

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 109/2016

Date of Institution ... 28.01.2016

Date of Decision ... 24.08.2017

Mst. Najam Riaz,
 SPST, GGPS No.2 Mamakhel,
 District Lakki Marwat.

... (Appellant)

VERSUS

1. The Secretary to Govt: of Khyber Pakhtunkhwa,
 Elementary & Secondary Education, Department,
 Civil Secretariat, Peshawar and 2 others.

... (Respondents)

MR. KHALED REHMAN,
 Advocate

For appellant.

Respondents were placed Ex-parte vide order sheet dated 23.11.2016.

MR. AHMAD HASSAN,
 MR. GUL ZEB KAHN

...

...

MEMBER(Executive)

MEMBER(Executive)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the present appeal has been filed against the impugned order dated 28.05.2009 of respondent no.2 whereby request of the appellant for transfer under Spouse Policy was regretted and departmental representation of the appellant was not disposed of within the statutory period, hence the instant service appeal.

ARGUMENTS

3. The Learned Counsel for the appellant argued that she is serving as SPST (BPS-14) at GGPS no. 2 Mamakhel, District Lakki Marwat, while her husband is posted LDC in Pak PWD Peshawar. Displacement has adversely affected their family life and specially education of their children. She obtained NOC from DEO (F) Lakki Marwat for transfer to Peshawar. NOC alongwith application was submitted to respondent no.2 but the same was turned down vide letter dated 17.08.2015. Thereafter she submitted departmental representation before respondent no.1 on 8.09.2015. Instead of deciding the same it was referred to respondent no.2 for necessary action on 20.10.2015. The appellant has not been treated according to the Spouse policy and Article-35 of the Constitution. He further contended that case of the appellant is covered under the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011. Reliance was placed on case law reported as 2011 PLC (C.S) 592, 2014 PLC (C.S) 1032, 2015 PLC (C.S) 1215 and 2006 SCMR.1630.

CONCLUSION.

4. Having gone through the record it transpired that the present appeal is barred by time. Departmental appeal was filed on 08.09.2015, while service appeal was filed on 28.1.2016. Learned counsel for the appellant when confronted on the point of limitation was unable to give a plausible explanation. Moreover, application for condonation of delay has also not been filed alongwith instant appeal. It may not be out of place to mention here that SPST (BPS-14) post cannot be filled by transfer of a teacher from other district being a District Cadre Post. The same is required to be filled by promotion from amongst the teachers belonging to the same District. It not


only amounts to discrimination but will also result in administrative complications. In addition to above, it will also deprive the bonafide residents of the same district of their due right of promotion. Attention is also invited to para-ix of the Posting and Transfer Policy of the Provincial government and relevant portion is reproduced below:-

“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.”

As the husband of the appellant is not serving in the Provincial Government so this policy is not applicable in this case. Moreover, the Provincial government will make efforts for adjustment in such cases. The respondents were cognizant of Act of 2011 and after taking into consideration its implications her case was regretted.

5. In view of the afore-going, the appeal is dismissed, leaving the parties to bear their own costs. File be consigned to the record room.


(GUL ZEB KHAN)
MEMBER


(AHMAD HASSAN)
MEMBER

ANNOUNCED
24.08.2017

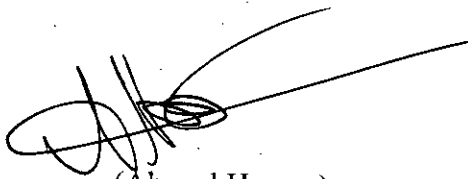
Order

24.08.2017 Counsel for the appellant present. Arguments heard and record perused.

Vide separate judgment of today of this Tribunal placed on file, the instant appeal is dismissed. No order as to cost. File be consigned to the record room.

Announced:
24.08.2017


(Gul Zeb Khan)
Member

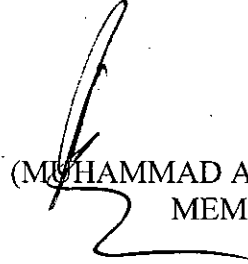

(Ahmad Hassan)
Member

14.03.2017

Clerk counsel for appellant and Mr. Muhammad Adeel Butt, Additional AG for respondents present. Clerk counsel for appellant seeks adjournment as counsel for appellant is stated busy in the Hon'ble Peshawar High Court. Adjournment granted. To come up for arguments on 28.04.2017 before D.B.



(ASHFAQUE TAJ)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

28.04.2017

Clerk to counsel for the appellant and Mr. Ziaullah, Government Pleader for respondents present. Learned counsel for the appellant is stated busy before the august Supreme Court of Pakistan. Adjourned for final hearing to 07.07.2017 before D.B.



Member



Chairman

11. 07.07.2017

Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 24.08.2017 before D.B.



(Gul Zeb Khan)
Member



(Muhammad Hamid Mughal)
Member

109/16

28.07.2016

Clerk of counsel for the appellant and Mr. Khursheed Khan SO and Mr. Hameedur Rahman, AD alongwith Addl. AG for the respondents present. Written reply not submitted despite repeated adjournments including last opportunity which was further extended subject to payment of cost of Rs. 500/-. No further opportunity is granted. The appeal is assigned to D.B for rejoinder and final hearing for 23.11.2016.


