (C.S) 1305 & 2012 PLC (C.S). He also relied upon the judgment of August Supreme Court of Pakistan reported on PLD 2013 195, 2011 PLC (C.S) & 2009 SCMR 390. He further pleaded that on acceptance of the instant service appeal the impugned transfer order dated 11.03.2019 of respondent No. 2 is based on political influence and malafide intention hence the said may kindly be set aside and declared be unlawful and un-constitutional and the posting transfer policy.

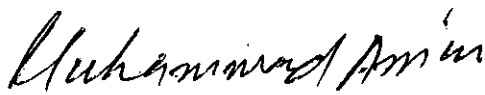
4. The learned Deputy District Attorney contested the facts, grounds of the appeal and arguments of the learned counsel for the appellant and stated that the appellant, being a Civil Servant, is required to serve anywhere in Khyber Pakhtunkhwa and as expressed in the terms and conditions of his appointment order wherein at serial No.8 it has been clearly stated that his service shall be transferable throughout the province and merged area of FATA. He further argued that the appellant has served in the District of his Home Domicile for two years and two months i.e. from 18.01.2017 to 11.03.2019, therefore, his transfer to D.I Khan is not pre-mature. The learned Deputy District Attorney also contradicted the motive of the posting in D.I Khan as political motivated and stated that the same was a routine posting Transfer and the appellant is trying to malign the intention of the administrative authorities hence is false. He further pleaded that on the above grounds the appeal may be dismissed with heavy cost.

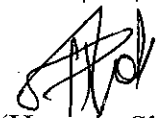
5. Arguments heard. File perused.

6. After the detailed scrutiny of the documents on record, arguments

and counter arguments of the learned counsel for the appellant and the learned Deputy District Attorney and observed that the appellant was appointed and posted on 18.01.2017 in the Madyan Station. He was posted/transferred from Madyan to Matta alongwith his post on 31.07.2017, wherefrom he was further posted to D.I Khan against a vacant post on 11.03.2019. His tenure in Matta Station is lesser than two (02) years hence the arguments of the learned counsel for the appellant stands grounds because the tenure of a Civil Servant is measured on the basis of holding a post at a particular station and not on the basis of tenure in a District. Moreover, the contention of the Director General as expressed in the rejection order of the appeal of the appellant speaks loudly the interest of the holder of the designation of the Director General Fisheries in this posting transfer order.

7. In view of the above two grounds this Tribunal is of the considered view that the Posting Transfer order dated 11.03.2019 of the appellant was not on the basis of administrative grounds or any public interest, hence the appeal is accepted and the respondent authorities are directed to withdraw this order and are further directed to post the appellant in his Home District and no disciplinary proceeding be initiated against the appellant on the grounds relating to this appeal. Parties are left to bear their own costs. File be consigned to the record room.

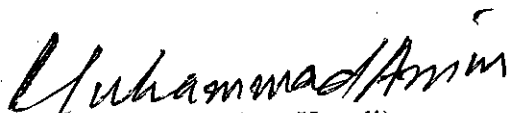

(Muhammad Amin Khan Kundi)
Member

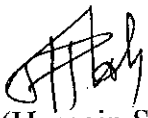

(Hussain Shah)
Member

ANNOUNCED
05.09.2019

05.09.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Vide our detail judgment of today of this Tribunal placed on file, that the Posting Transfer order dated 11.03.2019 of the appellant was not on the basis of administrative grounds or any public interest, hence the appeal is accepted and the respondent authorities are directed to withdraw this order and are further directed to post the appellant in his Home District and no disciplinary proceeding be initiated against the appellant on the grounds relating to this appeal. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Amin Khan Kundi)
Member


(Hussain Shah)
Member

ANNOUNCED
05.09.2019

26.06.2019

Learned counsel for the appellant present. Written reply not submitted. Glzar Mehmood AD (for respondents No.2 & 3) and Muhammad Tariq (for respondent No.4) absent. Respondents as well as absent representatives be put to notice for submission of written reply/comments. Adjourn. To come up for written reply/comments on 12.07.2019 before S.B.



Member

12.07.2019

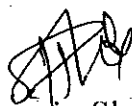
Counsel for the appellant present. Addl. AG alongwith Gulzar Muhammad, AD for the respondents present. Written reply submitted. The appeal is assigned to D.B for arguments on 26.07.2019. The appellant may submit rejoinder, if any, within fortnight.



Member

26.07.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Gul Zar Assistant Director for the respondents present. Arguments heard. File Perused. To come up for order on 05.09.2019 before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

21.05.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Fisheries Watcher) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, being aggrieved against his posting transfer order dated 11.03.2019 whereby he has been transferred from the office of District Officer Fisheries Swat at Matta and posted against the vacant post Fisheries Watcher in the office of District Officer Fisheries D.I.Khan. The appellant is also aggrieved against the order dated 23.04.2019 issued as a result of departmental appeal of the appellant.


Points urged need consideration. The appeal is admitted for regular hearing subject to all the legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued the respondents for written reply/comments. To come up for written reply/comments on 10.06.2019 before S.B.

Annexed with the memorandum of appeal is an application for interim relief. Notice of the same be also issued to the respondents for the date fixed.


Member

10.06.2019

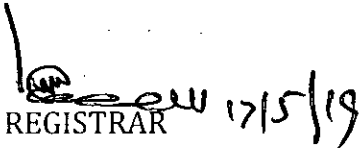

Counsel for the appellant and Addl: AG alongwith Mr. Gulzar Mehmood, AD(Litigation) and Mr. Muhammad Tariq, Senior Clerk for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up written reply/comments on 08.07.2019 before S.B.


(Ahmad Hassan)
Member

Appellant Deposited
Security & Process Fee
21/5/19

Form- A
FORM OF ORDER SHEET

Court of _____
Case No.- 646 /2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/05/2019	<p>The appeal of Mr. Ijaz-ul-Haq resubmitted today by Ms. Afsha Naz Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 17/5/19</p>
2-	20/05/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/05/19</u>.</p> <p> CHAIRMAN</p>

The appeal of Mr. Ijaz-ul-Haq son of Muhammad Ismail r/o Arkot Matta District Swat received today i.e. on 08.05.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① Memorandum of appeal may be got signed by the appellant.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Copy of transfer order mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it.
- 6- Annexures A to D of the appeal are illegible which may be replaced by legible/better one.
- 7- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. _____/S.T,

Dt. _____/2019.

Dr. Sorokin
09/05/19
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Ms.Afsha Naz Adv. Pesh.

