

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1054/2016

Date of Institution ... 14.10.2016

Date of Decision ... 24.10.2017

Said Muhammad, Junior Clerk (BPS-09) office of the Agency Surgeon, North Waziristan Agency at Miranshah. ... (Appellant)

VERSUS

1. The Additional Chief Secretary, FATA, FATA Secretariat, Khyber Pakhtunkhwa, Peshawar and 3 others. ... (Respondents)

MR. NOOR MUHAMMAD KHATTAK, ... For appellant
Advocate

MR. KABEERULLAH KHATTAK, ... For respondents.
Addl. Advocate General

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. GUL ZEB KHAN, ... MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was transferred vide order dated 10.10.2016 from Agency Surgeon, North Waziristan Agency to the Directorate Health Services, FATA, Peshawar on administrative ground. Against this order, the appellant filed departmental appeal on 10.10.2016 which was rejected on 13.10.2016. The appellant then filed the present service appeal on 14.10.2016.

ARGUMENTS.

3. The learned counsel for the appellant argued that the impugned transfer was made as a punishment though mentioned on administrative ground. That in the impugned original order, the disciplinary proceedings were initiated against the appellant by appointing the enquiry officer. In this connection, he relied upon a judgment reported as 2012 PLC(C.S)187 and unreported judgment of this Tribunal dated 05.05.2017 in service appeal No. 481/2016. He further argued that cadre of the appellant is District Cadre and under the posting/transfer policy of the Government, he cannot be transferred outside the District/Agency.

4. On the other hand the learned Addl. Advocate General argued that under Section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, the Authority is competent to transfer a civil servant anywhere in the Province. That the appellant had completed his normal tenure and he could be transferred by the Authority under the posting/transfer policy of the Government. In this regard, he relied upon a judgment reported as 2017-SCMR-798. That the appellant could be transferred on administrative ground as well. In this regard he relied upon a judgment reported as 2005-SCMR-442. He also argued that the appellant did not file departmental appeal to the appellate authority rather the same was filed and rejected by the Agency Surgeon, N.W Agency. He further argued that the Agency Surgeon N.W Agency was transferred on 06.09.2016 and the appeal has been rejected by him on 13.10.2016.

CONCLUSION.

5. The issue of departmental appeal is to be taken up first. Under sub rule 2 of Rule 4 of the Khyber Pakhtunkhwa Civil Servants (Appeals) Rules, 1986, the aggrieved civil servant is bound to file appeal through Head of the office in which the appellant is posted at the time of filing the appeal. It is the responsibility of the head of the office to forward

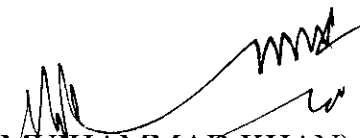
the appeal to the competent authority if he himself is not such authority. The appellant has rightly filed the appeal through head of the office in which he was serving at that time. It was the responsibility of the head of the office to have forwarded the same to the Appellate Authority. If the Agency Surgeon had rejected the appeal himself or at the relevant time he was already transferred from the said office, the department should have taken action against him. Rather it became a matter of disciplinary proceedings but nothing of the sort. For this, the appellant cannot be penalized. The departmental appeal is therefore, competently made for the purpose of the present appeal. The interpretation made by the learned counsel for the respondents on Section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 is not correct because this Section never authorizes any authority to transfer a civil servant anywhere without any criteria. The wording of this section makes a civil servant liable to serve anywhere within or outside the Province but no authority can be presumed to have unbridled powers to post/transfer a civil servant according to his own whims on the ground that he has the powers under Section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 to transfer any civil servant. Every functionary of the State is bound to exercise powers in the best interest of public and the best interest of public is the one which ensures consistency, transparency and in accordance with the laid criteria, policy and rules. The Government of Khyber Pakhtunkhwa had been issuing different policies, instructions and rules to circumscribe the unfettered powers of government functionaries. No functionary can bypass the policies, instructions and rules by assuming unchecked powers. The impugned order is firstly illegal on the ground that there is no use of the words "public interest". Secondly there is no use of the term "tenure" which means that the authority has not passed the order either in public interest or on the basis of completion of tenure. The judgment relied upon by the learned counsel for the respondents regarding tenure are inapplicable in the present case. The very impugned order speaks of initiation of disciplinary proceedings



against the appellant and transfer of the appellant to another office which in view of judgment pressed into service by the learned counsel for the appellant, cannot be upheld.

6. As a sequel to the above discussion, the appeal is accepted and the impugned order is set aside. Parties are left to bear their own costs. File be consigned to the record room.


(GUL ZEB KHAN)
MEMBER


(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
24.10.2017

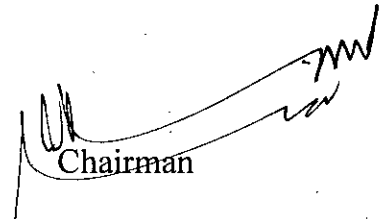
1054/2016

24.10.2017

Appellant alongwith counsel and Mr. Kabeerullah Khattak, Addl. AG for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.


Member



Chairman

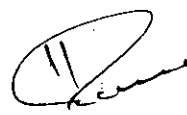
ANNOUNCED
24.10.2017

11.09.2017

Appellant with counsel and Addl: AG for respondents no. 1 and 2 present. None on behalf of respondents no. 3 and 4 present. Notice be issued to respondent no.3 and 4 as well as their counsels. To come up for arguments on 27.09.2017 before D.B. The restraint order shall continue.


Nabeel
ML
Counsel


Member
(Executive)


Member
(Judicial)

26.09.2017


Junior to counsel for the appellant and Asstt. AG for the respondents present. Request made on behalf of counsel for the appellant for adjournment. Adjourned. To come up for arguments 04.10.2017 before the D.B. The restraint order shall continue.

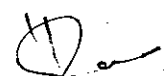

Member


Chairman

04.10.2017

Learned counsel for the appellant present. Mr. Zia Ullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments 24.10.2017 before D.B. The restraint order shall continue.



