

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	12.09.2019	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center">Appeal No. 926/2019</p> <p align="center">Date of Institution ... 16.07.2019 Date of Decision ... 12.09.2019</p> <p align="center">-----</p> <p>Mr. Tal Wadan, SST (General) GHS, Matiltan, Swat -----Appellant</p> <p align="center"><u>Versus</u></p> <p>The Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar and others -----Respondent</p> <p align="center">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 for the respondents present.</p> <p>2. Being aggrieved by the impugned order dated 21.03.2019 the appellant preferred a departmental appeal on 17.04.2019 which was not responded within the statutory period of Ninety (90) days hence the instant service appeal preferred under The Khyber Pakhtunkhwa service Tribunal Act 1974 on 16.07.2019 with the prayer that on acceptance of the instant service appeal the impugned order dated 21.03.2019 may be set aside with the direction to the respondents not to transferred the appellant from the Government Middle School (GMS) KOZA Dureshkela to GHS Matiltan on Administrative grounds.</p> <p>3. According to the fact of the case the appellant belongs to Koza Dureshkela and was serving as Head Teacher at GMS Dureshkela. On 21.03.2019 the appellant was transferred on administrative grounds to GHS Matiltan Swat in his own pay scale on administrative grounds.His departmental appeal against the impugned order was preferred within the limitation on 17.04.2019. The learned counsel for the appellant argued</p>

that the impugned order was passed against the law, facts, norms of justice and violation of the posting Transfer Policy. Further argued that the impugned order was issued during the ban on posting transfer of all kind vide notification on 14.02.2019. Further argued that the impugned posting order was issued also in violation of the procedure, prescribed in the Posting Transfer Policy, wherein it is mandatory that prior to issuance of any Posting Transfer the approval of the competent authority be obtained through a summary. Learned counsel for the appellant further argued that no specific reasons has been mentioned in the impugned order as the ground for the alleged administrative grounds. He also referred to ground (D) of the appeal where in the appellant has alleged that the impugned order was issued on the verbal direction of the Chief Executive of the Province. Further contended that the appellant had been posted vide impugned order in a far flung area which is about 100 kilometer away from the place of his residence and being a low paid employee the impugned order causing adverse impact not only on his financial position but also affecting adversely his professional performance. Learned counsel for the appellant relied upon the judgment of this Tribunal reported on 2012 PLC (C.S) 187, 2015 PLC (CS) and the judgment of this Tribunal in Appeal No. 658/2017-Shah Nawaz Vs Government. On the above grounds the learned counsel pleaded to accept the appeal as prayed for.

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 impugned order of posting is not a routine matter, rather it was issued on the administrative grounds which is permissible grounds even during the ban imposed by the respondents on routine posting/transfer. He further argued that the appellant failed to provide any


proof to establish any connection between the issuance of the impugned order and the involvement of any political authority at any level. He further argued that the appellant was found guilty of instigating violence against the authorities responsible for maintaining the law and order situation in the area. He further argued that the appeal being devoid of any merit or any other humanitarian grounds hence may be dismissed with costs. He also stated that the judgment relied upon by the learned council of the appellant had different facts and grounds where in the transfers were made on administrative grounds of the civil servant without the completion of tenure so the same judgment do not hit the impugned order in the instant case. He also relied on the Judgments 2004 PLC (CS) 705 and 2017 SCMR 798 where in it has been held that the civil servants could not claim posting at a particular station. He pleaded that the instant appeal may be dismissed with cost in favor of the respondents.


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 this Tribunal observes that the appellant and his counsel could not present any worth reliable evidence to establish the alleged political involvement of the higher level nor could establish any support to the appeal from the provision of Posting Transfer Policy. As regarding the contention of the appellant and his counsel that the impugned order was issued during the period, wherein ban was imposed on all kind of posting\transfer in the department, the responding authorities in their Para-wise comments has stated that the appellant was posted out on the administrative grounds of holding a meeting in the school during the school time and instigating the people against the

establishment. Moreover the appellant has not mentioned any violation about the provision regarding his tenure.

