

02.08.2018

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned to come up for arguments on 16.8.2018 before D.B. Arguments on 02.08.2018 before D.B.

(Ahmad Hassan)
Member

(Muhammad Hamid Mughal)
Member

16.08.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Muhammad Jan learned Deputy District Attorney present. Adjourned. To come up for on 27.09.2018 before D.B.

(Muhammad Amir Kundi)
Member

(Muhammad Hamid Mughal)
Member

27.09.2018

Clerk to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondent present. Due to general strike of the bar adjourn. To come up for arguments on 28.09.2018 before D.B.

(Hussain Shah)
Member

(Muhammad Hamid Mughal)
Member

Grievance of Appellant has been redressed, therefore, the case is hereby withdrawn.

[Signature]
21/10/2018

02.10.2018

Learned counsel for appellant present and seeks withdrawal of the present appeal. Consequently the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED.
02.10.2018

29.06.2018

Appellant absent. Learned counsel for the appellant is absent. However, junior counsel for the appellant present and requested for adjournment on the ground that his counsel is not available today. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Being one of the oldest case, last opportunity is granted for arguments. Adjourned. To come up for arguments on 10.07.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

10.07.2018

Neither appellant nor his counsel present. Mr. Saadullah, Advocate put appearance on behalf of learned counsel for the appellant. Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant stated at the bar that he has come to know from some official respondents that the impugned order has been recalled and he made a request for adjournment to consult his client. Granted. To come up for arguments on 12.07.2018 before D.B.


Member


Chairman

12.07.2018

Clerk of the counsel for appellant present. Mr. Usman Ghani, District Attorney for the respondents present. Arguments could not be heard due to general strike of Bar Council of Pakistan on account of killing of a lawyer Barrister Haroon Bilour in a suicide attack during the election campaign. To come up for arguments on 02.08.2018 before D.B.


Member


Chairman

16.05.2018

Learned counsel for the appellant and Learned Deputy District Attorney present. Learned counsel for the appellant stated that the status quo order issued on 30.06.2015 was not further extended and seeks adjournment for arguments. Learned Deputy District Attorney stated that if status quo order is not extended any further he would have no objection on the adjournment of the present service appeal. In view of the statement of Learned counsel for the appellant the status quo order issued on 30.06.2015 is no more in field. Adjourn. To for arguments on 31.05.2018 before D.B



(Muhammad Amin Kundi)
Member



(Muhammad Hamid Mughal)
Member

31.05.2018

Appellant absent, however, Kamran Khan, Advocate put attendance on behalf of counsel for the appellant. Mr. Ziaullah, District Attorney for the respondents present. Request made for adjournment on behalf of the learned counsel for the appellant. Since stay matter is involved, therefore, case to come up for arguments on tomorrow i.e. on 01.06.2018 before the D.B.



Member



Chairman

01.06.2018

Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 29.06.2018 before D.B




(Muhammad Amin Kundi)
Member




(Muhammad Hamid Mughal)
Member

03.01.2018

Counsel for the appellant present. Mr. Muhammad Jan,
Deputy District Attorney for official respondents also present.
Learned counsel for the appellant requested adjournment.
Adjourned. To come up for arguments on 21.02.2018 before D.B.


(Ahmad Hassan)
Member(E)


(M. Amin Khan Kundi)
Member (J)

21.02.2018


Due to non availability of D.B. Adjourned. To
come up on 24.04.2018 before D.B.


(Gul Zeb Khan)
Member


24.04.2018

Counsel for the appellant and Addl:AG for respondents
present. Counsel for the appellant seeks adjournment. Adjourned.
To come up for rejoinder and arguments on 15.05.2018 before
D.B.


(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

8
Junior to counsel for the appellant and Mr. Kabir Ullah
Khattak, learned Additional Advocate General present. Junior
to counsel for the appellant seeks adjournment as senior
counsel for the appellant not available. Adjourned by way of
last opportunity. To come up for arguments on 16.05.2018
before D.B.