Re-Submitted by compliance accordingly!
Afsha Naz
AFSHA NAZ
(AHC)

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 646 /2019

Ijaz-ul-Haq.....Appellant

VERSUS

Govt of KPK and others.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service appeal alongwith affidavit		1-7
2.	Stay application alongwith Affidavit		8-9
3.	Addresses of Parties		10
4.	Copy of appointment order	A	11-12
5.	Copy of office orders dated 17.07.2017 and 31.07.2017	B	13-13/A
6.	Copy of office orders dated 11.03.2019 and 13.03.2019	C-D	14-15
7.	Copy of departmental appeal	E	16-18
8.	Copy of order dated 23.04.2019	F	19
9.	Wakalat Nama		

Through

Appellant


Ms. Afsha Naz

Advocate, Peshawar

Date: 8 / 5 / 2019

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 646 /2019

Ijaz-ul-Haq.....Appellant

V E R S U S

Govt of KPK and others.....Respondents

I N D E X

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7.	Copy of departmental appeal	E	16-18
8.	Copy of order dated 23.04.2019	F	19
9.	Wakalat Nama		

Through

Appellant


Ms. Afsha Naz

Advocate, Peshawar

Date: 8 / 5 / 2019

(1)

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 646 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 732

Dated 08/5/2019

Ijaz-ul-Haq S/o Muhammad Ismail
R/o Arkot, Matta, District Swat.....

Appellant

V E R S U S

- ✓ 1. Govt of KPK through Secretary Fisheries,
Civil Secretariat, Peshawar
- ✓ 2. Director General Fisheries, KPK, Peshawar
- ✓ 3. Director Fisheries, KPK, Peshawar
- ✓ 4. Assistant Director Fisheries, D.I.Khan
- ✓ 5. Assistant Director Fisheries, Swat at Matta... **Respondents**

**Service Appeal u/s 4 of the Service
Tribunal Act, 1973 against the
impugned transfer order dated
11.03.2019 of respondent No.2**

Respectfully Sheweth:

Filed to-day

Briefly the facts of the case are as under:

Registrar

8/5/19

1. That the appellant/ applicant joined Fisheries Department on regular basis as Fisheries Watcher (BPS-7) vide office order No.1229-31/DF/E dated Peshawar 18.01.2017 and was posted as Fisheries Watcher (BPS-7) in the office of District Officer Fisheries, Swat at Madyan, Swat. (Copy of appointment order is annexed as "A").

**Re-submitted to -day
and filed.**

Registrar

17/5/19

2

2. That the appellant performed his duties as Fisheries Watcher (BPS-7) in the office of District Officer Fisheries, Swat at Madyan from the appointment period dated 18.01.2017 till 31.01.2017 through office order dated 18.01.2017 *ibid* and served the department for six months.
3. That appellant was transferred from the office District Officer Fisheries, Swat at Madyan through transfer order No.BO-VII/FD/1-4/BE-2017-18 dated 17.07.2017 followed by revised relieving order No.805-19/ADF/F-34 dated 31.07.2017 to the office of District Officer Fisheries, Swat at Matta and served at District Officer Fisheries at Matta, Swat from period comprising of 1 year and 7 months i.e. 31.07.2017 till 11.03.2019. (Copies of office order dated 17.07.2017 & 31.07.2017 are attached as Annexure "B").
4. That since appointment, the appellant/ applicant performed his duties to the best of his abilities, which has been eulogized and acknowledged by his honourable superiors.
5. That to the utter surprise and astonishment, the appellant/ applicant was transferred from the office of District Officer Fisheries, Matta, Swat to the office of District Officer Fisheries, D.I.Khan vide office order No.8056-59/DGD/Estt/T&P dated 11.03.2019. In consequence whereof, the appellant/ applicant was relieved vide office order No.128/ADF/F-dated Matta 13.03.2019. (Copy of office orders dated 11.03.2019 and 13.03.2019 are annexed "C" & "D" respectively).

6. That the impugned transferred order dated 11.03.2019 followed by revised relieving order dated 13.03.2019 is with utmost regard, against the law, rules & policy governing the subject.
7. That the appellant performed his duties as Fisheries Watcher (BPS-7) diligently, but, again due to political influence and malafide, transferred the appellant from District Officer Fisheries, Swat at Matta to District Officer Fisheries, D.I.Khan vide Notification/ office order dated 11.03.2019 and revised relieving order dated 13.03.2019. (impugned herein).
8. That consequently, on 11.04.2019, the appellant filed departmental appeal before the Director General Fisheries/ respondent No.2 against his premature transfer from the office of District Officer Fisheries, Swat at Matta to District Officer Fisheries, D.I.Khan, the said appeal was dismissed vide order No.8280-81/ DGF/Estt dated 23.04.2019. (Copies of departmental appeal and order dated 23.04.2019 are attached as Annexure "E" & "F").
9. That in the last continuous one year, the appellant has been transferred from one District to another District and one post to another post i.e. three times and thus is aggrieved of the impugned transfer order, hence prefers this service appeal, for the following amongst other grounds:

G R O U N D S:

- A. That the impugned transfer order dated 11.03.2019 and revised relieving order dated 13.03.2019, is manifestly illegal, unlawful, without lawful authority, without jurisdiction, void ab-initio and ineffective upon the rights of the appellant/ applicant, hence untenable in the eye of law and liable to be set aside/ cancelled.
- B. That the Notification dated 11.03.2019 of respondent No.2 (impugned herein) is based on political influence and malafide, transferring the appellant from one post to another post, is illegal, unlawful and unconstitutional and against the transfer / posting policy, hence untenable and liable to be set aside.
- C. That the impugned order is illegal, unlawful, against law and facts, in violation of transfer and posting policy and politically motivated on the recommendation of Provincial Minister for Fisheries.
- D. That the impugned order from Matta to District D.I.Khan is a premature order as the appellant/ applicant has not completed his service tenure i.e. 2 years.
- E. That initially the appellant was transferred from District Officer Fisheries, Swat at Madyan to District Officer Fisheries, Swat at Matta as Fisheries Watcher and after lapse of six months, and when the appellant legally performing his duties being Fisheries Watcher again

(8)

transferred on the political influence and malafidely victimized and pressurized the appellant by transferring from District Officer Fisheries, Swat at Matta to District Officer Fisheries, D.I.Khan.

- F. That the appellant after assuming his charge as Fisheries Watcher (BPS-7) delivered his duties honestly, efficiently and diligently and number of times, the appellant refused to fulfill the illegal demands of politicals for that reason, the appellant is transferred from District Officer Fisheries, Swat at Matta to District Officer Fisheries, D.I.Khan illegally.
- G. That the order of appellate authority is patently illegal as the authorities cannot not issue any show cause while deciding appeal of the appellant in the same order.
- H. That there is no bar under the law that the departmental appeal should not be filed to the appellate authority directly or through proper channel, even it can be sent through a courier service.
- I. That as per rules of service, the minimum posting period for civil servant, is not less than two years, but, in the appellant's case he has not completed his service tenure for 2 years.
- J. That the appellant is being treated unequally against the law and he is being deprived of equal protection of law.