7. In view of the above discussion this Tribunal is of the considered view that the appeal is devoid of merit hence is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Amin Khan Kundi)
Member


(Hussain Shah)
Member

ANNOUNCED
12.09.2019

21.08.2019

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Gohar Ali SCT for the respondents present and submitted written reply/comments. Adjourned. To come up for rejoinder/arguments on 04.09.2019 before D.B.



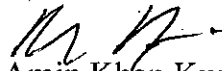
(Hussain Shah)
Member

04.09.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondent present. Arguments heard. To come up for order on 12.09.2019 before D.B



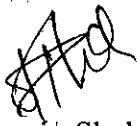
(Hussain Shah)
Member



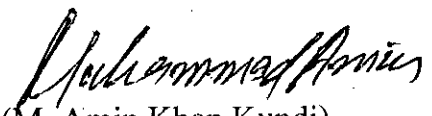
(M. Amin Khan Kundi)
Member

12.09.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Vide our detail 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.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

Announced
12.09.2019

17.07.2019

Counsel for the appellant present.

Contends that despite the ban on posting/transfer of officials in the Elementary & Secondary Education Department, imposed on 14.02.2019, the appellant was transferred to GHS Matiltan Swat on 21.03.2019. That, the Government of Khyber Pakhtunkhwa E&SE Department on 25.04.2019 issued an endorsement to the effect that despite the ban some DEOs issued posting/transfers which amounted to misconduct. All the DEOs (Male) and (Female) in the Province were required to strictly follow the ban policy.

In view of the available record and contentions of learned counsel, 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 31.07.2019 before S.B.

Alongwith the appeal there is an application for suspension of operation of impugned order dated 21.03.2019. Notice of the application be also given to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee

18/7/19


Chairman

31.07.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Fatal Rehman, AD for respondents present.

The representative of the respondents requests for further time to submit the reply/comments.

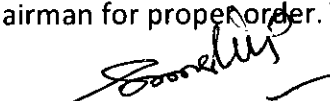

Adjourned to 21.08.2019 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 926/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16-07-2019	<p>The appeal of Mr. Tal Wadan 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.</p> <p> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>17/07/19</u>.</p> <p> CHAIRMAN</p>
2	17/07/19	

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 926 /2019

Dr.
Tal Wadan

V/S

Education Deptt:

INDEX

S. No.	Documents	Annexure	P. No.
01	Memo of appeal	-----	01-04
02	Suspension application	-----	05-06
03	Copies of order dated 21.03.2019	A	07
04	Copies of departmental appeal	B	08
05	Copy of posting transfer policy	C	09-15
06	Copy of notification dated 14.02.2019 and letter dated 12.04.2019	D&E	16-17
09	Vakalat Nama	-----	18

APPELLANT

THROUGH:



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

**(ASAD MAHMOOD)
ADVOCATE HIGH COURT**

Room No. FR 8, 4th Flour,
Bilour plaza, Peshawar cantt:
Cell# 0333-9390916

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 926 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 993

Dated 16-7-19

Mr. Tal Wadan, SST (General)
GHS, Matiltan, Swat.

(APPELLANT)

VERSUS

1. The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
2. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer, (Male), District Swat.

(RESPONDENTS)

Filed to-day
Registrar
16/7/19

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER 21.03.2019, WHEREBY THE APPELLANT WAS TRANSFERRED FROM GMS KOZA DURESHKHELA TO GHS MATILTAN ON ADMINISTRATIVE GROUND AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 21.03.2019 MAY KINDLY BE SET ASIDE. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT FROM GMS KOZA DURESHKHELA TO GHS MATILTAN ON ADMINISTRATIVE GROUND. ANY OTHER

REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant is residing in Koza Dureshkhela and was working on the post of Head Teacher at GMS Koza Dureshkhela and was performing his duty with zeal and devotion, whatsoever assigned to him and no complaint has been filed against the appellant regarding performance of his duty.
2. That the appellant was transferred from GMS Koza Dureshkhela to far flung area of about 100 Km to GHS Matiltan Swat on administrative ground without giving reason of the transfer on administrative ground vide order dated 21.03.2019. **(Copy of order dated 21.03.2019 is attached as annexure-A)**
3. That against the order dated 21.03.2019, the appellant filed departmental appeal on 17.04.2019, which was not responded within the statutory period of ninety days. **(Copy of departmental appeal is attached as Annexure-B)**
4. That the appellant has no other remedy but come this august Tribunal on the basis of following grounds amongst others.