Chairman

23.11.2016

Counsel for the appellant and Additional AG for respondents present. Today the case was fixed for submission of rejoinder. Perusal of the previous order sheet reveals that the respondents have been placed ex parte due to non-submission of written reply, therefore, there is no need to file rejoinder. To come up for arguments on 9-1-17 before D.B.


(ABDUL LATIF)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

09.01.2017

Clerk to counsel for the appellant and Mr. Pir Iqbal, Sudpt. Alongwith Mr. Ziaullah, GP for respondents present. Clerk to counsel for the appellant requested for adjournment as counsel for the appellant is indisposed. Request accepted. To come up for arguments on 14.03.2017.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

23.02.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as PST at GGPS No. 2 Mamakhel Lakki Marwat while her spouse is serving as LDC at Pakistan Public Works Department Peshawar and therefore appellant entitled to serve at Peshawar under spouse policy. That the appellant submitted application to respondent No. 2 for her posting at Peshawar which was rejected on 17.8.2015 where-against departmental representation was preferred to respondent No. 1 on 8.9.2015 which was not responded and hence the instant service appeal on 28.1.2016.

Appellant Deposited
Security & Process Fee

That the appellant is entitled to posting at Peshawar in view of spouse policy read with Article-35 of the Constitution. Reliance was placed on case law reported as 2014 PLC (CS) 1023.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 11.4.2016 before S.B.

Chairman

11.04.2016

Agent to counsel for the appellant and Mr. Hameedur Rahman, A.D (Litigation) alongwith Sr.GP for the respondents present. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 01.06.2016 before S.B.

Chairman

01.06.2016



Agent of counsel for the appellant, M/S Khursheed Khan, SO and Hameedur Rahman, AD for the respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is further extended subject to payment of cost of Rs. 500/- which shall be borne by the respondents from their own pockets. To come up for written reply and cost on 28.07.2016 before S.B.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 109/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28.01.2016	<p>The appeal of Mst. Najma Riaz presented today by Mr. Khaled Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>23-2-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 109 /2016

Mst. Najma Riaz Appellant

Versus

The Govt. of KPK and others.....Respondents

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4.	Nikah Nama		C	0-9
5.	NOC		D	0-10
6.	Application		E	0-11
7.	Impugned letter	17.08.2015	F	0-12
8.	Departmental Representation through Respondent No.3	08.09.2015	G	0-13
9.	Direct Representation	06.10.2015	H	0-14
10.	Letter of Respondent No.1	20.10.2015	I	0-15
11.	Office Memorandum	25.10.2010	J	0-16
12.	Spouse Policy		K	17-19
13.	Wakalat Nama			

Najma Riaz
Appellant

Through

Khaled Rahman
Advocate,
Supreme Court of Pakistan
3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: ___/01/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 109 /2016

Mst. Najma Riaz

SPST, GGPS No.2 Mamakhel,

District Lakki Marwat.....Appellant

VERSUS

1. The Secretary
to Govt. of Khyber Pakhtunkhwa
Elementary & Secondary Education Department,
Civil Secretariat, Peshawar.

2. The Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

3. The District Education Officer (F)
District Lakki Marwat.....Respondents

A.W.P. Provincial
Service Tribunal

Diary No. 70

Dated 28-1-2016

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17.08.2015 WHEREBY THE REQUEST OF THE APPELLANT FOR HER TRANSFER AS PER THE SPOUSE POLICY WAS REGRETTEED AGAINST WHICH SHE PREFERRED DEPARTMENTAL REPRESENTATION BEFORE RESPONDENT NO.1 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned order dated 17.08.2015 issued by Respondent No.2 may graciously be set aside by allowing the transfer of the appellant from District Lakki Marwat to District Peshawar under the Spouse Policy in the public interest as well as in the interest of justice.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

28/7/16
No further
opportunity

28/11/16

1. That the appellant is serving as SPST (BPS-14) at GGPS No.2 Mamakhel, District Lakki Marwat. She was initially appointed as PST on 13.10.2006 (Extracts from Service Book *Annex:-A*). The Spouse of the appellant namely Riaz Badshah has been serving as LDC in the Govt. of Pakistan, Public Works Department since 01.04.1993 (Service Certificate *Annex:-B* and Nikah Nama *Annex:-C*). It is pertinent to add that there is no office/branch of the Public Works Department, Govt. of Pakistan in District Lakki Marwat where the transfer of the appellant's spouse could be effected.
2. That due to the far-flung posting of the appellant and her spouse, their family life has become much troubled particularly the school-going minor children have become the direct victims of the distant postings of both the spouses. In this view of the matter after obtaining an NOC (*Annex:-D*) from the Respondent No.3, an application (*Annex:-E*) was submitted to Respondent No.2 for the desired posting which was processed but was not acceded to vide letter dated 17.08.2015 (*Annex:-F*).
3. That being aggrieved of the impugned order *ibid*, appellant preferred a departmental Representation (*Annex:-G*) on 08.09.2015 to Respondent No.1 through Respondent No.3 but the same was not forwarded to Respondent No.1, therefore, later on, the Representation was directly forwarded to Respondent No.1 on 06.10.2015 (*Annex:-H*). Respondent No.1, thereafter, forwarded the same to Respondent No.2 for necessary action vide letter dated 20.10.2015 (*Annex:-I*) but no final decision was communicated to the appellant till date.
4. That both the Federal Government vide Office Memorandum dated 25.10.2010 (*Annex:-J*) and the Provincial Government vide Policy incorporated in the ESTACODE (*Annex:-K*) have specifically and emphatically provided for the posting of both the spouses at the same

station in order to facilitate them in the performance of their duties.