Member
(Executive)

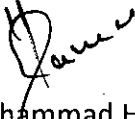

Member
(Judicial)

Service Appeal No. 1054/2016

07.08.2017

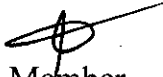
Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 17.08.2017 before D.B. ~~the~~


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

17.08.2017

Junior to counsel for the appellant and Assistant A.G for the respondents present. Due to ailment of his mother, learned senior counsel for the appellant is not in attendance. Requested for adjournment. Adjourned. To come up for arguments on 28.8.2017 before the D.B. The restraint order shall continue.


Member


Chairman

28.08.2017

Appellant alongwith junior counsel for the appellant present. Mr. Muhammad Jan, Deputy District Officer for the respondents present. Senior counsel for the appellant is not in attendance . Seeks adjournment. Last opportunity granted. To come up for final hearing before the D.B on 11.09.2017. The restraint order shall continue.


Member


Chairman

28.04.2017

Counsel for the appellant and Mr. Faiz Muhammad, Assistant
alongwith Mr. Ziaullah, Government Pleader for the respondents
present. Learned counsel for the appellant submitted rejoinder and
requested for adjournment. Adjourned for final hearing to 05.06.2017
before D.B. The restraint order shall continue.

MA
Member

D.S.
Chairman

05.06.2017

Appellant in person present. Mr. Muhammad Adeel Butt,
Additional AG for respondents also present. Due to strike of the bar
learned counsel for the appellant is not in attendance. Adjourned. To
come up for arguments on 21.07.2017 before D.B. The restraint order
shall continue.

GZK
(GUL ZEB KHAN)
MEMBER

MA
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

21.07.2017

Clerk of the counsel for appellant present. Mr. Ziaullah,
Deputy District Attorney for the respondents also present. Clerk
of the counsel for appellant requested for adjournment.
Adjourned. To come up for arguments on 07.08.2017 before D.B.
The restraint order shall continue.

GZK
(Gul Zeb Khan)
Member

MA
(Muhammad Amin Khan Kundi)
Member

1054/2016

12.01.2017

Appellant with counsel and Faisal Legal Advisor alongwith Addl. AG for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 27.02.2017 before the D.B. The restraint order shall continue.


Chairman

27.02.2017

Junior to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Junior to counsel for the appellant submitted that his senior counsel is busy before Dar ul Qaza, Swat hence, adjournment be granted. Request accepted. To come up for rejoinder and arguments on 29.03.2017 before D.B. The restraint order shall continue.



(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

28.03.2017

Junior to counsel for the appellant and Mr. Muhammad Jan, G.P for the respondents present. Counsel for the appellant has gone abroad for performing Umra. Requested for adjournment. To come up for rejoinder and final hearing for 28.04.2017 before the D.B. The restraint order shall continue.


Member


Chairman

Appeal No. 1054/2-016

03.11.2016

Learned counsel for the appellant has argued that the appellant is a Junior Clerk (BPS-09). That vide impugned order dated 10.10.2016 he was transferred from the office of Agency Surgeon North Waziristan Agency to Directorate of Health Services FATA on administrative ground and on allegations of involvement in appointment of his relative. That against the said order appellant preferred departmental appeal on 10.10.2016 which was rejected on 13.10.2016 and hence the instant service appeal on 14.10.2016.

That the impugned order is against facts and law. That transfer cannot be awarded as punishment. That the appellant has not yet relieved charge of the post against North Waziristan Agency.

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 19.12.2016 before S.B. Status quo be maintained.

App. to deposit of
Security & Process Fee




Chairman

19.12.2016

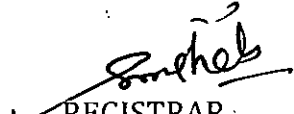



Junior to counsel for the appellant and Faiz Muhammad, Litigation Officer alongwith Assistant AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 12.01.2017 before S.B. Status-quo be maintained.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1054/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/10/2016	<p>The appeal of Mr. Said Muhammad presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	19-10-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26-10-2016</u></p> <p style="text-align: right;"> MEMBER</p>
	26.10.2016	<p>Clerk to counsel for the appellant present. Preliminary arguments could not be heard due to general strike of the bar. To come up for preliminary hearing on 14.11.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	01.11.2016	<p>On application of appellant for early hearing, the appeal requisitioned for to-day.</p> <p>Application allowed. To come up for preliminary hearing on 03.11.2016 before S.B instead of 14.11.2016.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1054 /2016

SAID MOHAMMAD

VS

A.C.S FATA

INDEX

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APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK

&

SYED IMDAD HUSSAIN SHAH
ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1054 /2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1087

Mr. Said Mohammad, Junior Clerk (BPS-9),
O/O the Agency Surgeon North Waziristan Agency at Miran Shah,

Dated 14-10-2016

..... **Appellant**

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary, Social Sector Department FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Health Services FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 4- The Agency Surgeon, North Waziristan Agency at Miran Shah.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 10.10.2016 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED PREMATURELY AND INAVIOLATION OF TRANSFER/POSTING POLICY AND AGAINST THE APPELLATE ORDER DATED 13.10.2016 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 10.10.2016 and 13.10.2016 may very kindly be set aside and the respondents may be directed not to transfer the appellant from the office of Agency Surgeon North Waziristan Agency. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day
Said
Registrar
14-10-16

R/SHEWETH:

ON FACTS:

- 1- That appellant is the employee of the respondent Department and is serving as Junior Clerk (BPS-12) in the respondent Department. That right from appointment till date the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors.