GROUND:

- A) That not taking action on the departmental appeal of the appellant and the impugned orders dated 21.03.2019 are against the law, facts, norms of justice and violation of posting transfer policy, therefore not tenable and liable to be set aside.
- B) That according to posting/transfer policy, posting/transfer orders of all the officers up to BS-19 except the Heads of the Attached Departments irrespective of the grade will be notified by the concerned Administrative Departments with the prior approval of the Competent Authority obtained on the Summary, but in the case of the appellant, no prior approval of Summary for transfer was obtained,

which is violation of posting/transfer policy. **(Copy of posting transfer policy is attached as Annexure-C)**

- C) That the Government of Khyber Pakhtunkhwa (E&SE) issued a notification on 14.02.2019, where complete ban of all kind of posting/transfers was imposed in Elementary and Secondary Education Department and in this respect a letter was also issued to respondent No. 2 on 12.04.2019 in which which it was mentioned that it has come to the notice of the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department that some District Education Officers issue posting/transfer of the employee during the "ban" (E&SE) which is tantamount to misconduct but despite that the transfer order of the appellant was issued in ban period. Therefore the impugned transfer of the appellant is illegal and liable to be set aside. **(copies of notification dated 14.02.2019 and letter dated 12.04.2019 are attached as Annexure-D&E)**
- D) That as per instruction of the appellant, the impugned transfer was passed on the verbal direction of CM, which is means that the impugned order was passed on political basis, which is discouraged by the superior courts in plethora of judgments.
- E) That the impugned transfer order was passed on administrative ground, but no reason has been given for transfer on administrative ground and as per different Courts/Tribunals judgments, no one can be transfer on administrative ground.
- F) That in passing of impugned transfer order, no exigencies or public interest was shown by the respondent no.3, but just passed on the verbal direction of the CM.
- G) That the post of the appellant is still vacant as no substitute was provided on the post of the appellant by the department.
- H) That the appellant belong to village Koza Dureshkhela and was transferred to far flung area of about 100 Km of Matiltan, which not only effect his performance badly, but also effect him financially being a low paid employee.
- I) 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 kindly be accepted as prayed for.



APPELLANT
Tal Wadan

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 926 12019

Tal Wadan

V/S

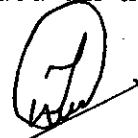
Education Deptt:

**APPLICATION FOR SUSPENDING THE OPERATION
OF ORDER DATED 21.03.2019 TILL THE DISPOSAL OF
MAIN SERVICE APPEAL.**

RESPECTFULLY SHEWETH:

- 1) That the appellant has filed the service appeal against the order 21.03.2019, whereby the appellant was transferred from GMS Koza Dureshkhela to far flung area of about 100 Km to GHS Matiltan Swat on administrative ground, along with this application in this august Service Tribunal in which no date is fixed so for.
- 2) That the impugned transfer order was passed on administrative ground but as per different Courts/Tribunals judgments, no one can be transfer on administrative ground.
- 3) That the post of the appellant is still vacant as no substitute was provided on the post of the appellant by the department and there will be no hurdle on the posting of the appellant on the post at GMS Koza Dureshkhela if the impugned order dated 21.03.2019 is suspend.
- 4) That impugned transfer order was passed in ban period which is illegal and liable to be suspended.
- 5) That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.
- 6) That the grounds of main appeal may also be considered as integral part of this application.

It is therefore most humbly prayed that the operation of the order dated 21.03.2019 may kindly be suspended till the decision of main appeal.



APPELLANT

THROUGH:



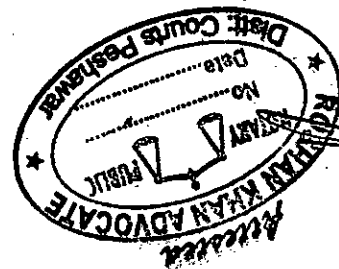
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is solemnly affirmed that the contents of the application is true and correct to best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.



DEPONENT



2/10/20-19
w/1008



**OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT**

A ②

OFFICE ORDER.