5. That the appellant now prefers this service appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully refused to transfer the appellant as per the Spouse Policy, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That under Article-35 of the Constitution of the Islamic Republic of Pakistan, 1973, it is the obligatory duty of the State to protect the marriage, the family and the mother and the child, however, appellant has been denied the fundamental rights which has resulted in serious miscarriage of justice.
- C. That the Respondents are bound to follow the instructions/ directives/ policy framed/circulated in the public interest to redress the grievances of the aggrieved civil servants but they have failed to discharge the responsibilities/obligations cast upon them by the law, which is utterly illegal and unconstitutional and hence not maintainable under the law.
- D. That appellant, her spouse and children have been in great hardships due to the displacement of the family which has adversely affected their lives, the same is not only unjust and unfair but is also detrimental to the performance of their official duties, which also requires a solaced mind and atmosphere.

- E. That appellant was also issued NOC by the District Education Officer (Female) Lakki Marwat and moreover, there are settled rules for maintaining seniority in cases of inter-districts and inter-provincial transfers, which have been ignored by the Respondents.
- F. That as per the policy of the Federal as well as the Provincial Governments, the spouses in the Government service are to be adjusted at one station in order to redress their grievances caused due to distant postings.
- G. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.


Appellant

Through


Khaled Rahman,
Advocate,
Supreme Court of Pakistan

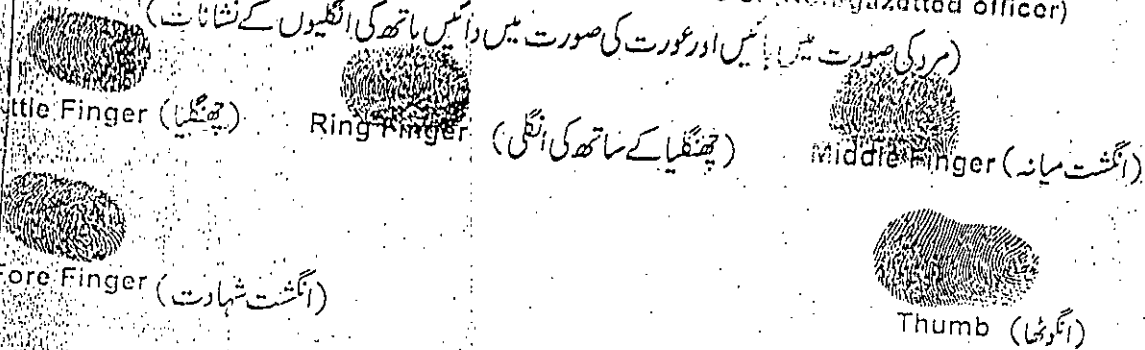
Dated: ___/___/2016

10/3/70

1. Name (نام) Majuma Bibi
2. Nationality and Religion (قومیت اور مذہب) Indian / Pakistan
3. Residence (مستقر رہائش) Channa / Pakistany village Ladhian, Tehsil District Lakhli Marwan
4. Father's Name and Residence (والد کا نام اور پتہ) Bahin Jan Malak
5. Date of birth Christian era as nearly as can be ascertained (تاریخ پیدائش مطابق سن عیسوی) 17-12-1960 (16th Decem)
6. Exact height by measurement (قد و قامت) 5' 5" only
7. Personal mark of identification (نشان شناخت) Red Khanda

Left hand/right hand thumb and finger impressions of (Non-gazetted officer)

(مرد کی صورت میں بائیں اور عورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)



Majuma Bibi
Signature of Govt. Servant (سرکاری ملازم کے دستخط)

Signature and designation of the Head of the Officer or other Attesting Officer.

(تصدیق کنندہ افسر کے دستخط اور مہر)

[Signature]
Distt. Officer,
(F) Fry: Lakhli Marwan

The entries in this page should be renewed or re-aggested at least every five years the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after 5 years under this rule.

اس صفحہ کے مندرجہ کم از کم پانچ سال بعد تصدیق کرنا ضروری ہیں اور ہر 9 اور 10 میں دستخطوں کے نئے تاریخ لکھنی چاہئے۔
انہیوں کے نشانات کے لئے ہر پانچ سال کے بعد تصدیق کی ضرورت نہیں۔

Attested to be
True Copy

6

9	10	11	12	13	14	15	
Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 8	Date of termination or appointment	Reason of termination (such as promotion transfer, diamittal etc.)	Signature of the head of the office or other Attesting Officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government Period Government to which debitable	Signature of the Head of the office or other attesting officer	Reference to any recorded punishment of censure, or reward, or praised of the Government servants
[Signature]	30/06	[Signature]	[Signature]	[Signature]	پارہ دیک کی رخصت کے لئے اوسط تمام کا تھیں	[Signature]	سزایا جازایا غیر مستاسب کارکردگی کا ریکارڈ
[Signature]	30/06	[Signature]	[Signature]	[Signature]	Appointed on a P.T. on conduct basis in B.P. 7 Plus award allow w/d F.D.O (S&L) Lohli No. 13849-611/13-10-2006	[Signature]	
[Signature]	30/06	[Signature]	[Signature]	[Signature]	Parent's S.S.C. Examination from B.S.R. Banner Under R.No. 54588 marks obtained 371/850 Dy: District Officer, (F) Pky: Lakki Marwal	[Signature]	
[Signature]	30/06	[Signature]	[Signature]	[Signature]	Parent's F.A. Examination from B.S.R. Banner Under R.No. 5061 marks obtained 570/1100 Dy: District Officer, (F) Pky: Lakki Marwal	[Signature]	
[Signature]	30/06	[Signature]	[Signature]	[Signature]	Parent P.T.C. Examination from Alama Iqbal Open University Islamiabad Under R.No. 068634 marks obtained 532/900 Dy: District Officer, (F) Pky: Lakki Marwal	[Signature]	