- 2- That lastly the appellant was posted as Junior Clerk (BPS-12) in the office of Agency Surgeon North Waziristan Agency vide order dated 17.10.2014. That appellant while serving as Junior Clerk/Head Clerk in the o/o respondent No.4 an order dated 7.9.2015 was issued whereby the appellant was directed to handover the charge of the post of Head Clerk to Mr. Gul Badshah. That it is pertinent to mention that the said order dated 7.9.2015 was issued by the respondent No.4 on the direction of local MNA Mr. Mohammad Nazir Khan NA-40. So much so the said person namely Mr. Gul Badshah was posted against the post of Head Clerk on detailment basis. Copies order, MNA letter and list showing ministerial staff are attached as annexure **A, B and C.**
- 3- That feeling aggrieved the appellant preferred Departmental appeal and where after preferred service appeal No.1019/2015 before this august Service Tribunal and this august Tribunal granted status quo order dated 10.11.2015 in favor of the appellant. Copies of the Departmental appeal, memo of appeal and order/judgment dated are attached as annexure **D, E and F.**
- 4- That during the pendency of appeal NO.1019/2015 the respondents readdressed the grievance of the appellant vide dated 13.6.2016, wherein the appellant withdrawn his appeal from this august Tribunal vide judgment/ order dated 8.8.2016. Copies of the orders dated 3.8.2016 and judgment/order are attached as annexure **G and H.**
- 5- That the respondent No.3 vide impugned order dated 10.10.2016 transferred the appellant from the o/o respondent No.4 to Directorate of Health Services FATA on administrative grounds. That appellant feeling aggrieved filed Departmental appeal against the said impugned order dated 10.10.2016 but the same has been rejected on no good grounds vide impugned appellate order dated 13.10.2016. Copies of the Departmental appeal and impugned orders are attached as annexure **I, J and K.**
- 6- That appellant feeling aggrieved and having no other remedy prefer the present appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 10.10.2016 and 13.10.2016 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 respondent Department 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 order dated 10.10.2016 is against the Clause I, II and IV of the transfer/posting policy of the Government of Khyber Pakhtunkhwa. Copy of the policy is attached as annexure L.
- D- That transfer has not been mentioned in the penalty list of Efficiency and disciplinary Rules 2011, therefore the same can not be awarded as punishment and as such the impugned order is void ab initio in the eye of law.
- E- That the appellant has been transferred by the respondent No.3 pre-maturely and on the basis of political influence, therefore the impugned order dated 10.10.2016 is not tenable in the eye of law and prevailing rules.
- F- That the impugned order dated 10.10.2016 has not been issued by the respondents No.3 in the public interest nor exigencies of service.
- G- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned order dated 10.10.2016.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT


SAID MOHAMMAD

THROUGH:


NOOR MOHAMMAD KHATTAK


SYED IMDAD HUSSAIN SHAH
ADVOCATES

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2016

SAID MOHAMMAD

VS

A.C.S FATA

APPLICATION FOR SUSPENSION OF OPERATION
OF IMPUGNED ORDER DATED 10.10.2016 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 impugned transfer order dated 10.10.2016 is against the transfer/ posting policy of the Government of Khyber Pakhtunkhwa.
- 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 order dated 10.10.2016 may very kindly be suspended till disposal of this appeal.

APPELLANT


SAID MOHAMMAD

THROUGH:


NOOR MOHAMMAD KHATTAK

&


SYED IMDAD HUSSAIN SHAH
ADVOCATES

~~20~~ (5)
A - (5)

**OFFICE OF THE AGENCY SURGEON
NORTH WAZIRISTAN MIRANSHAH.
PHONE & FAX: 0928-300788.**

OFFICE ORDER:

Mr. Gul Bad Shah J/Clerk is hereby ordered to assume the charge of Head Clerk and Saeed Muhammad J/ Clerk is here by directed to hand over all the charge, vide Director Heath Services FATA, order No.19122-23, dated: 03-8-2015, with immediate effect in the public services.

-Sd:xxxxxxxxxxxxxxxx
Dr Hamid ur Rehman
Agency Surgeon
North Waziristan Miranshah

No 3898-38/1 Trafr: dated: Miranshah the 7-9/2015.

Copy to the:

1. Director Health Services FATA Warsak Road Peshawar with reference to his letter No. cited above.
2. Agency Account Officer Miranshah.
3. N.B. of Pakistan Miranshah Branch.
4. Official concerned.

For information and necessary action.

Received on
08/09/2015 at 12-00 Noon.
[Signature]
07/2015

[Signature]
Agency Surgeon
North Waziristan Miranshah
ATTESTED
[Signature]



Muhammad Nazir Khan

Member National Assembly

NA-40

North Waziristan

B-6

26/8/2015

To,
The Director,
Directorate of Health,
FATA Secretariat Peshawar.

6446
Date 26-8-15 Ref: NA-40-786-611-7

Subject: Transfer of Gul Bad Shah former clerk Health Department N.W.A to as Head clerk Agency Serger office N.W.A

Dear Sir, I hope you will be fine. May I state that Mr Gul Bad Shah is serving as former clerk at Health Department N.W.A. He is very honest and hardworker of his duties.

Strongly recommended for the subject on top priority basis will be highly appreciable of your kind cooperation please.

Kind Regards

M. Nazir Khan.

MUHAMMAD NAZIR KHAN
Member National Assembly
NA-40
North Waziristan
PMI (N)

ATTESTED

P. KHAN

Discard

~~DDA~~
Discard

Office

P. Issue order

26/8/15

AGENCY SURGEON

NORTH WAZIRISTAN AGENCY MIRANSHAH

Address: Civil Colony House No. 124, Street No. 02, Miranshah
Telephone (0928) 311662, Fax (0928) 300788.

Presently at District Bannu (928) 620999

No. 31/5 / Dated 22/05/2015

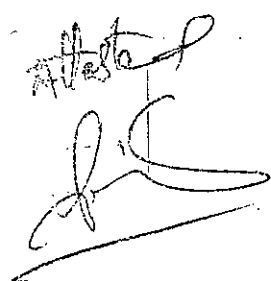
C-7


To
The Director Health Services,
FATA Peshawar.


Subject: LIST OF MINISTERIAL STAFF

Memo:

Reference your office telephonic message dated 22/05/2015, on the subject noted above; I have the honour to submit here with list of ministerial staff working under the control of this office for further necessary action as desired please.