(Muhammad Amin Kundi)
Member

(Muhammad Hamid Mughal)
Member

06.02.2017

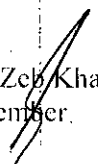
Counsel for appellant and Mr. Daud Jan, Superintendent alongwith Mr. Muhammad Jan, GP for respondents present. Counsel for appellant seeks adjournment. Adjourned. To come up for arguments on 06.06.2017 before D.B.



(ASHFAQUE TAJI)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

06.06.2017

Counsel for the appellant and Mr. Kabir Ullah Khattak, Assistant AG for the respondent present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 04.10.2017 before D.B.

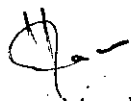

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

04.10.2017

Counsel for the appellant present. Mr. Kabir Ullah Khattak, Assistant Advocate General for the respondents present. Counsel for the appellant seeks adjournment. Adjourn. To come up for arguments 23.11.2017 before D.B.


Member
(Executive)


Member
(Judicial)

23.11.2017

Clerk to counsel for the appellant present. Mr. Zia Ullah, Deputy District Attorney for the respondents present. Clerk to counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 03.01.2018 before D.B.


(Gul Zeb Khan)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

28.1.2016

Counsel for the appellant and Mr. Maaz Madni, Assistant Litigation Officer alongwith Assistant AG fore respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 17.5.2016.


Chairman

17.05.2016

Junior to counsel for the appellant and Addl. AG for respondents present. Rejoinder submitted copy which is placed on file. To come up for arguments on 3.10.2016.

Member


Member

03.10.2016

Since 3rd October, 2016 has been declared as public holiday on account of 1st Muharram therefore, case is adjourned for the same on ~~6-2-17~~.


Reader

30.06.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was serving as Medical Technician at Civil Hospital Jamrud, Khyber Agency with effect from 3.7.2013 when vide impugned order dated 13.3.2015 he was transferred from the said post to Civil Dispensary Samsi Loe Shilman. That the appellant preferred departmental appeal against the said order on 16.3.2015 during which the impugned order was cancelled on 20.5.2015 but re-enforced subsequently on 4.6.2015 and hence the instant service appeal on 22.6.2015.

That the impugned transfer order of the appellant is violative of clause I and IV of Posting/Transfer policy of the Government of KPK according to which the appellant is entitled to serve against the post of Medial Technician Civil Hospital Jumrud for a period of at least two years.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 12.8.2015 before S.B. Notice of stay application be also issued for the date fixed. Status-quo be maintained.

Appellant Deposited
Security & Process Fee




Chairman

12.08.2015

Agent of counsel for the appellant and Mr. Muhammad Maaz Madni, Litigation Officer alongwith Assistant A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 15.10.2015 before S.B.


Chairman

15.10.2015



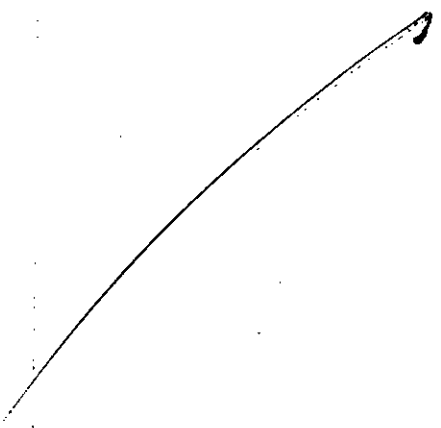
Since 15.10.2015 has been declared as public holiday on account of 1st Muharram-ul-Haram, therefore, case is adjourned to 28-1-15 for the same.


Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 708 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.06.2015	<p>The appeal of Mr. Naik Muhammad resubmitted today by Mr. Noor Muhammad Khattak Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	25-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>30-6-15</u></p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Naik Muhammad Dispenser Civil Hospital Jamrud received to-day i.e. on 22.06.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal against the impugned order dated 20.5.2015 is not attached with the appeal which may be placed on it.