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9	10	11	12	13	14	15
Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 8. دستخط افسر مجاز	Date of termination or appointment. تاریخ انقطاع ملازمت	Reason of termination (such as promotion transfer, dismissal etc.) وجوہات انقطاع ملازمت ترسیل تدارک اہل طرز	Signature of the head of the office or other Attesting Officer. دستخط افسر مجاز	Nature and duration of leave taken. درجہ کی نوعیت و مدتیار پارہ ایک کی رخصت کے لئے اوسط آٹھ ماہ کا تین ماہ Period ۱۰	Signature of the Head of the office or other attesting officer. دستخط افسر مجاز	Reference to any recorded punishment of censure or reward or praise of the Government servants. سزا یا جزا یا غیر مناسب کارکردگی کا ریکارڈ
				Passed by P.A. R. K. Khattar No. 7931		
				14/11/56 7		
					
					
					
					

Attested to be
True Copy

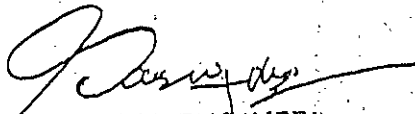
Annex "B"

8

GOVERNMENT OF PAKISTAN
PAKISTAN PUBLIC WORKS DEPARTMENT

CERTIFICATE

It is certified that Mr. Riaz Badshah S/O Lal Badshah has been serving in Central Civil Division No.1 Pak. PWD Shami Road Peshawar as L.D.C since 1.4.1993 . He is a Federal Government Servant.


EXECUTIVE ENGINEER
Central Civil Division-No. 1
Pak: P.W.D. Peshawar.

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نکاح نامہ

فارم نمبر ۱
(دیکھئے قاعدہ نمبر ۱۰۰۸)

مسلم مناد الی تو انہیں کے آرازی میں بحریہ ۱۹۷۱ء (۱۰ شتم ۱۱۱۱ء) کے وقت منج کے اورے تو اس کے قاعدہ نمبر ۸ اور نمبر ۱۰ کے تحت کوزہ فارم

۱۔ وارڈ اسمتھ گھرانہ میں داخل ہونے والے اور انہیں کوئی اور گھرانہ میں داخل ہونے سے پہلے ان کا نام محمد علی اور منسلک اور منسلک جس میں شادی وقت پذیر ہوئی

۲۔ ڈولہا اور اس کے والد کا نام محمد ان کی سکونت بالترتیب
روانی باورہہ بد لعل باورہہ
سکنہ ڈیرہ منگوریا، نزدک فتح پور

۳۔ ڈولہا کی عمر یا تاریخ پیدائش ۱۵.۵.۱۹۷۴
۴۔ ذہن اور اس کے والد کا نام محمد ان کی سکونت بالترتیب
محمد علی بن فخر الرحمن بن محمد انور

۵۔ آیا ذہن کنواری ہے یا بیوہ یا مطلقہ
۵۔ (الف) اگر ذہن بیوہ یا مطلقہ ہے اور اس کے بچے ہیں تو ان کی تعداد اور نام

۶۔ ذہن کی عمر یا تاریخ پیدائش ۱۸-۱۲-۱۹۸۰
۷۔ اگر ذہن کی طرف سے کوئی وکیل مقرر کیا گیا ہے تو اس کا نام معدولیت و سکونت

۸۔ ذہن کے وکیل کے تقرر کے بارے میں گواہوں کے نام معدولیت و سکونت اور ان کی ذہن کے ساتھ رشتہ داری
نہایت خود

۹۔ اگر ڈولہا کی طرف سے کوئی وکیل مقرر کیا گیا ہے تو اس کا نام معدولیت و سکونت
۱۰۔ ڈولہا کے وکیل کے تقرر کے بارے میں گواہوں کے نام معدولیت و سکونت

۱۱۔ شادی کے گواہوں کے نام معدولیت و سکونت
نہایت خود

۱۲۔ شادی سرانجام پانے کی تاریخ ۱۵-۸-۲۰۰۸
۱۳۔ مہر کی رقم 50000 روپے

۱۴۔ مہر کی کتنی رقم معجل ہے کتنی غیر معجل
۱۵۔ آیا مہر کا کچھ حصہ شادی کے موقع پر ادا کیا گیا اگر کیا گیا ہے تو کس قدر

۱۶۔ آیا پورے مہر یا اس کے کسی حصہ کے عوض میں کوئی جائیداد دی گئی ہے اگر دی گئی ہے تو اس جائیداد کی سرایت اور اس کی قیمت جو فریقین کے مابین طے پائی ہے۔