Attested



Agency Surgeon
North Waziristan Miranshah
At Bannu

ATTESTED


Clerk-BPS-9(6200-380-17600) BPS - 09

Permment Bill

S. No	Name	CAT. GARY	AO-1101 PAY	AO1202 HRA	AR-20% NEW	AR-50% NEW	AR-15% NEW	Ao1217 MA	AO 1233 UAA	Convence Allowance	Ao 3805 FTA	000000- G.Total	GPF	BF	GIF	Net Total
1	Mr. Lair Jan Senior Clerk BPS-09	A	18350	1146	3672	5360	1608	1000	1000	1840	0	33986	595	180	115	33096
2	Mr. Muhammad Amjad, BPS-09	A	8680	1059	1736	2430	729	1000	1000	1840	0	18474	0	180	67	18227
3	Gul Badshah RHC Spinwam BPS-7	B	11560	1059	2312	3285	985	1000	1500	1840	0	23541	530	180	67	22764
4	Said Muhammad BPS-7.	A	11240	1059	2248	3190	957	1000	1000	1840	0	22534	530	180	67	21757
	Muhammad Niaz BPS-7	A	6440	1059	1288	1765	529	1000	1000	1840	0	14921	0	180	67	14674
5	(S/II/ASV) (BPS-9 (6200-380-17600)		0	0	0	0	0	0	0	0	0	0	0	0	0	0
6	Muhammad Iqbal ASV: MRN	A	15320	1146	3064	4440	1332	1000	1000	1840	45	29187	595	180	67	28345
	Gul Shader S.I. MRN	A	13800	0	2760	3980	1194	1000	1000	1840	85	25659	595	180	67	24817
	Supv: BPS-9 (6200-380-17600)		0	0	0	0	0	0	0	0	0	0	0	0	0	0
8	Masood Khan SS MRN	A	14560	1146	2912	4210	1263	1000	1000	1840	30	27961	595	180	67	27119
	Noor Salim Shah S.S MRN	A	8480	1146	1696	2370	711	1000	1000	1840	30	18273	0	180	67	18026
	VACCINATORS BPS-9 (6200-380-17600)		0	0	0	0	0	0	0	0	0	0	0	0	0	0
10	Ihsanullah ASO MRN	B	14560	1146	2912	4210	1263	1000	1500	1840	20	28451	0	180	67	28204
11	Rehmanullah	A	14560	1146	2912	4210	1263	1000	1000	1840	20	27951	0	180	67	27704
12	Yousaf Sakh	A	13800	1146	2750	3980	1194	1000	1000	1840	20	26740	0	180	67	26493
13	Noor Zafi Khan Datta Khel Area	B	13040	1146	2508	3750	1125	1000	1500	1840	20	26029	0	180	67	25782
14	Anwar Shah	A	13800	1146	2750	3980	1194	1000	1000	1840	20	26740	0	180	67	26493
15	Aziz Rehman RHC Spinwam	B	13040	1146	2508	3750	1125	1000	1500	1840	20	26029	0	180	67	25782
	Noor Wali Jan RHC Spinwam Radioc	B	11900	1146	2360	3405	1021	1000	1500	1840	0	24192	595	180	67	23350
Total:-			203140	16842	40628	58315	17493	16000	18500	29440	310	400668	4035	2880	1120	392633

9/10

Certified that the official concerned has not been provided with Govt accomodation, and are residing in the area specified house rent allowed

CLASSIFICATION	AMOUNT
AO1151- PAY	203140
AO1202-HRA	16842
AR-20% NEW	40628
AR-50% NEW	58315
AR-15% NEW	17493
AO1217-MA	16000
AO1233-UAA	18500
Convence Allow	29440
AO-3805-FTA	310
(00000) G.Total	400668
Deduction:-	8035
Net Total:-	392633

Deduction:-	
GPF-	4035
BF-	2880
GIF-	1120
Total	8035

S No	Name of Post	Post drawn in Previous Month	Post claim in this Bill
1	J/Clerk	3	3
2	S/Clerk	1	2
3	Supervisor	2	2
4	Vaccinator	6	6
5	Radioc	1	1
6	S/II ASV	2	2
	Total	15	16

Agency Surgeon
North Waziristan Miranshah

Agency Surgeon
North Waziristan Miranshah

P.O. No. 451
11/05/2013

ATTESTED

8

STATEMENT SHOWING THE DETAIL OF MINISTERIAL STAFF OF AGENCY SURGEON OFFICE, NWA.

Nomenclature with Grade	Sanct.	Filled	Vacant	Name of Incumbent with Designation	Place of Duty	Tenure with In Agency	Tenure on the present post	Remarks
Senior Clerk BPS-9	4	4	-	1. Mr. Lahir Jan Senior Clerk.	ADHO/AS Office	20/12/1979	01/07/2009	Promotion under process to BPS-16.
				2. Mr. Haider Ali Senior Clerk.	TBC/AS Office.	15/01/1991	1/5/2009	
				3. Mr. Mukhtar Ali Junior Clerk	AS Office.	1/3/2013	1/3/2013	Working against the post of Senior Clerk.
Junior Clerk BPS-7	7	7	-	4. Mr. Altafullah Junior Clerk	EP/AS Office	1/5/2013	1/5/2013	Working against the post of Senior Clerk.
			✓	1. Said Muhammad Junior Clerk.	AS Office.	28/3/1996	1/12/2013	Working as a Head Clerk.
			✓	2. Mr. Gul Bad Shah Junior Clerk	RHC Spinwar.	16/2/1995	27/3/2008	Working in AS Office on detailment basis
				3. Mr. Usman Junior Clerk.	TBC/AS Office.	1/5/1994	1/5/1994	
				4. Mr. Muhammad Amjad Junior Clerk	THQ Hospital Mirali.	1/8/2003	1/5/2003	
				5. Mr. Muhammad Saifdar Junior Clerk	THQ Hospital Mirali.	1/5/2009	1/5/2009	
				6. Mr. Muhammad Niaz Jr. Clerk	AS Office.	1/5/2009	1/5/2009	
				7. Mr. Muhammad Mnsoor Jr. Clerk	Malaria C/Programme	1/5/2009	1/5/2009	Working in THQ Hospital Mirali.