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- K. That through the impugned transfer order dated 11.03.2019, the respondents have violated the fundamental rights of the appellant as guaranteed by the Constitution of Pakistan.
- L. That the appellant/ applicant is serving as Fisheries Watcher (BPS-7) having meager salary, in which it is practically impossible to support his family in District D.I.Khan as impugned order will have financial implications on the appellant/ applicant.
- M. That as stated above, the impugned transfer is based on political influence to make the post of Fisheries Watcher (BPS-07) at Matta vacant and appoint a blue-eyed individual on the subject post.
- N. That any other grounds may be taken at the time of arguments, with the kind permission of this Honourable Court.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned transfer order dated 11.03.2019 of respondent No.2 based on political influence and malafide, the same may kindly be set aside and be declared as illegal, unlawful and unconstitutional and against the transfer/ posting policy and be set aside as such.

Any other remedy which deems fit by this Honourable Tribunal may also be granted in favour of appellant.

Through


Appellant


Ms. Afsha Naz
Advocate, Peshawar

Date: 8/5/2019

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____/2019

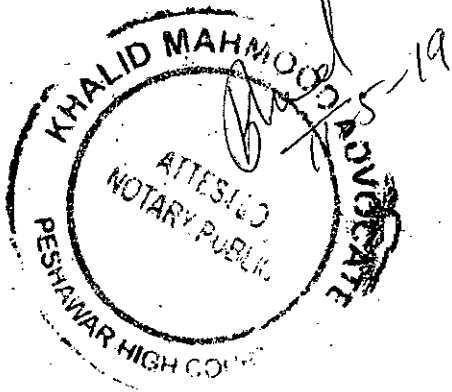
Ijaz-ul-Haq.....**Appellant**

VERSUS

Govt of KPK and others.....**Respondents**

AFFIDAVIT

I, **Ijaz-ul-Haq** S/o Muhammad Ismail R/o Arkot, Matta, District Swat, do hereby solemnly affirm and declare on oath that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Ijaz-ul-Haq
DEPONENT

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____/2019

Ijaz-ul-Haq.....Appellant

V E R S U S

Govt of KPK and others.....Respondents

Application for grant of interim relief by suspending the operation of impugned transfer order No.8056-59/DGD/Estt/T&P dated 11.03.2019 and revise relieving order No.128/ADF/F-dated Matta 13.03.2019, till final disposal of the appeal.


Respectfully Sheweth:

1. That the captioned service appeal is being filed before this Honourable Tribunal, in which no date of hearing has yet been fixed.
2. That the grounds of main service appeal kindly be read as an integral part of this application.
3. That on the face of it, the applicant/ appellant has got a good prima facie case and is sanguine about its success.
4. That balance of convenience tilts in favour of applicant/ appellant for grant of interim relief.

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5. That if the operation impugned transfer and relieving orders are not suspended, the respondents are not restrained and the interim relief is not granted in favour of the applicant/ appellant, he would sustain irreparable loss, which is not redeemable in terms of money.

It is, therefore, most humbly prayed that on acceptance of this application, the interim relief (as prayed for) may please be granted in favour of the applicant/ appellant, till the final disposal of the case.

Through Applicant/Appellant

Ms. Afsha Naz
Advocate, Peshawar

Dated: 8/5/2019

AFFIDAVIT:

It is, stated on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


DEPONENT

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____/2019

Ijaz-ul-Haq.....**Appellant**

VERSUS

Govt of KPK and others.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT

Ijaz-ul-Haq S/o Muhammad Ismail
R/o Arkot, Matta, District Swat

RESPONDENTS

1. Govt of KPK through Secretary Fisheries,
Civil Secretariat, Peshawar
2. Director General Fisheries, KPK, Peshawar
3. Director Fisheries, KPK, Peshawar
4. Assistant Director Fisheries, D.I.Khan
5. Assistant Director Fisheries, Swat at Matta

Through Appellant



Ms. Afsha Naz
Advocate, Peshawar

Date: 8/5/2019



OFFICE OF THE DIRECTOR OF FISHERIES
KHYBER PAKHTUNKHWA, 02-SHAMI ROAD
PESHAWAR

PH NO 92-91-9217015 FAX NO. 2-91-9217016
D/O/E, Qadian Peshawar

ANNEX - A

No

OFFICE ORDER.

Consequent upon the recommendation of the Departmental Selection Committee in its meeting held on 18 & 19/10/2016 Mr. Muhammad Ejaz Haid Sajid Muhammad (small Ar or Mulla) District Swat is hereby appointed as Fisheries Watcher (B.P.S. R. 422-300-3-2) with usual allowances admissible under the rules in the office of Assistant Director Fisheries, Madyan with immediate effect in the best interest of public service.

The Terms and Conditions would be as under:-

The Director and Secretary of Fisheries, Government of Khyber Pakhtunkhwa, Peshawar are hereby directed to issue orders in this regard to the concerned authorities for the appointment of Mr. Muhammad Ejaz Haid Sajid Muhammad (small Ar or Mulla) District Swat as Fisheries Watcher (B.P.S. R. 422-300-3-2) with usual allowances admissible under the rules in the office of Assistant Director Fisheries, Madyan with immediate effect in the best interest of public service.

This order is issued in pursuance of the recommendation of the Departmental Selection Committee in its meeting held on 18 & 19/10/2016. The appointment is subject to the availability of the post and the candidate meeting the minimum qualifications for the post.

Attested,
[Signature]

(12)
[ANNX - A]

- : 2 : -

9- He shall, for all intents and purposes be Civil servant on regular terms and shall be entitled to pension and other facilities as applicable to a Civil Government servant.

10- He will be regular contributor of G.P Fund as per Govt. Instructions.

11- If the appointee is agreed upon to the above TOR, He may report for his duty to the concerned authority within 15 days. In case of failure, his appointment shall stand cancelled automatically.

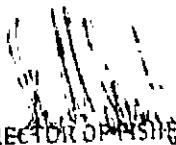
Sd/
(DR SHER MUHAMMAD)
DIRECTOR OF FISHERIES
KHYBER PAKHTUNKHWA,
PESHAWAR

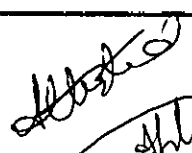
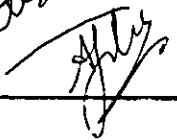
No. 241 /31 /DF/E

Dated Peshawar the 10/04/2019

Copy forwarded for information and necessary action to

- 1- The Assistant Director Fisheries Swat
- 2- The District Account Officer Swat
- 3- Personal File of the official concerned


DIRECTOR OF FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR

**OFFICE OF THE DIRECTOR OF FISHERIES
KHYBER PAKHTUNKHWA 02-SHAMI ROAD
PESHAWAR**

Ph No. 92 01-9212096 Fax No. 92-91-912036

No. 1221-31DF/E

Dated Peshawar the 18/1/2017

OFFICE ORDER

Consequent upon the recommendation of the Departmental Selection Committee or its meeting held on 18 & 19.10.2016, Mr. Ijaz-ul-Haq S/o Muhammad Ismail Arkot Matta District Swat, is hereby appointed as Fisheries Watcher (BPS-07 @ Rs. 9220-510-24520) with Madyan with immediate effects in the best interest of public service.