No. 979 /S.T,

Dt. 22/6 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note:

R/siv,

As the original impugned order dated 13.3.2015 has been kept intact by the respondents against which the appellant has already filed Departmental appeal on 16.3.2015 (am: E/q) therefore the instant appeal may kindly be placed before the S.B for hearing.

67
23/6/15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 708 /2015

NAIK MOHAMMAD

VS

A.C.S FATA

INDEX

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7.	Impugned transfer order	D	8.
8.	Departmental appeal	E	9.
9.	Cancellation order	F	10.
10.	Order dt:4.6.2015	G	11.
11.	Transfer/ posting policy	H	12- 14.
12.	Vakalat nama	15.

APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 708 /2015

Mr. Naik Mohammad, Dispenser,
Civil Hospital Jamrud, Khyber Agency, Under transfer
to Civil Dispensary Samsi Loe Shalman, Khyber Agency.

A.W.F. Province
Service Tribunal
Diary No. 731
Dated 22/6/2015

..... APPELLANT

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Health Services FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 3- The Agency Surgeon, Khyber Agency.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDERS DATED 13.3.2015 AND 4.6.2015 WHEREBY THE APPELLANT WAS PREMATURELY TRANSFERRED FROM CIVIL HOSPITAL JAMRUD TO CIVIL DISPENSARY SAMSI LOE SHALMAN AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NIETY DAYS

PRAYER: That on acceptance of this appeal the impugned orders dated 13.3.2015 and 4.6.2015 may very kindly be set aside to the extent of appellant and the respondents may be directed that not to transfer the appellant from Civil Hospital Jamrud Khyber Agency till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of appellant.

Filed to day
Registrar
22/6/15

R.SHEWETH:
ON FACTS:

- 1- That appellant is the employee of the respondent Department and has served the respondent Department for quite considerable time quite efficiently and up to the entire satisfaction of her superiors.

re-submitted to day
and filed;
Registrar
24/6/15

- 2- That lastly the appellant was transferred to Civil Hospital Jamrud vide order dated 3.7.2013. That appellant in compliance of the order dated 3.7.2013 submitted his charge report and started performing his duty quite efficiently at the concerned station. Copy of the order is attached as annexure **A.**
- 3- That appellant while serving in the respondent Department as Dispenser at Civil Hospital Jamrud Khyber Agency an order was issued due to which the appellant was prematurely transferred from Civil Hospital Jamrud to CHC Kotki Tirah vide order dated 31.1.2014. That feeling aggrieved the appellant filed Departmental appeal and in consequence the respondent No.3 cancelled the order dated 31.1.2014 vide order dated 4.2.2014. Copies of the orders are attached as annexure **B and C.**
- 4- That astonishingly vide impugned order dated 13.3.2015 the appellant was again prematurely transferred to Civil Dispensary Samsi Loe Shalman from Civil Hospital Jamrud Khyber Agency. That appellant feeling aggrieved filed Departmental appeal against the order dated 13.3.2015. That in consequence the respondents cancelled the impugned order dated 13.3.2015 vide dated 20.5.2015. That again the appellant was transfer from Civil Hospital Jamrud to Civil Dispensary Samsi vide order dated 4.6.2015. Copies of the impugned order dated 13.3.2015, Departmental appeal, cancellation order and order dated 4.6.2015 are attached as annexure **D, E, F and G.**
- 5- That appellant feeling aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 13.3.2015 and 4.6.2015 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned transfer orders dated 13-3-2015 and 4.6.2015 are against the clause I and IV of the transfer/ Posting policy of the Government of Khyber

Pakhtunkhwa. (Copy of Transfer/Posting policy is attached as annexure H.

- D- That the impugned orders dated 13-3-2015 and 4.6.2015 has not been issued by the respondent No.3 in the public interest nor in exigencies of service.
- E- That the impugned transfer orders dated 13.3.2015 and 4.6.2015 are pre mature, therefore not tenable and liable to be set aside.
- F- That the respondents acted in arbitrary and malafide manner while issuing the impugned transfer order dated 13.3.2015 and 4.6.2015.
- G- That the appellant has been discriminated by the respondents by issuing repeated transfer orders against the appellant and as such the respondents has made the appellant a rolling stone.
- H- That the petitioner seeks permission to advance other grounds and proofs at the time of hearing.