Attested to be True Copy

۱۷۔ خاص شرائط اگر کوئی ہوں

۱۸۔ آیا شوہر نے طلاق کا حق بیوی کو تفویض کر دیا ہے

اگر کر دیا ہے تو کونسی شرائط کے تحت؟

۱۹۔ آیا شوہر کے طلاق کے حق پر کسی قسم کی پابندی لگائی

گئی ہے۔

۲۰۔ آیا شادی کے موقع پر مہر و نان نفقہ وغیرہ سے

متعلق کوئی دعوہ یا یہ بنیاد رکھی گئی ہے۔ اگر کی گئی

ہے تو اس کے مختصر مندرجات۔

۲۱۔ آیا دولہا کے یہاں پہلے سے کوئی بیوی موجود ہے اگر ہے تو آیا اس

نے دوسری شادی کرنے کے لئے مسلم خاندانی قوانین کے آرڈیننس

۱۹۶۱ء کے تحت چیزیں حالی کونسل سے اجازت نامہ حاصل کر لیا ہے۔

۲۱۔ (الف) آیا دولہا رنڈوا ہے یا طلاق یافتہ؟

۲۱۔ (ب) آیا دولہا کے ہاں پہلے سے بیوی یا بیویاں موجود ہیں؟

اگر دولہا رنڈوا یا طلاق یافتہ ہے تو

اس کے بچوں کی تعداد اور نام

۲۲۔ نمبر و تاریخ مراسلہ جس کے ذریعے حالی کونسل نے

دولہا کو دوسری شادی کرنے کی اجازت دی ہے۔

۲۳۔ نکاح خواں کا نام اور ولدیت مع پتہ۔

۲۴۔ شادی کو درج رجسٹر کرانے کی تاریخ

۲۵۔ فیس رجسٹریشن جو ادا کی گئی۔

دولہا یا اس کے ولی کے دستخط

(Signature)

دلہن کے دستخط

دلہن کے ولی کے دستخط

(Signature)

شادی کے گواہان کے دستخط

(Signature)

دلہن کے دستخط

(Signature)

نکاح رجسٹرار کے دستخط اور مہر

(Signature)

نکاح خواں کے دستخط

(Signature)

Dr. D. D. Khan

(Signature)



25-6-12

33370 Amroht D

APPLICATION FORM FOR INTER/INTRA-DISTRICT TRANSFER

- 1. Name of the Teacher/Applicant & District of Domicile. Najma Bibi B.14
- 2. Designation/Post held with BPS Lakki S/Sc B.14
- 3. Date of 1st appointment. 23-10-2006
- 4. Date of taking over charge of present post. PSC
- 5. Name of Present schools of posting. 89/3 Moma U.P. No 2
- 6. Name of School where posting is required (list three options)
- 7. Reason for Transfer marriage postponed

(10)

I solemnly declare that all these information from Sr.No.1 to 6 are correct.

Signature [Signature]
 Name of Applicant. Najma bibi
 I.D Card No. 11201-25484-651-2

Certificate by the relieving DEO

0 Certified that I have no objection to the transfer of Mr./Ms. Najma Bibi from _____ to _____

- 2) The following arrangement will be made by me for filling up the post of PBT in case of transfer of Mr/Ms. Najma Bibi.
 It is certified that:
 - (i) The study/education of the students of the institution/school will not suffer with the proposed transfer.
 - (ii) The applicant is regular employee & not a contract one.

Signature [Signature]
 Name of E.D.O.
 -District Education Officer (Female) Lakki Marwat

Endst.No. 2492 Dated 1/9/2014

POST-AVAILABILITY CERTIFICATE OF THE EXECUTIVE DISTRICT OFFICER (S&L) WHERE POSTING IS PROPOSED.

I have no objection to the transfer of Mr./Ms. Najma Bibi of 89/3 Moma U.P. No 2 against a vacant post of _____ at (name of school) _____ of District _____

I have also examined his/her relevant documents and found correct. It is also certified that no NOC has been issued to any other person against this post.

Attested to be True Copy

Signature _____
Name of the EDO _____

Endst: _____ Date _____

D

Annex E

11

To,

The Director,
Elementary and Secondary Education
KPK Peshawar

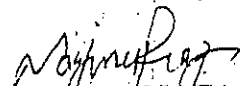
SUBJECT:- REQUEST FOR TRANSFER UNDER SPOUSE POLICY FROM LAKKI
MARWAT TO PESHAWAR

Respected Sir,

With due respect I beg to say that I am employee as S.P.ST in Government Girls Primary School No. 2 Mama Khel District Lakki Marwat and my husband named Mr. Riaz Badshah is employee of Pak .PWD Peshawar (Federal Department) and there is no office / branch office in District Lakki Marwat where the transfer of my husband can be made to District Lakki Marwat. Due to working difference place / District we are facing great hardship and our children are minor age / school going also facing great difficulties due to working their parents in different places.

It is therefore requested that my services may kindly be transferred to local station of my husband, my application may kindly be treated as per Establishment Deptt: KPK Peshawar Circular No. SOR-VI/E&AD/1-4/2010/Vol-VIII dated Peshawar the, 07th August, 2012, on humanitarian grounds and obliged.

Yours Faithfully


(NAZMA RIAZ)
SPST

Govt. Girls Primary School No.2
Mama Khel District Lakki Marwat

0302-5928232

Attested to be
True Copy

E

Annex "F"

12

Director of Elementary & Secondary
Education Khyber Pakhtunkhwa, Peshawar

No. 2531 /F.No.81/(G)/G. Transfer

Dated Peshawar the 17/8 /2015.