The terms and conditions would be as under: -

1. The terms and conditions of his appointment to the post will be applicable the instructions issued by the Govt of Khyber Pakhtunkhwa Peshawar.
2. That appointment purely on temporary basis which can be terminated without assigning any reason therefore before the expiry of the period of probation / extended period of probation, if his work during this period is not found satisfactory. In such an event, he will be given a month's notice of termination from service or one month's pay in lieu thereof.
3. In case he wishes to resign at any time one month notice will be necessary, otherwise in lieu thereof a month pay shall forfeited or deposited to government treasury.
4. He shall be entitled for all facilities relating to pay. T.A and Medical Attendance Etc as may be issued by the Government for the status of the Government Services to which he belongs.
5. He shall be liable to and governed by the Government of Khyber Pakhtunkhwa Servant (Conduct) Rules, 1987 Khyber Pakhtunkhwa Government Servants, Efficiency & Disciplinary) Rules, 2011 and all other orders/ instructions of the government in this behalf.
6. His appointment is subject to the satisfactory report on verification of his character antecedents.
7. He will have to produce medical certificate of fitness from the Civil Surgeon Medical Superintendent, the concerned district.
8. ✓ His services shall be transferable throughout Khyber Pakhtunkhwa & FATA.

9. He shall for all intents and purposes be Civil Servant on regular basis & will be (sic) will be pension and other facilities as applicable to a Civil Government employees
10. He will be regular contributor of G.P Fund as per Govt Instructions.
11. If the appointee is agreed upon to the above TOR, he may report for his duty to the concerned authority within 15 days. In case of failure, his appointment shall stand cancelled automatically.

**Sd/-
(DR. SHER MUHAMMAD)
DIRECTOR OF FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR**

No.1221-3/DF/E

Dated Peshawar ___/___/2017

Copy forwarded for information and necessary action to:

1. The Assistant Director Fisheries, Swat at Mardan.
2. The District Account Officer Swat.
3. Personal File of the Official concerned.

**DIRECTOR OF FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR**



FINANCE DEPARTMENT
 No BO-VIII/FD/1-4/BE-2017-18
 Dated Peshawar the 17th July 2017

The Secretary to
 Government of Kyber Pakhtunkhwa
 Agriculture, Livestock & Cooperatives Department

SHIFTING / BIFURCATION OF POSTS.

Subject
 Dear Sir

I am directed to refer to your letter No SOG(AD)B-49/Fisheries/2016-17 dated 09-06-2017 on the subject noted above and to state that Finance Department agrees to shift the posts alongwith incumbents amongst the District Office Fisheries Swat at Mingora, Assistant Director Fisheries, TRTC Muzdun Swat and Assistant Director Fisheries Maita Upper Swat which detail is as under -

Name of Post	No of Post	From	To
Senior Clerk BS-14	01	Asst. Director Fisheries Swat	Asst. Director Fisheries Swat
Assistant Manager Fisheries BS-12	01	do	do
Fisheries Watchman BS-07	10	do	do
Chowkidar BS-11	01	do	do
N.I.D. Officer BS-01	01	District Officer Fisheries Swat	do
Supervisor (Fisheries) BS-17	01	Assistant Director Fisheries Swat	do
Office Assistant BS-18	01	do	do
Travelling Clerk BS-12	01	Assistant Director Fisheries Swat	Asst. Director Fisheries Swat
Fisheries Watchman BS-07	12	do	do
Driver BS-05	01	do	do
Chowkidar BS-03	01	do	do
Total	31		

Audit Copies may be prepared and sent to this Department for authentication

Yours faithfully

Budget Officer

Budget Officer

Encls. No & Date given.

Copy forwarded to:-

1. The Director Fisheries, Kyber Pakhtunkhwa

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[Handwritten signature]

Better Copy

FINANCE DEPARTMENT
No.BP-VII/FD/1-4/BE-2017-18
Dated Peshawar the 17th July, 2017

To

The Secretary to
Government of Khyber Pakhtunkhwa
Agriculture, Livestock & Cooperation Department

Subject: **SHIFTING/ BIFURCATION OF POSTS**

Dear Sir,

I am directed to refer to your letter NO.SOG(AD)B-49/Fisheries/2016-17 dated 09.06.2017 on the subject noted above and to state that Finance Department agrees to shift the posts alongwith incumbents amongst the District Office Fisheries Swat at Mingora, Assistant Director Fisheries TCTC Madyan Swat and Assistant Director Fisheries Matta Upper Swat which detail is as under:

Name of Post	No. of Post	From	To
Senior Clerk BS-14	01	District Officer Fisheries Swat SW 6179	Assistant Director Fisheries Matta SW 6388
Assistant Warden Fisheries BS-12	01	-do-	-do-
Fisheries Watcher BS-07	10	-do-	-do-
Chowkidar BS-03	01	-do-	-do-
Naib Qasid Bs-03	01	District Burner BD-6089	-do-
Superintendent BS-17	01	Assistant Director Fisheries Matta SW 6388	District Office Fisheries Swat SW 6179
Office Assistant BS-18	01	Assistant Director of Fisheries TCTC Madyan Swat 4289	Assistant Director Fisheries Matta SW 6388
Trout Culturist BS-12	01	-do-	-do-
Fisheries Watcher BS-07	12	-do-	-do-
Driver BS-06	01	-do-	-do-
Chowkidar BS-03	01	-do-	-do-
Total	31	-	

2. Audit copies may be prepared and sent to this Department for authentication

Yours faithfully,

Budget Officer

Endst No. & Date even

Copy forwarded to:

1. The Director Fisheries, Khyber Pakhtunkhwa.

Budget Officer

(13)

ASSISTANT DIRECTOR FISHERIES

No 805-19
31



- 1) Mr Gui Zada
 - 2) Mr Azmat Khan
 - 3) Mr Jamshid Ali
 - 4) Mr Murad Ali Khan
 - 5) Mr. Amjad Hussain
 - 6) Mr Sajid Ghuman
 - 7) Mr Waheed Ali Khan
 - 8) Mr Abid Hussain Khan
 - 9) Mr Imran Khan
 - 10) Mr Muhammad Ziad
 - 11) Mr Abdullatif
 - 12) Mr Muhammad Ijaz
 - 13) Mr Amjad Iqbal
 - 14) Mr Munibullah
 - 15) Mr Fazal Mahmood
- Trout Culturist
F/Watcher
Chowkidar
Driver

SUBJECT: RELAYING

(consequent upon shifting/dislocation of posts among the officers at Assistant Director Fisheries, Tr. Madaya Malita and District Office Fisheries, Mangora vide Finance department letter NO.BD.VI.NC-14/BE, 2017 and No. 1707/2017 and Director of Fisheries, Khyber Pakhtunkhwa Peshawar office letter No. 3531-33/DF/BER dated 20/07/2017, you will be hereby relieved from this office and directed to report to the office of the Assistant Director Fisheries, Madaya Swat for further official duty.