DATED: 22.6.2015

APPELLANT

Naik

NAIK MOHAMMAD

THROUGH:

Kh

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____/2015

NAIK MOHAMMAD

VS

A.C.S FATA

APPLICATION FOR SUSPENSION OF OPERATION
OF IMPUGNED ORDER DATED 4.6.2015 TO THE
EXTENT OF APPELLANT TILL THE DISPOSAL OF
THIS APPEAL

R/SHEWETH:

- 1- That the appellant filed above mentioned appeal along with this application before this august service Tribunal in which no date has been fixed so for.
- 2- That all the three ingredients necessary for the stay is in favor of the appellant.
- 3- That the transfer of the appellant is against the transfer policy of the Government of Khyber Pakhtunkhwa and the impugned transfer order dated 4.6.2015 is also not issued in the public interest nor exigencies of public service.
- 4- That the grounds of main appeal is also be considered as integral part of this application.

It is therefore humbly prayed that on acceptance of this application the impugned transfer order dated 4.6.2015 may very kindly be suspended till disposal of this appeal.

APPELLANT



NAIK MOHAMMAD

THROUGH:



NOOR MOHAMMAD KHATTAK
ADVOCATE

A-5

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD

NO 2768-69 /AS KHY

Dated 03 /07/013

OFFICE ORDER

Mr. Naik Muhammad Medical tech is hereby directed to perform his duty in CH; Jamrud on general duty till farther order.

✓

Agency Surgeon
Khyber at Jamrud

Cc

01 In charge CH; Jamrud,
02 Concerned Staff,

[Handwritten Signature]

Agency Surgeon
Khyber at Jamrud

ATTACHED

[Handwritten Signature]

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD.

B-⑥

OFFICE ORDER:

Mr. Naik Mohammad Dispenser is hereby transferred from Civil Hospital Jamrud Khyber Agency to CHC Kotki, Tirah Khyber Agency in the best interest of public.


Arrival / Departure should be submitted to this office for record.

Agency Surgeon Khyber
at Jamrud.

No. 42627 / AS-Khy/Pf Dated: The 31 / 01 / 2014.

Copy forwarded to the :

01. SMO Incharge Civil Hospital Jamrud.
02. Official concerned.


Agency Surgeon Khyber
at Jamrud.

ATTESTED



OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD.

C-7

OFFICE ORDER.


This office order bearing NO.426-27/AS-Khy dated: 31.1.2014 is hereby cancelled and Mr. Abdul Salam dispensar attached to Camp Hospital Jalesai is directed to report for duty to CHC Kotki Tirah with immediate effect in the best interest of public, instead of Mr. Nasir Shah ~~dispensar~~ dispensar attached to Camp Hospital Jalesai.

Agency Surgeon Khyber,
at Jamrud.

NO 469-73/AS-Khy dated 04/02/2014.

Copy to :-

1. SMO Incharge CH:Jamrud.
2. SMO Incharge Camp Hospital Jalesai.
3. Incharge CHC Kotki Tirah .
4. officials Concerned.


Agency Surgeon Khyber,
at Jamrud.

ATTESTED




OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD.

OFFICE ORDER.

The following Dispensers /Dai attached to Civil Hospital Jamrud are hereby original post CD Samsi Loe shilman directed to report for duty in the best interest of public service.


1. Naik Muhammad Dispenser.
2. Shahida Dai .


Agency Surgeon Khyber
At Jamrud

No 792-96 /A/S-Khyber

Dated 13/3/015

1. Director Health Services FATA at Peshawar.
2. Political Agent Khyber Agency.
3. Incharge Civil Hospital Jamrud.
4. Officials Concerned for information.