Mr, Tal wadan SST Government Middle School Koza Dureshkhela, is hereby transferred on administrative ground to Government High School Matiltan, Swat on his own pay and scale with immediate effect in the interest of public service.

درخواست

NOTE :- (1) No TA/DA is allowed.
(2) Charge report should be submitted to all concerned.

(Muhammad Amin)
DISTRICT EDUCATION OFFICER (M)
DISTRICT SWAT

958-60
Endst: No. _____ /TTs/Transfer Gen: file Dated. 21/3/2017

Copy of the above is forwarded:-

1. The Director of E/S Education KPK Peshawar.
2. The District Comptroller of Accounts Swat at Saidu Sharif.
3. The Principal /Head Master concerned
4. P.A to the DEO (M) Swat local office.
5. The Official Concerned.
- 6.

for [Signature] 21-3-2017

DY: DISTRICT EDUCATION OFFICER (M)
DISTRICT SWAT.

ATTESTED

[Signature]

بخدمت جناب ڈائریکٹر صاحب ابتدائی و ثانوی تعلیم صوبہ خیبر پختونخواہ پشاور

عنوان: اپیل برائے ترمیم تبادلہ

B 8

جناب عالی!

نہایت ادب سے گزارش ہے کہ میں گورنمنٹ مڈل سکول کوزہ درخیلہ میں ایس ایس ٹی / ہیڈ ماسٹر پوسٹ پر اپنے فرائض منصبی سرانجام دے رہا ہوں۔

جناب عالی! حال ہی میں ڈسٹرکٹ ایجوکیشن آفیسر صاحب (مردانہ) ضلع سوات نے بحوالہ حکمنامہ نمبر 60-958 مورخہ 21.03.2019

انتظامی بنیادوں پر میرا تبادلہ گورنمنٹ ہائی سکول مغلستان کیا ہے۔

مذکورہ حکمانہ موصول کر کے مجھے بہت تعجب ہوا ہے کہ وہ کون سے انتظامی عوامل ہیں جن کی بنیاد پر مجھے مغلستان جیسے دور افتادہ مقام تبدیل کر دیا گیا ہے حالانکہ نہ مجھے ذاتی طور پر اپنی کسی انتظامی کمزوری کا علم و ادراک ہے اور نہ ہی آفسران بالائے کبھی ایسی کمزوریوں کی نشاندہی کی ہے۔ ایسی کوئی وجوہ نہیں ہیں جس کی مجھے سزا دی جا رہی ہے اور اگر بالفرض آفسران بالائے کوئی ایسی کمزوری محسوس کی بھی ہو تو مجھ سے نہ کوئی وضاحت طلبی کی گئی ہے، نہ نوٹس ملا ہے، نہ ہی میری خلاف کوئی انکوائری ہوئی ہے اور نہ ہی کوئی شوکا نوٹس جاری کیا گیا ہے۔ میرا تبادلہ ایسی حالت میں کیا گیا ہے جب تبادلوں پر پابندی بھی لگی ہوئی ہے۔

محترم ڈی ای او صاحب کے بیک جنبش قلم ہونے والے تبادلے کے حکمنامے پر میرے قانونی تحفظات ہیں اور مجھے شبہ ہے کہ شاید مجھے سیاسی طور پر ہراساں کیا

جا رہا ہے۔

چونکہ مذکورہ تبادلے سے میرے لئے مشکلات پیدا ہو رہی ہیں اور مغلستان جیسے دور افتادہ مقام پر فرائض کی ادائیگی انتہائی دشوار ہے، اس لئے آپ ارباب اختیار

سے گزارش ہے کہ مذکورہ تبادلہ کا آرڈر منسوخ کرنے کی احکامات جاری کر کے مشکور فرمائیں۔

بندہ آپ صاحبان کا تازیت دعا گور ہے گا۔ فقط

العارض

تل ودان ایس ایس ٹی (جنرل)

ہیڈ ماسٹر گورنمنٹ مڈل سکول کوزہ درخیلہ

ضلع سوات

مورخہ: 17.04.2019

ATTESTED

Updated up to April, 2010.