ASSISTANT DIRECTOR FISHERIES
TROUT CULTURE TRAINING CENTER
SWAT AT MADYAN

No. AD/FF-34 Dated Madaya the 07/2017

Copy forwarded for information and to

1. The Director of Fisheries Khyber Pakhtunkhwa Peshawar
2. The District Controller of Accounts District Swat
3. The District Officer Finance and Planning Swat
4. The District Officer Fisheries Swat at Mangora
5. The Assistant Director Fisheries Malita Swat

ASSISTANT DIRECTOR FISHERIES
TROUT CULTURE TRAINING CENTER
SWAT AT MADYAN

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**ASSISTANT DIRECTOR FISHERIES
TROUT CULTURE TRAINING CENTRE
SWAT AT MADYAN**

No. 805-19/ADF/F-34 Dated 31/07/2017

- | | |
|-----------------------------|-----------------|
| 1) Mr. Gul Zada | Trout Culturist |
| 2) Mr. Azmat Ali | A/Watcher. |
| 3) Mr. Jamshid Ali | -do- |
| 4) Mr. Murad Ali Khan | -do- |
| 5) Mr. Amjad Hussain | -do- |
| 6) Mr. Sajid Gulam | -do- |
| 7) Mr. Wajid Ali Khan | -do- |
| 8) Mr. Abid Hassan Khan | -do- |
| 9) Mr. Imran Khan | -do- |
| 10) Mr. Muhammad Ziad | -do- |
| 11) Mr. Abidullah | -do- |
| 12) Mr. Muhammad Ijazul Haq | -do- |
| 13) Mr. Ajmad Iqbal | -do- |
| 14) Mr. Muhibullah | Driver |
| 15) Mr. Fazal Mahboob | Chowkidar. |

SUBJECT: RELIEVING

Consequent upon shifting / bifurcation of posts among the office of Assistant Director Fisheries TC/TC Madyan Matta District Officer Fisheries Swat at Mingora vide Finance departmental Letter No. BO-VII/SD/I-4/BE-201-18 dated 17/07/2017 and Director of Fisheries Khyber Pakhtunkhwa Peshawar office letter No. 3531-33/DF/B&A dated 20/07/2017 you all are hereby relieved from this office and directed to report to the office at the Assistant Director Fisheries Matta Swat for further official duty.

**ASSISTANT DIRECTOR FISHERIES
TROUT CULTURE TRAINING CENTRE
SWAT AT MADYAN**

No. _____/ADF/F-34 Dated Madyan the _____/07/2017

Copy forwarded for information and n/a to:

- 1) The Director of Fisheries Khyber Pakhtunkhwa Peshawar.
- 2) The District Controller of Accounts District Swat.
- 3) The District Officer Finance and Planning Swat.
- 4) The District Officer Fisheries Swat at Mingora.
- 5) The Assistant Director Fisheries Matta Swat.

**ASSISTANT DIRECTOR FISHERIES
TROUT CULTURE TRAINING CENTRE
SWAT AT MADYAN**

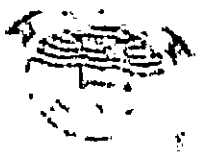
(14)

Annex

OFFICE ORDER

Mr. Muhammad Ijaz ul-Haq, Fisheries Watcher (BPS-20) is hereby transferred and posted against the Fisheries Watcher (BPS-20) Mr. Ghous Watcher (BPS-20) in the office of District Officer Fisheries D.I. Khan in immediate effect. The best interest of public service.

DIRECTOR GENERAL FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR



DIRECTOR GENERAL FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR

No. 8058-59 / 21 Feb 19P

Dated Peshawar, 10/04/2019

Copy forwarded for information & necessary action to

- 1- The District Accounts Officer, Swat & D.I. Khan
- 2- The District Officer Fisheries, Swat & Mulla
- 3- The District Officer Fisheries, D.I. Khan
- 4- Chief Executive Officer

DIRECTOR GENERAL FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR

Handwritten notes and signatures in the top right corner, including a signature that appears to be 'Muhammad Ijaz ul-Haq'.

Handwritten notes and signatures in the top left corner, including a signature that appears to be 'Ghous'.

DIRECTORATE GENERAL OF FISHERIES

Office Order

Mr. Ijaz-ul-Haq Fisheries Watcher (BPS-7) of the office of district Officer Fisheries Swat at Matta is hereby transferred and posted against the existing vacant post of Fisheries Watcher (BPS-7) in the office of Distinct Officer Fisheries D.I.Khan with immediate effect the best interest of public service.

Sd/-
DIRECTOR GENERAL FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR

No. 8056-59/DGR/ESst T&P

Dated Peshawar the 11/03/20__

Copy forwarded for information & necessary action to:

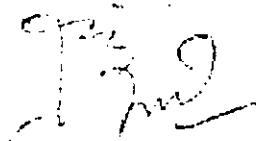
1. The District Accounts Officer Swat & D.I Khan.
2. The Distinct Officer Fisheries Swat at Matta.
3. The District Officer Fisheries D.I Khan.
4. Officer Concerned.

DIRECTOR GENERAL FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR

REVISED RELIEVING

In compliance with the Director General Fisheries office order No. 59/DGF/Esti/T&P dated 11/03/2019, you are hereby relieved from this office w.e.f. 12/03/2019 (A.N) and directed to report to the office of District Officer Fisheries D.I. Khan for further official duty.

The relieving letter already issued vide No.121-24/ADF/SW dated 12/03/2019 is hereby withdrawn.


ASSISTANT DIRECTOR FISHERIES
MATTIA AT SWAT

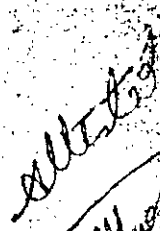
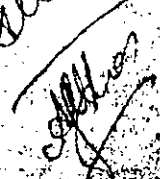
NO. _____ /ADF/F.1

Dated Mingora the, _____ /03/2019

Copy forwarded for information and necessary action to:-

1. The Director General of Fisheries, Khyber Pakhtunkhwa w/r to his office order No as referred above please. Please..
2. The District Comptrollar of Accounts Swat at Saidu Sharif.
3. The District Comptrollar of Accounts D.I. Khan
4. The District Officer Fisheries D.I.Khan.

1
ASSISTANT DIRECTOR FISHERIES
SWAT AT MATTIA

Better Copy

OFFICE OF THE ASSISTANT DIRECTOR FOR FISHERIES
SWAT AT MATTA.

No. _____ 12/8/AD

Dated 13/03/2019

To

Mr. Ijaz ul Haq.
Fisheries Watcher

SUBJECT REVISED RELIEVING

In compliance with the Director General Fisheries Office order No. 8056-59/DGF/Estt; / T7P dated 11/03/2019 you are hereby relieved from this office w.e.f 12/03/2019 (A.N) and directed to report to the office of District Officer Fisheries D.I Khan for further official duty.

The relieving letter already issued vide No. 121-24/AdF/SW dated 12/03.2019 is hereby withdrawn.