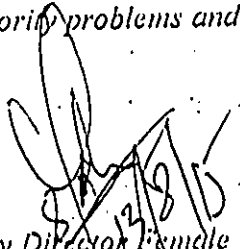
To

The District Education Officer
(Female) Lakki Marwat.

Subject POSTING/TRANSFER
Memo:

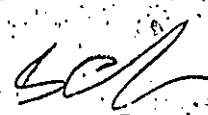
I am directed to refer to return the original application/prescribed proforma along with its enclosures in respect of Mst. Naima Riaz SPST GGPS No.2 Mama Khel Lakki Marwat and to state that has applied for Inter District Transfer from Lakki Marwat while she has been promoted from BPS 12 to BPS-14 as SPST.

I am further directed to inform that the SPST (B-14) post cannot be filled up by transfer of the teacher from one District to other District. The said post can be filled up only on promotion of the teacher belongs to her own district cadre service. So her transfer cannot be considered under the rules, as her transfer will create seniority problems and will deprive the teacher of her own District from the right of her promotion.


Deputy Director Female
(E&SE) Khyber Pakhtunkhwa,

Encls: No _____
Copy to the:-

1. Pz. to Director. (E&SE) Khyber Pakhtunkhwa, Local Office.


Deputy Director Female
(E&SE) Khyber Pakhtunkhwa,



F

Annex "G"

13

To

The worthy Secretary,
Elementary & Secondary Education
Department, Khyber Pakhtunkhwa
Civil Secretariat, Peshawar

Subject: Departmental Representation against the order dated 17.08.2015 issued by the Director E&SE, Khyber Pakhtunkhwa whereby the request of the appellant for transfer from District Luki to District Peshawar was regretted.

Respected Sir,

1. That the appellant is serving as SPST (BPS-14) at GGPS No.2 Mamakhel, District Lakki Marwat. She has rendered about ten years service all at District Lakki Marwat.
2. That the spouse of the appellant namely Riaz Badshah is the employee of Pakistan Public Works Department and there is no office/branch of the said Department in District Lakki Marwat where the transfer of the appellant's spouse could be effected.
3. That both the spouses have to face dire hardships due to their posting at far-flung situated places. Moreover, the distant posting of the appellant and her husband are also reflecting on the minor school going children.
4. That appellant was also issued NOC by the District Education Officer (Female) Lakki Marwat copy of which is attached.
5. That appellant also submitted a written request to the Director E&SE Khyber Pakhtunkhwa but the same was regretted vide impugned letter dated 17.08.2015. (copy attached)
6. That as per the policy of the Federal as well as the Provincial Governments, the spouses in the Government service are to be adjusted at one station in order to redress their grievances caused due to distant postings.
7. That it is the constitutional duty of each functionary of the Government to safeguard the marriage and it was that reason that the Spouse Policy has been framed by the Provincial and the Federal Governments.

It is, therefore, humbly requested that the order dated 17.08.2015 issued by the Director E&SE Khyber Pakhtunkhwa may kindly be set aside by allowing the transfer of the appellant from District Lakki Marwat to District Peshawar in the public interest as well as in the interest of justice.

Yours faithfully

Najma Riaz

Mst. Najma Riaz
SPST, GGPS No.2 Mamakhel,
District Lakki Marwat

Attested to be
True Copy

Dated: 08/09/2015

G

Annex "H"

14

To
The worthy Secretary,
Elementary & Secondary Education
Department, Khyber Pakhtunkhwa
Civil Secretariat, Peshawar

Subject: Departmental Representation against the order dated 17.08.2015 issued by the Director E&SE, Khyber Pakhtunkhwa whereby the request of the appellant for transfer from District Luki to District Peshawar was regretted.

Respected Sir,

1. That the appellant is serving as SPST (BPS-14) at GGPS No.2 Mamakhel, District Lakki Marwat. She has rendered about ten years service all at District Lakki Marwat.
2. That the spouse of the appellant namely Riaz Badshah is the employee of Pakistan Public Works Department and there is no office/branch of the said Department in District Lakki Marwat where the transfer of the appellant's spouse could be effected.
3. That both the spouses have to face dire hardships due to their posting at far-flung situated places. Moreover, the distant posting of the appellant and her husband are also reflecting on the minor school going children.
4. That appellant was also issued NOC by the District Education Officer (Female) Lakki Marwat copy of which is attached.
5. That appellant also submitted a written request to the Director E&SE Khyber Pakhtunkhwa but the same was regretted vide impugned letter dated 17.08.2015. (copy attached)
6. That as per the policy of the Federal as well as the Provincial Governments, the spouses in the Government service are to be adjusted at one station in order to redress their grievances caused due to distant postings.
7. That it is the constitutional duty of each functionary of the Government to safeguard the marriage and it was that reason that the Spouse Policy has been framed by the Provincial and the Federal Governments.

It is, therefore, humbly requested that the order dated 17.08.2015 issued by the Director E&SE Khyber Pakhtunkhwa may kindly be set aside by allowing the transfer of the appellant from District Lakki Marwat to District Peshawar in the public interest as well as in the interest of justice.

NOTE: The said request was given to DEO(F) Lakki Marwat for forwarding to your good self (on 8-9-2015) but till lying pending there, so compulsorily the case is directly submitted to your good self.