*Liakat Ali
Supall
Mardani*

1
9



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT 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/raised 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 posting/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) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas. *(See P-06 as retained)*
2 years tenure retained vide P-06 for un-attractive/hard area
 - v) { }
 - (vi) "While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, Khyber PakhtunKhwā needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. 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, Khyber PakhtunKhwā shall be obtained."
- Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.**
- 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.

ATTACHED
AK

Circular letter No. SOR-VI/E&AD/1-4/2008/Vol-VII dated, the 11th September, 2009
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 3-5-2008.
Consequently authorities competent under the Khyber PakhtunKhwā 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.
Para-VI added vide circular letter No. SOR-VI/E&AD/1-4/2010/Vol-VIII dated 20th March, 2010.
Sub para-VI (a) added vide circular letter No. SOR-VI/E&AD/1-4/2008 dated 22nd October, 2008.

4

	b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department in consultation with Head of Attached Department concerned. Secretary (Establishment)
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xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.

b) ✓ Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

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

i) ✓ Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.

ii) Serious and grave personal (humanitarian) grounds.


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

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

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

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

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

ATTESTED


- 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 Khyber PakhtunKhwa 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 column2 thereof:

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

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✓ 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 KHYBER PAKHTUNKHWA
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 SECREARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Endst. No. and date even.

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

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[Signature]

(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 Khyber Pakhtunkhwa 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,

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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 28th Oct, 2005.

The Chief Minister Khyber PakhtunKhwa 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;
- 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 8-6-2004 & Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2006.}

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) Khyber PakhtunKhwa 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 decide 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 Khyber PakhtunKhwa Govt Servants (Conduct) Rules 1987 shall be proceeded against under the Khyber PakhtunKhwa Removal from Service (Special Powers) Ordinance 2000. As required under the Khyber PakhtunKhwa 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

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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}.

⁶In continuation of this Department circular letter No.SOR-VI/E&AD/1-4/2008/Vol-VII dated 11th September, 2009, I am directed to refer to the subject and to say that the Provincial Cabinet in its meeting held on 30th March, 2010 inter-alia approved the following for the purpose of Posting/Transfer Policy:-

Unattractive/Hard Areas

1. ✓ The distinction between unattractive/hard areas should be done away with and both should be labeled as Unattractive areas. ✓
2. Existing list of FATA areas be retained.
3. The following areas were recommended/approved to constitute unattractive areas in NWFP:-

- a. Kohistan District.
- b. Tank District.
- c. Chitral District.
- d. Batgram District.
- e. Shangla District. ✓
- f. Hungu District.
- g. PATA areas of Mansehra (Kala Dhaka)

1) Tenure for settled area 03 years
2) unattractive area is 02 ✓
(P-I)

Tenure of posting.

- i. ✓ The erstwhile normal tenure of 2 years be retained. ✓
- ii. Existing tenure for unattractive areas be retained. However, in case of married civil servants, transfer should be made just at the beginning of school session and tenure should be one year instead of 1.5 year, so that academic disruptions are avoided.
- iii. At the time of entry in service, all civil servants be asked to give 4 options from unattractive areas.
- iv. After a stint of service in unattractive area, employees may be offered option to serve in district of choice.

7 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 is 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

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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 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 participants will decline/represent against his/her posting.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Fax # 091-9211419

Dated Peshawar the February 14th, 2019

NOTIFICATION

No.SO(S/F)E.&SED/4-16/2019/Ban Posting/Transfer/Khyber Pakhtunkhwa: The Competent Authority is pleased to impose complete ban on all kind of posting/ transfers in Elementary & Secondary Education Department Khyber Pakhtunkhwa with immediate effect till further orders, except the following:

- i. Fresh recruitment and subsequent adjustment
- ii. Promotion and subsequent adjustment
- iii. Summaries already submitted to honorable Chief Minister, Khyber Pakhtunkhwa

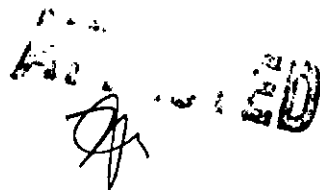
SECRETARY

List of even No. & date:

Copy forwarded to the:

- 1 Accountant General Khyber Pakhtunkhwa, Peshawar.
- 2 Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar.
- 3 Director E&SE Khyber Pakhtunkhwa, Peshawar.
- 4 PSO to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 5 Director DCTE Khyber Pakhtunkhwa, Abbottabad.
- 6 Director PITE Khyber Pakhtunkhwa.
- 7 Director RITE (Male/ Female) Khyber Pakhtunkhwa.
- 8 All District Education Officers (Male/ Female) Khyber Pakhtunkhwa.
- 9 All District Accounts Officers Khyber Pakhtunkhwa.
- 10 PS to Advisor to Chief Minister Khyber Pakhtunkhwa for E&SE, Peshawar.
- 11 PS to Secretary, Establishment & Administration Department, Peshawar.
- 12 PS to Secretary, Finance Department, Peshawar.
- 13 PS to Secretary E&SE Department.
- 14 PS to Special Secretary, E&SE Department.
- 15 PA to Additional Secretary (Estab) E&SE Department.
- 16 PA to Deputy Secretary (Admn) E&SE Department.
- 17 In-charge EMIS, E&SE Department for uploading at official website at the earliest.
- 18 Office order file


(SHABIR KHAN) 14/2/19
SECTION OFFICER (SCHOOLS FEMALE)



E (17)



Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department

K.P.S.E.S. Form No. 1
Peshawar, 2011

The Director,
E.E.S.E. Khyber Pakhtunkhwa,
Peshawar

Subject: BAN ON POSTING/TRANSFER.

I am directed to refer to the subject mentioned above and to bring to the notice of the Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department that some District Education Officers have posted their family members/employees during the "ban" which is imminent to be imposed.
You are, therefore, requested to direct all the District Education Officers (Male/Female) in Khyber Pakhtunkhwa to strictly observe the ban and to report to the Department otherwise disciplinary will be initiated against the defaulting officers. (S.O. No. 2011).

[Signature]
Section Officer (General)

OFFICE OF THE DIRECTOR, ELEMENTARY & SECONDARY EDUCATION,
KHYBER PAKHTUNKHWA, PESHAWAR.

Order No. 2011-57 / F.No.210/G.Branch

Dated: 25/4/2011

Copy forwarded to the:-

- 1. All the District Education Officers (Male/Female) in Khyber Pakhtunkhwa for necessary action and strict compliance.
- 2. Section Officer (General) Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Department, Peshawar, w/ to his letter No. as mentioned above.
- 3. Deputy Director (Admn.) Local Directorate.
- 4. Deputy Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Local Directorate.

[Signature]
Deputy Director (B & T)
Directorate of Elementary & Secondary
Education, Khyber Pakhtunkhwa, Peshawar

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**Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department**

**No. SOG/E&SE/11-31/2019
Dated Peshawar the 12/04/2019**

To

**The Director,
E&SE Khyber Pakhtunkhwa
Peshawar**

Subject: BAN ON POSTING/TRANSFER

I am directed to refer to the subject noted above and to state that it has come to the notice of the government of Khyber Pakhtunkhwa, Elementary and secondary education department that some district education officers issue posting/transfer of employees during the "ban" which is tantamount to misconduct.

You are, therefore, requested to direct all the district education officer (Male/Female) in Khyber Pakhtunkhwa, to strictly follow the "Ban" Policy of the department otherwise disciplinary will be initiated against the defaulters under the E&D rules, 2011.

Section officer (General)

**OFFICE OF THE DIRECTOR, ELEMENTARY & SECONDARY EDUCATION,
KHYBER PAKHTUNKHWA, PESHAWAR**

Endst No. 5304-57

dated 25/04/2019

Copy forwarded to the:

1. All the District Education officers (Male/Female) in Khyber Pakhtunkhwa for necessary action and strict compliance.
2. Section officer (General) Govt. of Khyber Pakhtunkhwa, elementary & Secondary Education Department, Peshawar w/r to his letter No. as mentioned above.
3. Deputy Director (Admn) Local Directorate.
4. P.A to Director Elementary & Secondary Education, Khyber Pakhtunkhwa Local Directorate.

**Deputy Director (B&T)
Directorate of Elementary & Secondary
Education, Khyber pakhtunkhwa, Peshawar**

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بعدالت

سروس ٹریڈ ہونٹل لٹسٹا اور

مل وادالیا منجانب
مل وادالیا نام محکمہ تسلیم

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 لٹسٹا اور کیلئے مجموعی طور

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 دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ 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 پرداختہ 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 لکھ دیا کہ سند ہے۔

Attested
&
Accepted

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ماہ

المرقوم

العبد گواہ العبد

کے لئے منظور ہے۔

مقام

BEFORE THE KHYBER PAKTUN KHWA SERVICE TRIBUNAL AT CAMP COURT SWAT.

Service Appeal No. 926/2019

Tal Wadan SST (G) Government High School Matiltan, District Swat.

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
3. District Education officer (Male) Swat.

..... Respondents.

Parawise Comments on Behalf of the Respondents

Respectfully shewith

Preliminary objections

1. That the appellant is not an aggrieved person within the meaning of section 4 of the service tribunal Act, 1974.
2. That the appellant has no cause of action / locus standi.
3. That the appellant has not come to this honorable court with clean hands.
4. That the appellant has filed this instant service appeal just to pressurize the respondents.
5. The present service appeal is liable to be dismissed for non-joinder/miss joinder of necessary parties.
6. That the instant service appeal is against the prevailing law and rules.
7. That the appellant has filled this instant Service Appeal on malafide motives.
8. That the instant service appeal is not maintainable in the present form, and above in the present circumstances of the issue.
9. That the appellant has estopped by his own conduct.
10. That the appellant has concealed the material facts from this honorable tribunal.

FACTS

1. That the Para No.1 first part pertains to the personal resident of the appellant, hence no comments. However the rest of para is incorrect, because the appellant was not punctual and was habitual absentee and was not taking interest in the Government duty.
2. That the Para No.2 is correct to the extent of transfer of the appellant on administrative grounds, the rest of para is incorrect because the appellant has shown misconduct in the view that the appellant has convened a gathering against the establishment in the building of Government School within school hours.
3. That the Para No.3 is correct to the extent of departmental appeal, however the appellant shown misconduct of stimulating the public against the establishment that is why his appeal was not entertained.
4. That the instant service appeal of the appellant is bereft of any merit, hence liable to be dismissed inter alia following grounds.

GROUND

- A. That the Para No. A is irrelevant as stated in Para No. 3.
- B. That the Para No. B is correct to the extent of summary, however, the mentioned order is not a routine order and respondent No. 3 has authority of transfer on administrative grounds within District.
- C. That the Para No. C is denied because as mentioned above in Para No. 2 that the transfer order of appellant was made on administrative ground and the respondent No.3 is not bound to ban while taking disciplinary action.
- D. That the Para No. D is incorrect and not admitted. Because the appellant has no proof in written of the CM instruction regarding transfer.
- E. That the Para No. E is irrelevant hence no comments.
- F. That the Para No. F is once again irrelevant to the present issue, hence no comments.
- G. That the Para No. G is irrelevant hence no comments.
- H. That the Para No. H is incorrect and not admitted. Because the appellant was found guilty of instigating violence against the establishment.
- I. That the Para No. I is irrelevant, however, the respondents also seek permission of this honorable tribunal to advance further grounds at the time of arguments.

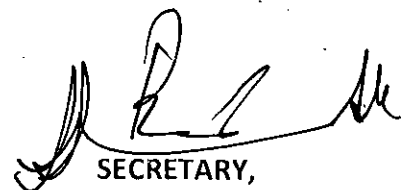
It is, therefore, very humbly prayed that the instant service appeal of the appellant may be dismissed with cost in favor of the respondents.



DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA



DIRECTOR,
ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA



SECRETARY,
ELEMENTARY AND SECONDARY
EDUCATION PESHAWAR

BEFORE THE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL PESHWAR

Service Appeal No. 926/2019

Tal Wadan SST.

.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents.

AFFIDAVIT

I, Jauhar Ali (litigation Officer) office of the District Education Officer (Male) Swat do hereby solemnly affirm and declare on oath on the directions and on behalf of the Respondents that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this august Tribunal.

Jauhar Ali Litigation Officer
O/O DEO (M) Swat