ASSISTANT DIRECTOR FISHERIES
MATTA AT SWAT

No. _____ /ADF/F.I = Dated Mingora the 13/03/2019

Copy forwarded for information and necessary\ action to:

1. The Director General of Fisheries, Khyber Pakhtunkhwa w/r to his office order No. as referred above please. Please.
2. The District Comptroller of Accounts Swat at Saidu Sharif.
3. The District Comptroller of Accounts D.I Khan.
4. The District Officer Fisheries D.I Khan.

ASSISTANT DIRECTOR FISHERIES
MATTA AT SWAT

16
ANNX - E

BEFORE THE HON'BLE DIRECTOR GENERAL FISHERIES, KPK, PESHAWAR

Departmental Appeal/ Representation against the office order No.8056-59/DGD/Estt/T&P dated 11.03.2019 and revised/ relieving order No.128/ADF/F-dated Matta 13.03.2019 in consequence whereof, the appellant/ applicant is transferred from the office of District Officer Fisheries, Matta to District Officer Fisheries, D.I.Khan.

RESPECTFULLY SUBMITTED AS UNDER:

- A. That the appellant/ applicant joined Fisheries Department on regular basis as Fisheries Watcher (BPS-7) vide office order No.1229-31/DF/E dated Peshawar 18.01.2017 and was posted as Fisheries Watcher (BPS-7) in the office of District Officer Fisheries, Matta, Swat. (Copy of appointment order is annexed as "A").
- B. That since appointment, the appellant/ applicant performed his duties to the best of his abilities, which has been eulogized and acknowledged by his honourable superiors.
- C. That to the utter surprise and astonishment, the appellant/ applicant was transferred from the office of District Officer Fisheries, Matta, Swat to the office of

Submitted /
[Signature]

19

District Officer Fisheries, D.I.Khan vide office order No.8056-59/DGD/Estt/T&P dated 11.03.2019. In consequence whereof, the appellant/ applicant was relieved vide office order No.128/ADF/F-dated Matla 13.03.2019. (Copy of office orders dated 11.03.2019 and 13.03.2019 are annexed "B" & "C" respectively).

- D. That the impugned transferred order followed by revised relieving order dated 13.03.2019 with utmost regard, which is against the law, rules & policy governing the subject, inter alia, on the following grounds:

GRUNDS:

1. That the impugned transfer order dated 11.03.2019 and revised relieving order dated 13.03.2019, is manifestly illegal, unlawful, without lawful authority, without jurisdiction, void ab-initio and ineffective upon the rights of the appellant/ applicant, hence untenable in the eye of law and liable to be set aside/ cancelled.
2. That the appellant/ applicant has not been treated in accordance with law, hence right of the appellant/ applicant has secured and guaranteed under the law, are badly violated.
3. That the impugned order is illegal, unlawful, against law and facts, in violation of transfer and posting policy and politically motivated on the recommendation of Provincial Minister for Fisheries.

4. That the appellant/ applicant is being treated unequally against the law and he is being deprived of equal protection of law.
5. That the impugned order from Matta to District D.I.Khan is a premature order as the appellant/ applicant has not completed his service tenure i.e. 2 years.
6. That the impugned transfer order dated 11.03.2019 and revised relieving order dated 13.03.2019, is causing suffocation to the appellant/ applicant as he is the sole earning hand of his family and it will cause acute inconvenience not only to the appellant/ applicant but also to his family.
7. That the appellant/ applicant is serving as Fisheries Watcher (BPS-7) having meager salary, in which it is practically impossible to support his family in District D.I.Khan as impugned order will have financial implications on the appellant/ applicant.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal/ representation, the impugned transfer order dated 13.03.2019 may very graciously be set aside/ cancelled.

Appellant/ Applicant

Ijaz-ul-Haq
S/o Muhammad Ismail
R/o Arkot, Matta, District Swat
Cell: 0344-9889925

Dated: 11.04.2019

(19)

ANNEX - F



www.fisheries.kp.gov.pk
DIRECTORATE GENERAL OF FISHERIES
 2-SILAB KHAF PESHAWAR

091-9213096
 www.facebook.com/dgf.fisheries.kpk
 http://fisheries@yahoo.com
 https://twitter.com/fisheriesk



No. _____ /DGF/Estt: Dated Peshawar the 23/04/2019.

To

Mr. Ijaz-ul-Haq (Fisheries Watcher-IPPS-07)
 S/o Muhammad Ismail,
 R/o Arkot Matta District Swat.

SUBJECT:- DEPARTMENTAL APPEAL.

Reference: Your application dated 11/04/2019.

Your appeal cannot be considered at this stage because of the following observation/grounds;

1. Your probation period has been completed/confirmed on 18/01/2019 i.e. two years.
2. Your transfer has been made in accordance with Law i.e. keeping in view Khyber Pakhtunkhwa Appointment, Promotion and Transfer rules, No.10 and S.No.8 of the terms and conditions of your appointment order (on a acceptance of which you have joined the department. Furnish clause of Law, which have been violated?
3. In you appeal, you have quoted several times that orders of high ups are according to the Law which clearly reflect that you are not following the Govt rules and regulation in-force. Then why not disciplinary proceeding could be initiated against you as per E&D, Rules 2011.
4. Furthermore, clarify that why you have submitted your appeal directly to Director General Fisheries instead of through proper channel.

Your reply should reach this office within 15-days otherwise disciplinary proceeding will be initiated against you as per rules.

DIRECTOR GENERAL FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR.

Dated Peshawar the 23/04/2019.

No. 8280-81
 /DGF/Estt:

Copy forwarded to :-

1. ✓ The Assistant Director Fisheries, D.I.Khan.
2. The Assistant Director Fisheries, Swat at Matta.

DIRECTOR GENERAL FISHERIES

Attested
[Signature]

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR.

SERVICE APPEAL NO.646-P/2019.

Ijaz ul Haq S/O Muhammad Ismail,
Resident of Arkot, Matta, District Swat.

VERSUS

Government of Khyber
Pakhtunkhwa & Others.

S/No.	Documents.	Annexure	Page.
1-	Reply/Comments.	-----	1-5
2-	Affidavit.	-----	6.
3-	Authority letter.	-----	7.

Dated. ____/06/2019.

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR.

SERVICE APPEAL NO.646-P/2019.

Ijaz ul Haq S/O Muhammad Ismail, Resident of
Arkot, Matta, District Swat.

VERSUS

Government of Khyber
Pakhtunkhwa & Others.

Para wise reply/comments/written statement to the titled writ petition, for & on behalf of respondents along with preliminary objections regarding maintainability.

Respectfully Sheweth,

Preliminary Objections: -

- i) That the appellant has deliberately suppressed certain facts and bent upon to camouflage his wrong deeds under the shelter of instant episode in order to pave his way of illegal desires hence required to be discouraged.
- ii) That due to concealment of material facts and misstatement, the petition is liable to be dismissed.
- iii) The appellant has got no locus standi to file the instant writ petition.
- iv) That the appellant is stopped by his own conduct to bring the writ petition in his own hands.
- v) That the appellant has got no cause of action.
- vi) That the appellant has not come to the Hon'able court with clean hands.
- vii) That the appellant has no right to challenge his posting transfer being made in the larger interest of public.
- viii) That the appellant has joined his duty by accepting certain terms & conditions in the TORs of his appointment order dated.18-01-2017 vide condition No.8.

REPLY ON FACTS.

- 1) No comments.
- 2) No comments.
- 3) Correct to extent that the appellant was transferred from Madyan & adjusted in the office of District Officer Fisheries, Swat at Matta due to shifting of posts along with incumbents in light of Finance Department, Khyber Pakhtunkhwa office letter No.BO-VII/FD/1-4/BE-2017 dated.17-07-2017. **While the appellant being permanent resident of Arkot Matta, Swat served for one and a half year in his home area.** It is further stated the he served with effect from 18-01-2017 to 11-03-2019 (Two year, Two Months) in his home district Swat.
Moreover, the pertinent to mention here that the appellant has joined the Fisheries Department by accepting some TORs of his appointment order, where in at Sr # 8, it was clearly showed as "**his service shall be transferable throughout, Khyber Pakhtunkhwa & FATA (Merged Districts)**" vide office order No.1221-23/DF/E dated.18-01-2017.
- 4) In correct. The appellant has performed routine duty. No outstanding report regarding his performance is available in the record of the Fisheries Department.

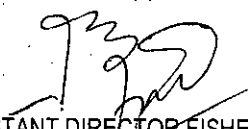
- 5) In correct. As explained above in para-03, the appellant has served for more than two years in his home district and his posting/transfer order was made in the larger interest of public to reduce the staff requirement in District D.I.Khan. As & when the appellant completed his tenure period in District D.I.Khan, then he will be posted in nearest vacant position in his home district.
- 6) Incorrect, as explained above the transfer order of the appellant was made in the lager interest of public as per TORs of his appointment order & Appointment, Promotion & Transfer Rules, 1989.
- 7) Incorrect, already been explained in para-3 above. Furthermore a Govt; servant neither have any political affiliation with any party nor the appellant was transferred due to political influence, therefore the appellant desires to get sympathy of this honorable court falsely. furthermore, the deliberations & suppressions of material facts, rather miss-construction of the same for ulterior motives and mala-fide intentions, is an offense within the meaning of Khyber Pakhtunkhwa, Civil Servants Efficiency & Disciplinary Rules, 2011, perhaps this matter relating to part of service of the appellant, which would be gauged at the touch stone of prescribed Rules/law, governing the subject, at appropriate level, in due course of time, but further proceedings in to the matter at this forum, would serve no useful purpose except to waste precious time of this honourable Tribunal.
- 8) Incorrect, the appellant has already been completed his tenure in his home district for more than two years as explained above in para-3 and the posting/transfer order of the appellant was issued in the larger interest of public, therefore the departmental representation of the appellant was not considered and its reasons was communicated to the appellant vide office letter dated.23-04-2019.
- 9) Incorrect, already been explained in para-3 above.


GROUND.


- A. Incorrect. As already been explained above in para-03.
- B. Incorrect. Already been explained above in para-03, para-05 to para-08.
- C. Incorrect. Already been explained above in para-03, para-05 to para-08, furthermore, the appellant is trying to mention time & again political interference to get the sympathy of this honourable court. The statement of appellant that his posting/transfer was on the recommendation of the Minister of the Fisheries Department is totally baseless. This Hon'able court is requested to kindly question the appellant concerned for submission of any proof in this regard. The appellant will face the consequences for the false statement against the Minister, being the Chief Executive of the Department & will pay through the nose for his false statement in the light of Khyber Pakhtunkhwa, Civil Servants Efficiency & Disciplinary Rules, 2011 & will also be gauged at the touch stone of prescribed Rules/law at appropriate level.
- D. Incorrect. Already been explained above in para-03, para-05 to para-08.
- E. Incorrect. Already been explained above in para-05.
- F. Totally baseless statement. Already been explained above in para-03.


- n) The respondents seek leave of this honourable Tribunal to raise additional grounds at the time of arguments.

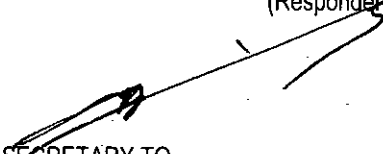
Keeping in view of the preliminary objections, facts of the case & has already been resumed duties by the appellant, getting monthly salary regularly & also availed the benefit of Transfer Travelling Allowance due to posting/transfer & shifting of his headquarter, therefore, this honourable Tribunal is requested to dismiss the titled appeal with heavy costs throughout in the best interest of Justice.


ASSISTANT DIRECTOR FISHERIES,
SWAT AT MATTA.
(Respondent No.5)


ASSISTANT DIRECTOR FISHERIES,
D.I.KHAN.
(Respondent No.4)


DIRECTOR FISHERIES,
KHYBER PAKHTUNKHWA
PESHAWAR
(Respondent No.3)



DIRECTOR GENERAL FISHERIES,
KHYBER PAKHTUNKHWA
PESHAWAR
(Respondent No.2)



SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK & COOPERATIVE
DEPARTMENT.
(Respondent No.1)


AUTHORITY LETTER.

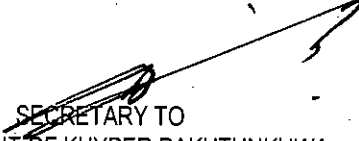
Mr. Gulzar Mahmood, Assistant Director Fisheries, (L&S) BPS-17, Directorate General Fisheries, 2-Shami Road Peshawar Cantt; is hereby authorized to submit affidavit & attend Khyber Pakhtunkhwa, Peshawar in a service appear No.646-P/2019 titled "Ijaz ul Haq S/O Muhammad Ismail, Resident of Arkot, Matta, District Swat versus Government of Khyber Pakhtunkhwa & Others on behalf of respondents on each & every date of hearing till the decision of the case.


ASSISTANT DIRECTOR FISHERIES,
SWAT AT MATTA.
(Respondent No.5)


ASSISTANT DIRECTOR FISHERIES,
D.I. KHAN.
(Respondent No.4)


DIRECTOR FISHERIES,
KHYBER PAKHTUNKHWA
PESHAWAR
(Respondent No.3)


DIRECTOR GENERAL FISHERIES,
KHYBER PAKHTUNKHWA
PESHAWAR
(Respondent No.2)


SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK & COOPERATIVE
DEPARTMENT.
(Respondent No.1)

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR.

SERVICE APPEAL NO.646-P/2019.

Ijaz ul Haq S/O Muhammad Ismail, Resident of
Arkot, Matta, District Swat.

VERSUS

Government of Khyber
Pakhtunkhwa & Others.

AFFIDAVIT.

I Mr. Gulzar Mahmood, Assistant Director Fisheries (L&S) (BPS-17), Directorate General Fisheries, Khyber Pakhtunkhwa do hereby solemnly affirm and declare that the contents of the accompanying para wise comments submitted by the Respondent s are true to the best of my knowledge & belief & that nothing has been concealed from this Hon'able Court.



Deponent

(GULZAR MAHMOOD),
NIC NO. 17301-1383259-9
CELL NO.0313-9111615
0333-9111615.

Identified by _____

Directorate General Fisheries, Khyber Pakhtunkhwa

Peshawar

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1751 /ST Dated 14/10 /2019


To

The Director General Fisheries,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 646/2019, MR. IJAZ UL HAQ.

I am directed to forward herewith a certified copy of Judgement dated 05.09.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 47 /ST

Dated: 11/01/2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

The Registrar,
Supreme Court of Pakistan,
Islamabad.

Subject: CIVIL APPEAL NO. 416 of 2020
Governemnt of KP, through Secretary Agriculture, Livestock &
Cooperative Deaprtment, Peshawar & others
Versus
Ijaz-ul-Haq.

Dear Sir,

I am directed to acknowledge the receipt of your letter no C.A.416-
/2020-SCJ dated 02-01-2021 alongwith its enclosure..


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

o/c

Ph: 9214461
Fax: 9220406

REGISTERED
No. C.A.416/2020 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 07/01/2021

From: The Registrar,
Supreme Court of Pakistan,
Islamabad.

To: The Registrar,
K.P.K. Service Tribunal,
Peshawar.



Subject: CIVIL APPEAL NO. 416 OF 2020

Govt. of K.P. through Secretary Agriculture, Livestock & Cooperative
Department, Peshawar & others
Versus
Ijaz-ul-Haq

**On appeal from the Judgment/Order of the K.P.K. Service Tribunal,
Peshawar dated 05/09/2019 in Appeal.646/2019.**

Dear Sir,

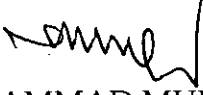
In continuation of this Court's letter of even number dated 29-05-2020,
I am directed to enclose herewith a certified copy of the Order of this Court dated
22/12/2020 allowing the above cited case in the terms stated therein for information
and further necessary action.

I am further directed to return herewith the original record of the Service
Tribunal, received under the cover of your letter No.1184 dated 02/06/2020.

Please acknowledge receipt of this letter along with its enclosure
immediately.

**Encl: Order:
2. O/Record:**

Yours faithfully,


(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed, CJ
Mr. Justice Yahya Afridi

Civil Appeal No. 416 of 2020

(Against the judgment dated 05.09.2019 passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeal No. 646 of 2019)

Government of Khyber Pakhtunkhwa through Secretary Agriculture, Livestock & Cooperative Department, Peshawar, etc.

...Appellant

versus

Ijaz-ul-Haq

...Respondent

For the appellant: Mr. Zahid Yousaf Qureshi, Addl. A.G. KPK
Mr. Gulzar Mehmood, A.D. Fisheries, (Litigation), KPK

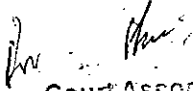
For the respondents: Malik Jawwad Khalid, ASC

Date of hearing: 22.12.2020

ORDER

Gulzar Ahmed, CJ.: The respondent was appointed in the Fisheries Department as Fisheries Watcher in BPS-7 vide order dated 18.01.2017. He was posted in the office of District Officer Fisheries, Swat at Madyan. The very post of Fisheries Watcher was transferred from District Officer Fisheries, Madyan to the office of Assistant Director Fisheries, Matta, Swat vide order dated 17.07.2017. On 11.03.2019 the respondent was transferred to the office of the District Officer Fisheries, D.I. Khan. Such transfer

ATTESTED


Court Associate
Supreme Court of Pakistan
Islamabad

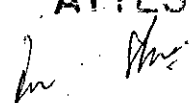
order was challenged by the respondent by filing of the departmental appeal which was rejected on 23.04.2019. The respondent preferred service appeal before the Khyber Pakhtunkhwa Service Tribunal which was allowed through the impugned judgment dated 05.09.2019.

2. The learned Additional Advocate-General, Khyber Pakhtunkhwa has contended that the respondent belongs to District Swat and he has served in his District for more than two years and as per-policy of the Government he was transferred to D.I. Khan. On the other hand the learned counsel for the respondent contends that the respondent being employee in BPS-7 could not afford to go and work out of his home district and the respondent has not served in his original posting for two years. Learned counsel has also stated that political influence has been used in transfer of the respondent to D.I. Khan.

3. We have considered the submissions made by the learned counsel for the parties and have gone through the record.

4. Admittedly the respondent was appointed in District Officer Fisheries, Swat at Madyan. On 17.07.2017 the very post of Fisheries Watcher (BPS-7) was transferred from Madyan to the office of Assistant Director Fisheries, Matta, Swat. Both Madyan and Matta are situated in District Swat which is the home district of the respondent. The service of the respondent in Madyan and Matta both calculated comes to more than two years and apparently the policy of the Government of Khyber Pakhtunkhwa of minimum service in a given district being of two years, such period having been completed by the respondent, the respondent

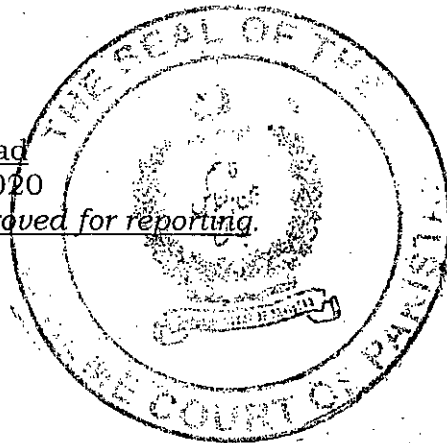
ATTESTED


Court Associate
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Islamabad

was transferred on 11.03.2019. Which transfer in our view was in accordance with law and keeping with the policy of the Government and the learned counsel for the respondent has not been able to show that such transfer could not have been affected as per Government policy as no law has been shown by the learned counsel for the respondent. The employment in BPS-7 itself is not a ground on which transfer cannot be made for the very appointment letter of the respondent shows that his service is transferable. The contention of the counsel for the respondent that there was some political influence in order to seek transfer of the petitioner is also not supported by any material on the record. The learned Additional Advocate-General has contended that on 19.04.2019 the respondent has reported at the office of the District Officer Fisheries, D.I. Khan and also received all emoluments and benefits and is working in D.I. Khan now.

5. In this view of the matter and for the reasons given above we find that the impugned judgment is not sustainable in law as well as on facts as noted above. This appeal is, therefore, allowed and the impugned judgment dated 05.09.2019 passed by the Khyber Pakhtunkhwa Service Tribunal is set aside.

Islamabad
22.12.2020
~~Not approved for reporting.~~
Arif



801-1405
801-5

Certified to be True Copy

Arif
Court Associate
Supreme Court of Pakistan
Islamabad