N.B:- Mr. Saidullah Senior Clerk was transferred to additional Agency Surgeon Lower Kurm at Sadda by your good office in October, 2011, But he has not yet submitted his departure report.

ATTESTED

[Signature]

Attested

[Signature]

Agency Surgeon
North Waziristan Miranshah
At Bannu

[Signature]

D B (10)

The Honourable Secretary,
Social Sector Department, FATA Secretariat Peshawar.

Through:- Proper Channel.

Subject:- APPEAL.
Sir,

With due respect I beg to say that I am working as a Head Clerk in Agency Surgeon office from the last two years. Neither public complaints lodged against me nor any explanation or show cause Notice has been issued to me by the department.

Beside Director Health Services, FATA Peshawar has issued my transfer order from the post of Head Clerk on political influence of MNA North Waziristan Agency vide order No.19122-24/DHS/FATA/Admn dated 31/8/2015.

From the last two years MNA North Waziristan Agency pressurizing me for illegal and unlawful works like issuing feasibility reports for his non-feasible schemes as well as for appointments of his non qualified Dais in Health Institutions situated in his village etc, which is impossible under the rules for me.

As a result he recommended my name for transfer from the post of head clerk and another junior clerk has posted on the same post on detailment basis, which is also violation of the transfer / posting policy. Further more the sitting Agency Surgeon was not asked for the act and he may kindly be asked whether he feels comfortable with him or not regarding his present record working with him.

Therefore it is humbly requested to kindly cancel my transfer order on the following grounds.

1. There is no public complaint, disciplinary proceeding, departmental inquiry pending against me.
2. My tenure on the present post have not been completed.
3. Transfer / posting on political pressure in Government Departments is unlawful/unjust action with Government servants.
4. Transfer / Posting on detailment basis in government Department is against the service rules. Therefore it is requested to kindly the posted junior clerk may be directed to report for duty to his original place of duty i.e RHC Spinwam according to the Government rules.
5. Political influence especially for developmental schemes in Government Departments is damaging the system.

Thanks
Dated: 03/09/2015.

ATTESTED

Your's obediently

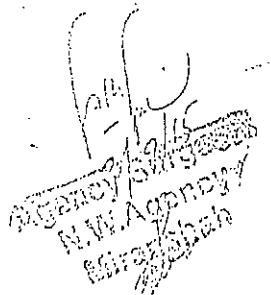
Seen and filed



(Mr. Syed Muhammad)

Head Clerk Agency Surgeon Office
Health Department North Waziristan Agency.

Attested

E-21

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL No. /0/9 /2015

SAYED MUHAMMAD

VS

A.C.S FATA

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3.
2.	Stay application	4.
3.	Posting order	A	5.
4.	Impugned order	B	6.
5.	list	C	7- 8.
6.	Relieving order	D	9.
7.	Departmental and rejection	E	10.
8.	Vakalat nama	11.

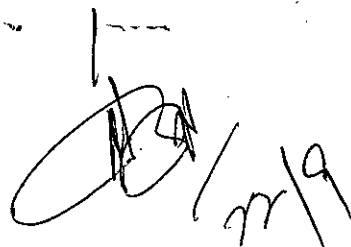
PETITIONER

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

Appellant Deposited
Security & Process Fee >

ATTESTED





BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1019 /2015

Mr. Sayed Muhammad, Junior Clerk (BPS-07),
O/O the Agency Surgeon North Waziristan Agency at Miran Shah.
.....Appellant

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary, Social Sector Department FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Health Services FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 4- The Agency Surgeon, North Waziristan Agency at Miran Shah.
- 5- Mr. Gul Bad shah, Junior Clerk (BPS-07), O/O the Agency Surgeon North Waziristan Agency at Miran Shah.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE PRE-MATURE TRANSFER ORDER DATED 31-08-2015 WHEREBY THE RESPONDENT NO.5 WAS TRANSFERRED/POSTED AS HEAD CLERK IN THE O/O OF AGENCY SURGEON NORTH WAZIRISTAN AGENCY IN PLACE OF APPELLANT AND AGAINST THE APPELLATE ORDER DATED 3.9.2015 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

15/15-015-

PRAYER:

That on acceptance of this appeal the impugned orders dated 31-08-2015 and 3.9.2015 may very kindly be set aside and the respondents may be directed that not to transfer the appellant from the post of Head Clerk Agency Surgeon Office North Waziristan Agency till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

ATTESTED



- 1- That the appellant was appointed as ^{Senior} Junior Clerk (BPS-07) in the respondent Department. That right from appointment till date the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors.
- 2- That vide order dated 30-10-2013 the appellant was posted/adjusted against the post of Senior Clerk (BPS-09) and was further directed to continue his duty as Head Clerk in the office of Agency Surgeon North Waziristan Agency at Miran Shah. That in response the appellant took over the charge of the said post on the same day i.e. vide dated 30-10-2013 and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the posting order is attached as annexure **A.**
- 3- That the local MNA of North Waziristan Agency has telephonically directed the respondent No.3 to transfer the private respondent No.5 as Head Clerk in place of appellant. That the respondent No.3 in compliance of the said illegal and unlawful direction issued the impugned order dated 31/08/2015 whereby the private respondent who is actually on detailment in the o/o of agency surgeon NWA has been posted in place of appellant. Copies of the impugned order, list and relieving order are attached as annexure **B, C and D.**
- 4- That the appellant feeling aggrieved from the impugned order dated 31-08-2015 filed Departmental appeal before the respondent No.2 through proper channel but instead the respondent No.4 instead of forwarding the same to respondent No.2 has itself regretted the same on no good grounds vide order dated 3.9.2015. Copy of the Departmental appeal and rejection on the same page of Departmental appeal is attached as annexure **E.**
- 5- Hence the present appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 31-08-2015 and 3.9.2015 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 respondent Department 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.