Yours faithfully

Rajma Riaz
Mst. Najma Riaz
SPST, GGPS No.2 Mamakhel,
District Lakki Marwat

Dated: 06 / 10 / 2015

Attested to be
True Copy

H



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9223540

No. SO(Comp.)E&SED/KPK/1-15/2015/Najma/S.E-4103

Dated October 20th, 2015

To

Annex 2

15

The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: - APPLICATION/COMPLAINT

I am directed to refer to the subject noted above and to enclose herewith an application/complaint received from Mst. Najma Riaz SPST, GGPS No. 2 Mamakhel, District Lakki Marwat addressed to the Secretary, Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar for necessary action as per rules/policy.

Encl: As Above:

(NASRULLAH)
SECTION OFFICER (COMPLAINT)

Endst: of even number & date:

Copy of the above is forwarded to Mst. Najma Riaz SPST, GGPS No. 2 Mamakhel, District Lakki Marwat w/r to her letter referred to above.


SECTION OFFICER (COMPLAINT)

Attested to be
True Copy

Better Copy

Annex J

ASSEMBLY BUSINESS

Government of Pakistan
Cabinet Division
Establishment Division

16

No.8/1/2009-R-II

Islamabad, the 25th October, 2010

OFFICE MEMORANDUM

Subject: POSTING OF SERVING HUSBAND AND WIFE AT THE SAME STATION AND POSTING OF UN-MARRIED FEMALE GOVERNMENT SERVANTS AT THE PLACE OF RESIDENCE OF PARENTS/FAMILY

The undersigned is directed to state that Establishment Division, with the approval of Prime Minister, has issued instructions regarding posting serving husband and wife at the same station vide OM No.10/30/97-R-II dated 13.5.1998 (copy enclosed). Similar instructions were issued for posting of un-married female government servants at the place of residence of parents/family vide OM No.10/30/97-R-II dated 17.12.1999 and posting of married female government servants at the place of residence/posting of their husband who are not in government employment vide OM No.10/30/97-R-II dated 21.4.2006.

The Standing Committee of National Assembly on Cabinet Secretariat, Inter Provincial Coordination & Special Initiatives in its meeting held on 21.10.2010, observed that the above mentioned instructions are not being followed and the grievances of the applicants are not being attended/addressed by Ministries/Divisions/Departments. The Committee has also asked for data in this regard.

In view of the above, it is once again requested that the instructions on the subject may be followed strictly. It is further requested that the following information may kindly be furnished to the Establishment Division by 10.11.2010 for presentation to the Standing Committee:

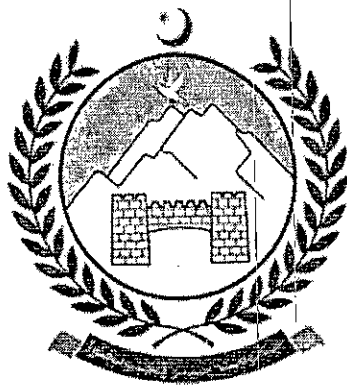
S.No:	Name of Applicant with designation	Date of application and action for posting requested	Whether posting was made or not	Reasons for not transferring/posting

Sd/-
(Anjum Bashir Shaikh)
Deputy Secretary

Attested to be
True Copy

J

Annex K



Annex "K"



17

ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011**

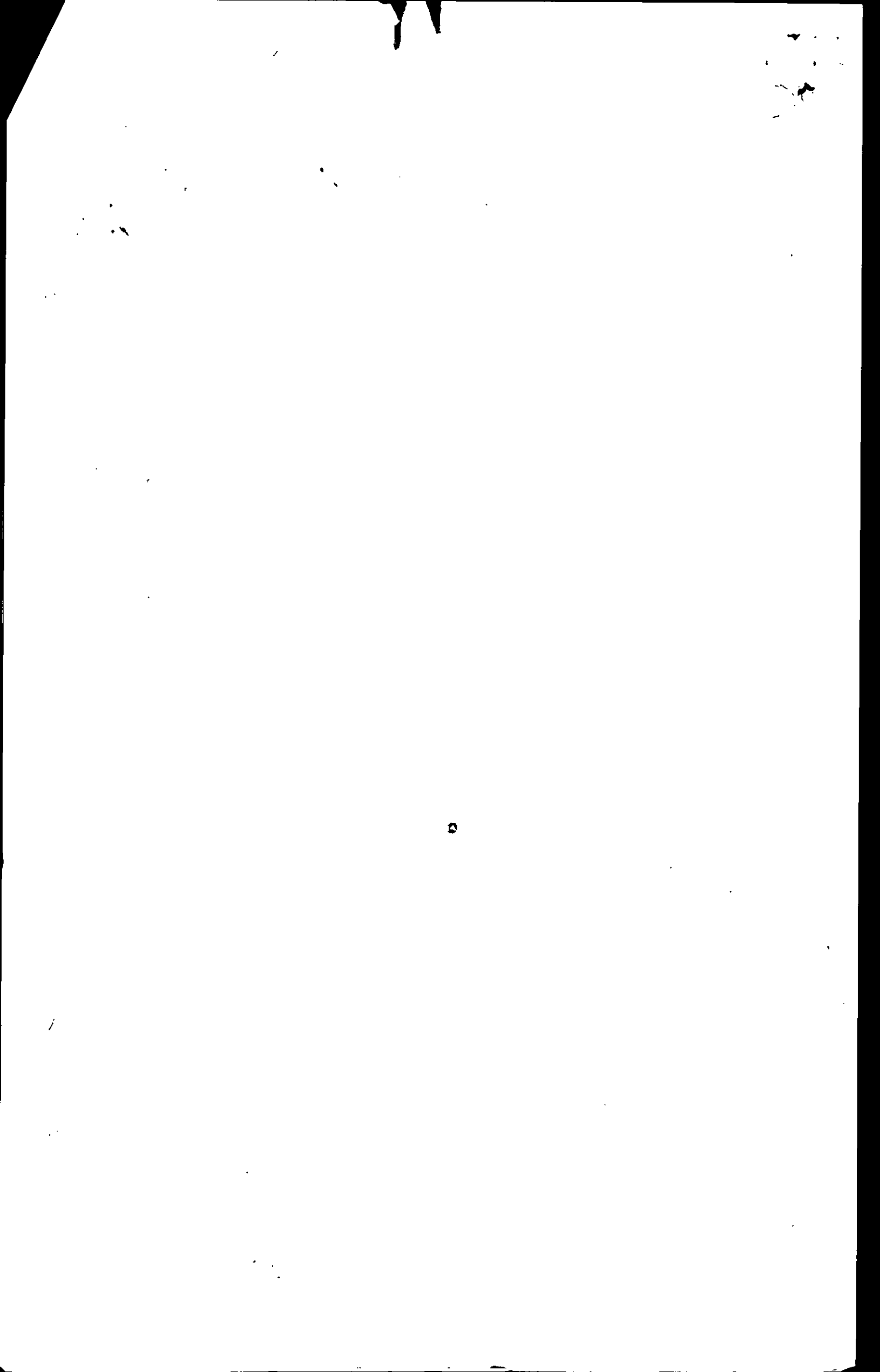
**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS**