Agency Surgeon Khyber
At Jamrud

ATTESTED




OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD.

OFFICE ORDER.

The following Dispensers /Dai attached to Civil Hospital Jamrud are hereby original post CD Samsi Loe shilman directed to report for duty in the best interest of public service.


1. Naik Muhammad Dispenser.
2. Shahida Dai .


Agency Surgeon Khyber
At Jamrud

No. 792-96 /A/S-Khyber

Dated 13/3/05

1. Director Health Services FATA at Peshawar.
2. Political Agent Khyber Agency.
3. Incharge Civil Hospital Jamrud.
4. Officials Concerned for information.


Agency Surgeon Khyber
At Jamrud

ATTESTED


E-9

To,
The Agency Surgeon Khyber
Agency at Jamrud.

Subject: Departmental Appeal.

Sir /

Most respectfully i beg to state
that i am the resident of Tensil Jamrud
and working as a medical technician in
civil hospital Jamrud. I have never reported
nor underinquired by competent authority

So please kindly cancelled my
transferred ordered, letter NO 792-96/A/S-Khy
dated 13-03-2015

Thanks

your's obedient

Recommended and
forwarded for n/a-

Naik Muhammad (Med tech)
civil hospital Jamrud

Dated: 16-03-2015

S.M.O. Incharge
C.H. Jamrud
Khyber Agency

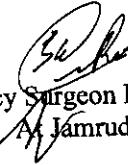
16-3-15
ATTESTED
MK

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD

F - (10)

OFFICE ORDER

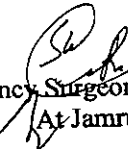
Office order No 792-96/A/S-Khyber dated 13/03/2015 is hereby cancelled in the interest of public service.


Agency Surgeon Khyber
At Jamrud

1581-84
No-----/A/S-Khyber

Dated 20/5/2015

1. Director Health Services FATA at Peshawar
2. Political Agent Khyber Agency
3. Incharge Civil Hospital Jamrud
4. Officials Concerned for information


Agency Surgeon Khyber
At Jamrud

ATTESTED



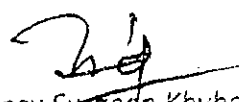
G-11

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD.

OFFICE ORDER.

The following officials are hereby directed to perform duty in the best interest of public immediately.

<u>S NO. Name & Designation</u>	<u>Name of Health facility.</u>	<u>Remarks</u>
1. Mr. Farhad disp:	CHC Habibullah Kalli	Original Post
2. Mr. Safdar disp:	CD Syed Imran Kalli	-do-
3. Mr. Amal Dar Disp"	CD: Nogazai Baba	
4. Mr. Asif, Malaria Supervisor	CHC Habib ullah Kalli	
5 Mr. Abdullah Noor Malaria Supervisor	CD: Nowgazai Baba	
6 Mr. Amin, Malaria Supervisor	CD: Syed Imran Kalli	
7. Mr. Yousaf Khan Microscophist	THQ: Hospital Dogra Picket .	
8. Mr. Wahid ullah Malaria Supervisor		-do-
9. Mr. Yaseen Disp:	BHU: ALLacha	Original post.
10. Ms: Usmania Dai	BHU: Allacha	Original post.
11. Mr. Ismail MT	BHU: Allacha	Original post.
12. Ms: Nurgas Dai	CD: Syed Imran Kalli	
13. Mr. Raheem Shah Disp:	CHC Kotki	Original Post
14. Mr. Nik Wahid. disp.	CD: Samsai	Original post.


Agency Surgeon Khyber,
At Jamrud/

Dated 04/6/ /2015.

100-38/AS-Khy

Copy forwarded to

1. Director Health Ser. Ines, FATA Peshawar.
2. Political Agent Khyber.
3. District Head
4. SMO Incharge THQ Hospital Dogra Picket Bara.
5. Incharge -the concerned health facility
6. Official concerned

Agency Surgeon Khyber,
At Jamrud.

ATTESTED





**GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)**

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) ¹{ }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained

²While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

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

² Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

ATTES

Handwritten signature

- 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
¹DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in 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 b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:
- 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.
 - Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

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

ATTESTED

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

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

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

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

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

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

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

.....

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

{*Authority: Latter 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.

ATTESTED

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2015

Naik Mohammad

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

A.C.S. FATA

(RESPONDENT)
(DEFENDANT)

I/We Naik Mohammad

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2015

Naik Mohammad

CLIENT

ACCEPTED

**NOOR MOHAMMAD KHATTAK
(ADVOCATE)**

OFFICE:

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

Phone: 091-2211391

Mobile No.0345-9383141

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 708/2015

Mr. Naik Muhammad

..... Appellant

Versus

Additional Chief Secretary (FATA) & Others

..... Respondents

Para wise joint comments on behalf of respondent No. 1, 2 & 3.

Preliminary objections

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That this Honorable Service Tribunal has got no jurisdiction to entertain the instant appeal.
4. That the instant appeal is bad for Mis-Joinder & Non-Joinder of necessary parties.
5. That the present appeal is barred by law.
6. That the appeal is not maintainable in its present form, as no requirement is fulfilled as is required under the law.
7. That, the appellant had to serve anywhere in Province/FATA as per rule & Law.

Respectfully Sheweth;

ON FACTS

1. Correct, to the extent of employee of the respondent department, but the appellant is appointed purely on contract basis in Health Department FATA and can never be termed as civil servant. (Copy of appointment is attached as **Annex-A**)
2. Incorrect, the posting of the appellant to CH Jamrud was on general duty.
3. Incorrect, hence denied. For the smooth running of the Health Facilities in FATA and to provide health care facilities to the people of FATA the appellant was directed to perform his duty at his original place of posting.
4. Incorrect, as stated above the appellant is actually asked just only to perform his duty at his original place of posting i.e. Civil Dispensary Samsai.

5. Incorrect, the appellant never ever filed any departmental appeal, the annexed departmental appeal does not show the authentication or justification to be considered as an official document.
6. Incorrect, the appellant is not an aggrieved person as no illegality is made with respect to the issuance of impugned order.


ON GROUNDS


- A. Incorrect, the appellant is performing his duty in Civil Hospital Jamrud as "GENERAL DUTY" and if the department has asked him to perform his services at his original place of posting, then impugned order is according to law and is not against facts, norms of natural justice and is not liable to be set aside.
- B. Incorrect, the appellant is treated in accordance with law and no violation of the constitution have been made.
- C. Incorrect, the posting is made with the best interest of public.
- D. Incorrect, as stated above the order is in the best interest of public.
- E. Incorrect, the order is not pre-mature the appellant is serving on "GENERAL DUTY" in Civil Hospital Jamrud since from the appointment and assuming of charge.
- F. Incorrect, no arbitrary or malafide manner have been made while issuing the impugned orders.
- G. Incorrect, no discrimination have been made as is explained above.
- H. That the respondents seeks permission to raise additional grounds and proof at the time of arguments.

It is therefore, most humbly prayed that the appeal being devoid of merits/legal footing, may please be dismissed with cost.


14/12/15

**Director Health Services,
FATA, Peshawar.
RESPONDENT NO. 2**


**Agency Surgeon,
Khyber at Jamrud.
RESPONDENT NO. 3**


**Additional Chief Secretary (FATA),
Peshawar.
RESPONDENT NO. 1**

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 708/2015

Mr. Naik Muhammad **Versus** ACS (FATA) & Others

REPLY OF APPLICATION

Preliminary objections

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That this Honourable Service Tribunal has got no jurisdiction to entertain the instant appeal.
4. That the instant petitioner is bad for mis joinder & non-joinder of necessary parties.
5. That the present appeal is barred by law.
6. That the petition is not maintainable in its present form.
7. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed.
8. That the present appeal is against the provision of S. 56 (d) of Specific Relief Act.
9. That, the applicant does not provide the requirement of interim relief.

Respectfully Sheweth:


1. No Comments.
2. Incorrect, there is neither a prima-facie nor the hope of success of the instant appeal.
3. Incorrect, the order is issued in accordance with law and in the public interest.
4. That, grounds of the reply may be considered as integral part of the application reply.

It is therefore, most humbly prayed that on acceptance of this reply the status quo issued to appellant may very please be dismissed.


 14/12/15

Director Health Services,
 FATA, Peshawar.
RESPONDENT NO. 2


Agency Surgeon,
 Khyber at Jamrud.
RESPONDENT NO. 3


 F02
Additional Chief Secretary (FATA),
 Peshawar.
RESPONDENT NO. 1

Attention Mr: Nazir Asst. Director

OFFICE OF THE AGENCY SURGEON KHYBER AT JAMRUD

OFFICE ORDER.

(4)

As Recommended by the selection committee
Mr. Nik Muhammad S/O Quresat Khan address Khyber A
Is her by appointed as Health Tech BPS-09 (Rs,6200-380-17

With immediate effect, on the following terms & condition.

1. The appointment will be purely on contract base .
2. He will have to produce the Medical Fitness Certificate
3. His Service can be terminated at any time without assign any reason.
4. If he /she wish to resign to the service, a Prior notice o month shall be submitted or one month's pay in the lie should be deposited into Govt: treasury.
5. The offer shall be automatically held cancelled, if he fa join the duty within 15 days, receipt of this offer.

Agency Surgeon Khy

At Jamrud

No: 2833-37 /As-Khy

Dated 15 / 5 /2013

CC:

1. Director Health Services (FATA) at Peshawar, For information please.
2. Political Agent Khyber at Peshawar.
3. Agency Accounts officer Khyber at Jamrud.
4. Accountant of the office of undersigned.
5. Official Concerned, For Information.

Agency Surgeon Khy

At Jamrud

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No.708/2015

NAIK MUHAMMAD

VS

A.C.S. FATA

REJOINDER ON BEHALF OF PETITIONER IN RESPONSE TO
THE REPLY SUBMITTED BY THE RESPONDENTS

R/SHEWETH:

(1-7):

All the objections raised by the respondent are in correct and baseless and not in accordance with law and rules rather the respondent is estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Incorrect and not replied accordingly. That appellant was appointed in light of the Civil servant Amendment Act, 2005.
- 2- Incorrect and not replied accordingly. That appellant was transferred to Civil Hospital Jamrud vide order dated 3.7.2013 wherein the appellant submitted his charge report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors.
- 3- Incorrect and not replied accordingly. That astonishingly just after seven months stay at Civil Hospital Jamrud the appellant was again transferred to CHC Kotki Tirah vide order dated 31.1.2014. That feeling aggrieved the appellant prefferred Departmental appeal which was accepted and in result the order dated 31.1.2014 was cancelled.
- 4- Incorrect and not replied accordingly. That on 13.3.2015 the appellant was again transferred to CD samsi Loe shalman but it was cancelled on 20.5.2015 but again vide impugned order dated 4.6.2015 the appellant was again transferred to CD Loe Shalman. That the said transfer orders and cancellation thereof clearly shows the malafide and arbitrary intentions of the respondents.
- 5- Incorrect and not replied accordingly hence denied.

GROUND:
(A to G):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondent are incorrect and baseless hence denied. That the impugned order dated 13-0-2015 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside. That the impugned order 13-03-2015 is the violation of clause I, IV and IX of the transfer/posting policy. That the respondent Department issued the impugned order dated 13-03-2015 with malafide manner. That the impugned order dated 13-03-2015 has been issued in violation of transfer/posting regulatory Act 2011. That the impugned order dated 13-03-2015 has not been issued in the public interest nor exigencies of service, therefore, not tenable and liable to be set aside.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted as prayed for.

APPELLANT



NAIK MUHAMMAD

THROUGH:



NOOR MOHAMMAD KHATTAK
DVOCATE