ATTESTED



- C- That the impugned order dated 31-08-2015 is against the Clause I, II and IV of the transfer/posting policy of the Government of Khyber Pakhtunkhwa. Copy of the policy is attached as annexure F.
- D- That the impugned order dated 31-08-2015 has not been issued by the respondents in the public interest nor exigencies of service.
- E- That the respondents inspite of knowing the fact that the private respondent No.5 is already serving the Department at the O/O of Agency Surgeon NWA on detailment basis has transferred/ posted as Head Clerk in place of appellant.
- F- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned orders dated 31-08-2015 and 3.9.2015.
- G- That the impugned orders dated 31.8.2015 and 3.9.2015 are also issued by the respondents in violation of clause 24(A) of the General Clauses Act 1897.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

ATTESTED



APPELLANT



SAYED MUHAMMAD

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

(15)

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____/2015

SAYED MOHAMMAD

VS

A.C.S. FATA

APPLICATION FOR SUSPENTION OF OPERATION
OF IMPUGNED ORDER DATED 31.8.2015 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 31.8.2015 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 order dated 31.8.2015 may very kindly be suspended till disposal of this appeal.

ATTESTED



APPELLANT



SAYED MOHAMMAD

THROUGH:

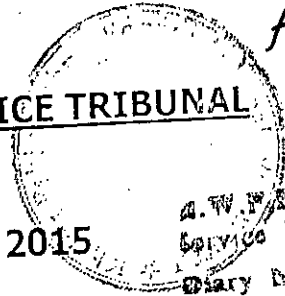


NOOR MOHAMMAD KHATTAK
ADVOCATE

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

F-16

Appeal No. 1019 /2015



A.W.P. Province
Service Tribunal
Diary No. 1663
Date 10/19/15

Mr. Sayed Muhammad, Junior Clerk (BPS-07),
O/O the Agency Surgeon North Waziristan Agency at Miran Shah.
.....Appellant

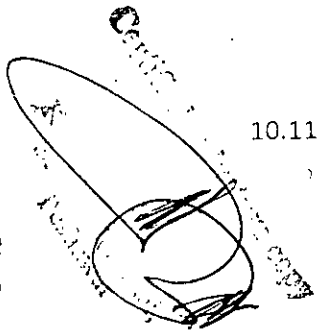
VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary, Social Sector Department FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Health Services FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 4- The Agency Surgeon, North Waziristan Agency at Miran Shah.
- 5- Mr. Gul Bad shah, Junior Clerk (BPS-07), O/O the Agency Surgeon North Waziristan Agency at Miran Shah.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE PRE-MATURE TRANSFER ORDER DATED 31-08-2015 WHEREBY THE RESPONDENT NO.5 WAS TRANSFERRED/POSTED AS HEAD CLERK IN THE O/O OF AGENCY SURGEON NORTH WAZIRISTAN AGENCY IN PLACE OF APPELLANT AND AGAINST THE APPELLATE ORDER DATED 3.9.2015 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

10/19/15



10.11.2015

Appellant with counsel, Addl: A.G for official respondents No. 1 to 4 and agent of counsel for private respondent No. 5 present. Wakalat Nama on behalf of private respondent No. 5 submitted. Requested for adjournment. To come up for written reply/comments on 3.12.2015 before S.B. Status-quo be maintained. *AW*

Chairman

ATTESTED

[Signature]



G-17

DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR


Phone# 091-9210212

Fax#091-9212110

OFFICE ORDER:

In continuation this Directorate Health Services FATA office order No. 8036-39/DHS/ FATA/ Lit dated 01-06-2016. The distribution of work of clerical staff are under:

S#	Name	Designation	Section
1	Gul Badshah	Junior Clerk	Development Section, National Program & Gazetted Section
2	Syed Muhammad	Junior Clerk	Accounts & Administration Section


13/3/16
Director Health Services
FATA, Peshawar

No. 9371-72 /DHS/FATA/Admn

Dated: 13 /06/2016

Copy forwarded to the:

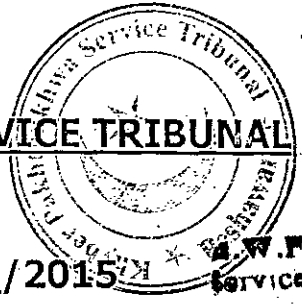
- 1- Agency Surgeon NW Agency
- 2- Official Concerned.

Director Health Services
FATA, Peshawar

ATTESTED



H-18



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1019 /2015

W.F. Provincial
Service Tribunal
Diary No. 1063
Dated 09/15

Mr. Sayed Muhammad, Junior Clerk (BPS-07),
O/O the Agency Surgeon North Waziristan Agency at Miran Shah.
.....Appellant

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary, Social Sector Department FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Health Services FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 4- The Agency Surgeon, North Waziristan Agency at Miran Shah.
- 5- Mr. Gul Bad shah, Junior Clerk (BPS-07), O/O the Agency Surgeon North Waziristan Agency at Miran Shah.

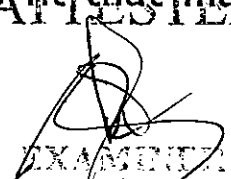
..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE PRE-MATURE TRANSFER ORDER DATED 31-08-2015 WHEREBY THE RESPONDENT NO.5 WAS TRANSFERRED/POSTED AS HEAD CLERK IN THE O/O OF AGENCY SURGEON NORTH WAZIRISTAN AGENCY IN PLACE OF APPELLANT AND AGAINST THE APPELLATE ORDER DATED 3.9.2015 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 31-08-2015 and 3.9.2015 may very kindly be set aside and the respondents may be directed that not to transfer the appellant from the post of Head Clerk Agency Surgeon Office North Waziristan Agency till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

ATTESTED

EXAMINING OFFICER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

019/15

Appeal No. 1019/2015
Sayed Muhammad vs Govt



08.08.2016

Counsel for the appellant, Mr. Ziaullah, GP for official respondents No. 1 to 4 and counsel for private respondent No. 5 present. Learned counsel for the appellant submitted that the instant appeal may be dismissed as withdrawn for the reason that grievance of the appellant has been redressed. In this regard he submitted photocopy of office order dated 03.08.2016 hence the appeal is dismissed as withdrawn. This may be observed that this office order dated 03.08.2016 was disputed by learned counsel for private respondent No. 5 who submitted that this order does not pertain to the matter. Since the learned counsel for the appellant stated that the appellant does not want to pursue the appeal therefore the same is dismissed without further proceedings. File be consigned to the record room.

ANNOUNCED
08.08.2016

Zell

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application: 01-09-16
Number of Words: 800
Copying Fee: 600
Urgent:
Total: 600
Name of Copyist: *[Signature]*
Date of Completion: 02-09-16
Date of Delivery of Copy: 02-09-16

DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT, WARSAK ROAD, PESHAWAR

OFFICE ORDER:-

Mr. Said Muhammad Junior Clerk attached to Agency Surgeon North Waziristan Agency is hereby transferred and posted to Directorate of Health Services FATA on administrative grounds with immediate effect.

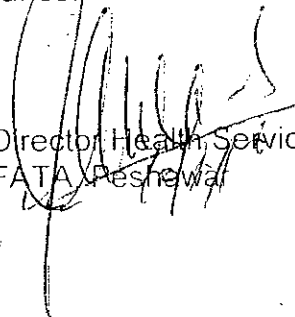
Dr. Muhammad Riaz Program Manager TB Control Program FATA and Dr. Muhammad Zarin Agency Surgeon FR Peshawar are hereby nominated as inquiry officer regarding illegal appointments of relative of Mr. Said Muhammad Junior Clerk NW Agency by Agency Surgeon.

Sd/xxxxxx
Director Health Services
FATA, Peshawar

No. 16261-64 /DHS/FATA/Admn

Dated: 10 /10/2016

- 1- AGPR Sub Office, Peshawar
- 2- Agency Surgeon North Waziristan Agency
- 3- Agency Accounts Officer North Waziristan Agency
- 4- Medical Superintendent AHQ Hospital North Waziristan Agency
- 5- Mr. Said Muhammad Junior Clerk for immediate compliance.


Director Health Services
FATA, Peshawar

ATTESTED



7
0

The Honourable Secretary,
Social Sector Department, FATA secretariat Islamabad.

Through: Proper Channel.

Subject: Departmental Appeal.

Sir, with due respect I beg to say that I am working as a Junior Clerk / Head Clerk in Agency Surgeon Office NWFA from the last 04 months. neither public complaints lodged against me nor any explanation or show cause notice has been issued to me by the department.

that vide order dated 10/10/2016 the Director Health Services FATA has issued my transfer on administrative reasons i.e. on the allegation that the undersigned is involved in illegal appointment of his relatives.

that the undersigned has served the deptt. with utmost satisfaction of his superiors and had never be involved in such like illegal activities.

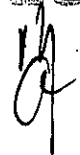
It is therefore humbly requested that the transfer order of the undersigned dated 10/10/2016 may kindly be cancelled.

Thanks

Dated: - 10/10/2016

Yours obediently

ATTESTED



(Mr. Syed Muhammed)
Junior / Head Clerk
Agency Surgeon Office NWFA.

K-22

OFFICE OF THE AGENCY SURGEON NORTH WAZIRISTAN

Phone & Fax: (0928)300788-311662

Email:- drinayat.na43@gmail.com


No. 27/6 /C-1, Dated Miranshah the 13 /10/2016.

To

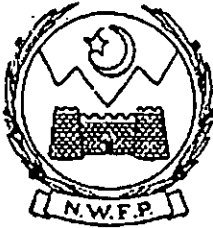
Mr. Syed Muhammad,
Head Clerk, Agency Surgeon Office
North Waziristan Agency Miranshah.

Subject:- APPEAL.
Memo :-

Your departmental appeal dated 13/10/2016 has been seen
and rejected accordingly.


Agency Surgeon
North Waziristan Agency
Mu.

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 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) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.

v) { }
vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained

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.

ATTESTED

[Handwritten signature]

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

ATTESTED
[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
DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

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

ATTESTED

[Handwritten signature]

ATTESTED

[Handwritten signature]

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

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}.

.....

ATTESTED

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 2016

Said Mohammad

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

A. C. S KATA

(RESPONDENT)
(DEFENDANT)

I/We Said 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. ____/____/2016

Client
CLIENT

Accepted
ACCEPTED

Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

Syed Imdad Hussain Shah
Advocate

OFFICE:

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

Phone: 091-2211391

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.M.NO. _____/2016

IN

IN APPEAL NO. _____/2016

SAYED MOHAMMAD

VS

A.C.S. FATA & OTHERS

APPLICATION FOR EARLY HEARING OF
THE ABOVE MENTIONED APPEALS

R.SHEWETH:

- 1- That the above mentioned appeal is pending adjudication before this august Tribunal for Preliminary hearing on 14.11.2016.
- 2- That appellant filed the above mentioned appeal against the impugned order dated 10.10.2016 whereby the appellant has been transferred prematurely and in violation of the transfer/posting Policy.
- 3- That appellant has not been relinquished his charge while the respondents are forcedly relieving the appellant from the said post.
- 4- That the interest of justice demands that such like matters should be heard as early as possible to meet the ends of justice and also to meet the principles of access to justice.

It is therefore most humbly prayed that on acceptance of this application the appeals in hand may be heard on an early date to meet the ends of justice.

Dated: 31.10.2016.

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADEVOCATE

A-3



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 481 /2016

Mr. Sadiq Ali, AAEO, O/O Agency Education Officer,
North Waziristan Agency under transfer to GMS Boya,
North Waziristan Agency

**H.W.F. Province
Service Tribunal
Diary No. 453
Dated 06-5-2016**

APPELLANT

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Social Sector, FATA Secretariat, Warsak Road, Peshawar.
- 3- The Director Education FATA, FATA Secretariat, Warsak Road, Peshawar.
- 4- The Agency Education Officer, North Waziristan Agency.

RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED 19.1.2016
WHEREBY APPELLANT WAS TRANSFERRED FROM
THE POST OF AAEO NORTH WAZIRISTAN AGENCY TO
THE POST OF SET GMS BOYA NORTH WAZIRISTAN
AGENCY AND AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
THE STATUTORY PERIOD OF NINETY DAYS.**

PRAYER:

That on acceptance of this appeal the impugned order dated 19.1.2016 may very kindly be set aside and the respondents may be directed that not to transfer the appellant from the post AAEO North Waziristan Agency. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Handwritten signature and date

4/5/2016

**R/ SHEWETH:
ON FACTS:**

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

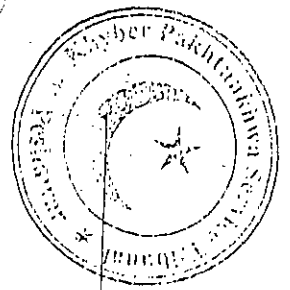
1- That appellant is the employee of respondent Department and is serving the respondent Department till date quite efficiently and up to the entire satisfaction of his superiors.

2- That recently through Notification dated 8.1.2014 the appellant was posted as Assistant Agency education Officer, North Waziristan Agency. That in compliance to the above mentioned order the appellant submitted his charge report

ATTESTED

Handwritten signature

4

Sr.
NoDate of
order/
proceedings

1

2

Order or other proceedings with signature of Judge or
Magistrate

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Appeal No. 481/2016

Sadiq Ali Versus Additional Chief Secretary FATA, FATA
Secretariat, KPK, Peshawar and others.

JUDGMENT

MUHAMMAD AZIM KHAN AIRIDI, CHAIRMAN:-

Counsel for the appellant and Mr. Kabirulah Khan Khattak,

Assistant AG for the respondents present.

05.05.2017

2. Sadiq Ali, AAEO, hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 19.01.2016 vide which he was transferred from the post of AAEO North Waziristan Agency to the post of SFT GMS (Boya), North Waziristan Agency and where against departmental appeal dated 02.02.2016 was not responded constraining him to prefer the instant service appeal on 06.5.2016.

3. We have heard arguments of learned counsel for the parties and perused the record.

4. Learned counsel for the appellant, during the course of arguments press into service the judgment of this Tribunal passed in service appeal No. 1246/2015 titled, Mst. Ulfat Noreen Verses Secretary Health and others as well as case law reported as 2012

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

5

PLC (CS) 187 (Khyber Pakhtunkhwa Service Tribunal) wherein transfer on the basis of punishment was declared nullity.

5. Since the impugned transfer order was passed on reason amounting to the penalty as such the appeal is accepted and the impugned transfer order referred to above is set-aside. Parties are left to bear their own costs. File be consigned to the record room.

Announced

05-05-2017

Ed. M. Azim Khan Afridi
Chairman

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Ed. Gulzar Khan
Clerk

Date of Presentation of Application	10-05-2017
Number of Words	1200
Copying Fee	8-0
Urgent	2-0
Total	10-0
Name of Copyist	[Signature]
Date of Completion of Copy	10-05-17
Date of Delivery of Copy	10-05-17

ATTESTED

[Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No.1054/2016

SAID MOHAMMAD

VS

A.C.S. FATA

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

R/SHEWETH:

(1 TO 10):

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

ON FACTS:

- 1- Admitted correct hence need no comments.
- 2- Incorrect and not replied accordingly. That appellant while serving as Junior Clerk/Head Clerk in O/O the Agency Surgeon, North Waziristan Agency an order dated 07.09.2015 was issued whereby the appellant was directed to handover the charge of the post Head Clerk to Mr. Gul Badshah. That it is pertinent to mention that the said order dated 7.9.2015 was issued by the respondent No.4 on the directions of local MNA Mr. Mohammad Nazir Khan NA-40. That the said person namely Mr. Gul Badshah was posted against the post of Head Clerk on detainment basis.
- 3- Incorrect and not replied accordingly. That appellant filed Departmental appeal before the Director Health Services FATA but no response has been given on the said Departmental appeal of the appellant where after the appellant preferred service appeal No. 1019/2015 and this august Service Tribunal granted status quo vide order dated 10.11.2015 in favor of the appellant. No comments hence denied.
- 4- Admitted correct hence need no comments.
- 5- Admitted correct to the extent of the transfer order of the appellant while the remaining para is incorrect. That

appellant feeling aggrieved from the impugned order dated 10.10.2016 preferred Departmental appeal but the same was rejected vide dated 13.10.2016.

6- Incorrect and not replied accordingly hence denied.

GROUND:

(A to H):

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 10.10.2016 is against the Clause I, II and IV of the transfer/posting policy of the Government of Khyber Pakhtunkhwa. That transfer has not been mentioned in the penalty list of Efficiency and Disciplinary Rules 2011, therefore the same can not be awarded as punishment and as such the impugned order is void ab initio in the eye of law. That the appellant has been transferred by the respondent No.3 pre-maturely and on the basis political influence, therefore the impugned order dated 10.10.2016 is not tenable in the eye of law and prevailing rules. That the impugned order dated 10.10.2016 has not been issued by the respondent No.3 in the public interest not exigencies of service.

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

APPELLANT



SAID MOHAMMAD

THROUGH:



**NOOR MOHAMMAD KHATTAK
DVOATE**

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2308 /ST

Dated 25 / 10 / 2017

To


The Director Health Services, FATA,
Government of Khyber Pakhtunkhwa,
FATA Secretariat Warsak Road Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1054/2016 , MR. SAID MUHAMMAD.

I am directed to forward herewith a certified copy of Judgement dated 24.10.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.