Attested to be
True Copy

**COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

Attested to be
True Copy

K



Posting and Transfer

Statutory Provision.

Section 10 of the NWFP Civil Servants Act, 1973.

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

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) 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.
- v) ⁷⁹[]

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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 Rule 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.

Attested to be
True Copy

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True Copy

- vi) ⁸⁰ While making posting/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. 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, NWFP 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 at least 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 officers/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

19

⁸¹DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

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

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

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

Attested to be
True Copy

Attested to be
True Copy

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 posting/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.

5. 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).

WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Mst. Najma Riaz

Appellant(s)/Petitioner(s)

VERSUS

The Govt of KPK and others

Respondent(s)

I/We Appellant do hereby appoint
Mr. Khaled Rehman, Advocate Supreme Court of Pakistan in the above
mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by

Najma Riaz
Signature of Executants

Khaled Rehman,
Advocate,
Supreme Court of Pakistan

3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 109 /2016

Mst. Najma Riaz.....Applicant

Versus

The Govt. of KPK and others.....Respondents

APPLICATION FOR EARLY HEARING

Respectfully Sheweth,

1. That the above titled service appeal is pending before the Hon'ble Tribunal wherein the next date of hearing is 23.11.2016.
2. That the date fixed is too distant whereas the applicant/appellant and her family have been facing much troubles due to the posting of the appellant at Lakki Marwat in violation of the Spouse Policy as her spouse is serving at district Peshawar.
3. That it is in the interest of justice to accelerate the date so fixed so as to alleviate the grievance of the applicant/appellant by timely disposal of the appeal.

It is, therefore, humbly prayed that on acceptance of this application, the titled appeal may graciously be accelerated to an earlier date in the interest of justice.

Through

Applicant

Khaled Rahman
Advocate,
Supreme Court of Pakistan

Dated: 24/08/2016

Verification

Verified that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Najma Riaz
Applicant/Appellant

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 109/2016

Mst. Najma Riaz.....Applicant

Versus

The Govt. of KPK and others.....Respondents

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Through

Applicant

Khaled Rahman
Advocate,
Supreme Court of Pakistan

Dated: 24/08/2016

Verification

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Najma Riaz
Applicant/Appellant

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 109/2016

Mst. Najma Riaz.....Applicant

Versus

The Govt. of KPK and others.....Respondents

APPLICATION FOR EARLY HEARING

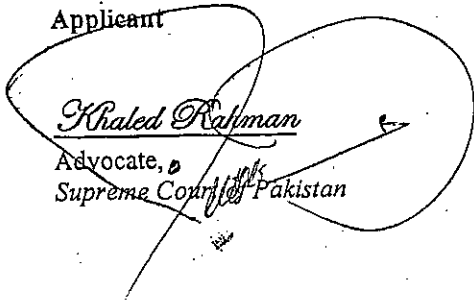
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Through

Applicant

Khaled Rahman
Advocate, 
Supreme Court of Pakistan

Dated: 24/08/2016

Verification

Verified that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

[Signature]
Applicant/Appellant

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 109-2016

Mst. Najma Riaz.....Applicant

Versus

The Govt. of KPK and others.....Respondents

APPLICATION FOR EARLY HEARING

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Through

Applicant

Khaled Rahman
Advocate,
Supreme Court of Pakistan

Dated: 24/08/2016

Verification

Verified that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

[Signature]
Applicant/Appellant



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2039 /ST Dated: 5/9 /2017

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 District Education Officer (Female),
Government of Khyber Paktunkhwa,
Lakki Marwat.

Subject: - JUDGMENT IN APPEAL NO. 109/2016, MST. NAJMA RIAZ.

I am directed to forward herewith a certified copy of judgment dated 24/08/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR