

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

**SERVICE APPEAL NO. 337/2016**

Date of institution ... 31.03.2016

Date of judgment ... 10.07.2017

Mst. Shazia Sharif, Assistant Agency Educaiton Officer(F) O/O the Agency Education Officer Khyber Agency under transfer to GGMS Yar Afzal Kalai, Jamrud, Khyber Agency.

... (Appellant)

**VERSUS**

1. The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar
2. The Secretary Social FATA, FATA Secretariat, Warsak Road, Peshawar.
3. The Director of Education FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar .

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 01.12.2015 WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE POST OF ASSISTANT AGENCY EDUCATION OFFICER(F) KHYBER AGENCY PRE-MATURE AND IN VIOLATION OF TRANSFER/POSTING POLICY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD.

Mr. Noor Muhammad Khattak, Advocate.

.. For appellant.

Mr. Muhammad Adeel Butt, Additional Advocate General

.. For respondents.

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER(JUDICIAL)

**JUDGMENT**

**AHMAD HASSAN, MEMBER:** Mst. Shazia Sharif, hereinafter referred to as appellant, through the instant appeal under section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned order dated 01.12.2015 whereby the appellant was transferred from the post of Assistant Agency Education officer (F) Khyber Agency pre-maturely and in violation of transfer/posting policy and against not taking action on the departmental appeal of appellant within the statutory period, hence the instant service appeal.

2. Brief facts of the case giving rise to the instant appeal are that the appellant while serving as SET at GGMS Yar Afzal Kalai, Khyber Agency was transferred and posted as Assistant Agency Education Officer (F), Khyber Agency vide notification dated 06.11.2015. Appellant submitted charge report and started performing duty. Through impugned order dated 01.12.2015 the appellant was pre-maturely transferred from the post of AAEO(F) Khyber Agency. Feeling aggrieved she filed departmental appeal against the impugned order dated 01.12.2015 and respondent no.3 held the said order in abeyance vide order dated 29.12.2015. That again vide order dated 16.02.2016 the respondent no.3 cancelled the order dated 29.12.2015 and restored the impugned transfer order dated 01.12.2015, hence the instant service appeal.

3. Learned counsel for the appellant argued that vide order dated 6/11/2015 the appellant was posted as Assistant Agency Education Officer(Female) Khyber Agency. Subsequently through impugned order dated 1/12/2015, she was pre-maturely transferred after having been found absent during inspection/visit of Monitoring Team of Directorate of Education FATA. She preferred departmental appeal on 15/12/2015 and resultantly vide order dated 29/12/2015 the impugned order referred to above was held in abeyance. However, on 16/2/2016 order dated 29/12/2015 was withdrawn and the appellant was directed to report to Government Girls Middle School Yar Afzal Killi Khyber Agency. As a last resort, the appellant filed service appeal in this tribunal on 31/03/2016. The impugned order was issued in violation of Clause I, II and IV of posting/transfer policy notified by the Provincial Government. Notified selection criteria for posting of AAEO circulated vide letter dated 1/12/2015 was also violated in this case. Principle of Locus Poenitentiae was also not observed while issuing the impugned transfer order. As the transfer was made on administrative grounds which impliedly means punishment and is alien to posting/transfer policy referred to above. Reliance was placed on 2003 PLC CS 1062 and Judgement of this tribunal dated 19/1/2017 passed in service appeal number 1246/2015.

4. Learned Additional Advocate General in his rebuttal asserted that she was transferred from the post of AAEO on 16/2/2016 on administrative grounds and being found absent during inspection. Postings/transfers was the prerogative/domain of the competent authority and the appellant exhibited lack of interest in her duty, hence, was removed from her post. For smooth functioning of the office/school the competent authority had no other option but to transfer the appellant and post a suitable officer in her place. The appeal being devoid of any merit be dismissed with cost.

5. We have heard arguments of learned counsel for the appellant and learned Additional Advocate General for the respondents and have gone through the record available on file.

6. Having gone through the record, it transpired that on the basis of order dated 6/11/2015 the appellant was performing duty as AAEO Khyber Agency. Attention is invited to the monitoring report whereby various schools were inspected including GGMS Yar Afzal Killi. The findings indicate that the post of SET previously occupied by the appellant stood vacant after her transfer. Moreover, the office of AAEO was not inspected so the allegation of absence from duty leveled against the appellant remains a riddle. It is quite strange that no action was taken against the appellant on account of absence from duty. Even an explanation is not available on record. The Additional Advocate General time and again in his convoluted arguments took shelter under administrative grounds which is alien in the posting and transfer policy of the provincial government. Transfer in the instant case smacks of mala fide intentions on the part of the respondents and also falls in the ambit of punishment. Imposing punishment without proper enquiry and opportunity of defense is illegal and unsustainable in the eyes of law. It also contravenes Article.10(A) of the Constitution. This case is also badly hit by the security of tenure and principle of Locus Poenitentiae enjoyed by a civil servant. Perusal of the written comments filed by the respondents clearly manifest their helplessness in

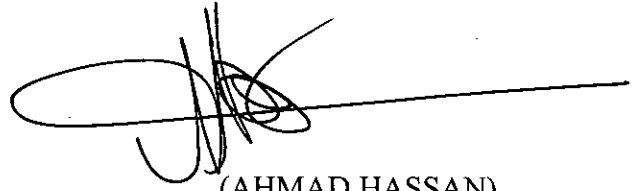
defending their illegal action and as a last resort relied on administrative grounds for transfer of the appellant which has no legal value.

7. In view of the foregoing, we are constrained to accept the instant appeal and set aside the impugned order dated 1/12/2015. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
10.07.2017

*Hamid*

(MUHAMMAD HAMID MUGHAL)  
MEMBER



(AHMAD HASSAN)  
MEMBER

12.05.2017

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 16.06.2017 before D.B. Status-quo be maintained till date.



(Ahmad Hassan)  
Member



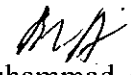
(Muhammad Amin Khan Kundi)  
Member

16.06.2017

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Complete record of the transfer order of the appellant produced on the next date of hearing. To come up for record and arguments on 10.07.2017 before D.B. Status-quo be maintained till date.



(Gul Zeb Khan)  
Member



(Muhammad Amin Khan Kundi)  
Member

Order

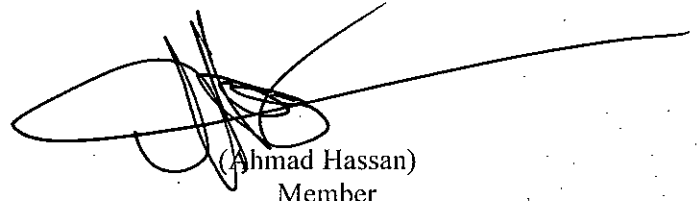
16. 10.07.2017

Learned counsel for the appellant, Learned District Attorney for the respondent present. Vide separate judgment of today of this Tribunal placed on file, the present appeal in hand is accepted and set aside the impugned order dated 01.12.2015. No order as to cost. File be consigned to the record room.

**ANNOUNCED**  
10.07.2017



(Muhammad Hamid Mughal)  
Member



(Ahmad Hassan)  
Member

08.02.2017

Counsel for appellant and Mr. Daud Jan, Superintendent alongwith Mr. Muhammad Jan, GP for respondents present. Learned counsel for appellant seeks adjournment. Adjourned. To come up for arguments on 03/03.2017 before D.B. Status-quo be maintained.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

03.03.2017

Appellant with counsel and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 10.04.2017 before D.B. Status-quo be maintained.

  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMER

10.04.2017

Junior counsel for the appellant present. Mr. Daud Jan, Superintendent alongwith Mr. Ziaullah, Government Pleader for respondents also present. Junior counsel for the appellant requested for adjournment on the ground that his senior counsel has gone abroad for performing of Umra. Adjourned. To come up for arguments on 12.05.2017 before D.B. Status-quo be maintained till date.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

Appeal No. 337/2016  
Sharada Sharif vs Govt

28.09.2016

Agent of counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant is not in attendance. Requested for adjournment. To come up for final hearing before the D.B on 28.11.2016.

  
Member

  
Chairman

28.11.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 6.1.17. Status-quo be maintained.



(ABDUL LATIF)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

06.01.2017

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Learned counsel for the appellant seeks adjournment. Request accepted. To come up for arguments on 08.02.2017 before D.B. Status-quo be maintained.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

Appeal No. 337/2016  
Shazia Sharif vs Govt

23.06.2016

Clerk of counsel for the appellant and Mr. Murtaza, Stenographer alongwith Additional AG for respondents present. Written reply not submitted. Requested for further time for submission of written reply. Last chance given. To come up for written reply/comments on 26.07.2016 before S.B. Status-quo be maintained.



MEMBER

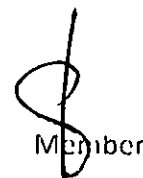
26.07.2016

Counsel for the appellant and Mr. Murtaza Khan. Steno alongwith Addl. AG for the respondents present. Written reply submitted The appeal is assigned to D.B for rejoinder and final hearing for 25.08.2016. Status quo be maintained.

  
Chairman

25.08.2016

Counsel for the appellant, M/S Murtaza. Stenographer and Saleem Shah. Senior Auditor alongwith Mr. Muhammad Jan. GP for respondents present. Learned counsel for the appellant submitted rejoinder and requested for adjournment for arguments. Last opportunity given for arguments. To come up for arguments on 28-9-16 before D.B. Status-quo be maintained.

  
Member  
Member



Appeal No. 337/2016  
Shazia Sharif vs Govt

11.04.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as SET at GGMS Yar Afzal Kaley Khyber Agency where-from she was posted as AAEO (F) Khyber Agency vide order dated 06.11.2015 where she assumed charge and after a period of less than one month she was prematurely re-transferred to GGMS Yar Afzal Kaley on 1.12.2015 where-against she preferred departmental appeal on 15.12.2015 wherein the said transfer order was held in abeyance vide order of the departmental appellate authority dated 29.12.2015 which order was subsequently withdrawn on 16.2.2016 and hence the instant service appeal on 31.3.2016.

Appellant Deposited  
Security & Process Fee

That the impugned transfer order is premature and not passed in the interest of public service in violation of principles of locus poenitentiae.

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 11.5.2016 before S.B. Notice of stay application be also issued for the date fixed. Status quo be maintained.

Chairman

11.05.2016

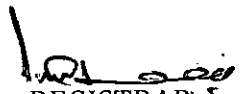

Counsel for the appellant and Mr. Daud Jan, Superintendent alongwith Addl: AG for respondents present. Representative of respondents informed that reply is under process and will be submitted on the next date. He is directed to submit written reply positively on the next date. To come up for written reply/comments on 23.06.2016 before S.B. Status-quo be maintained.

Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 337/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	31.03.2016	<p>The appeal of Mst. Shazia Sharif presented today by Mr. Noor Muhammad Khanttak 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	01-04-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>11-4-2016</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

APPEAL NO. 337 /2016

**SHAZIA SHARIF**

**VS**

**A.C.S FATA & OTHER**

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**APPELLANT**

**THROUGH:**

  
**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

APPEAL NO. 337 /2016

F.W.F. Provincial  
Service Tribunal  
Slary No 301  
Dated 31-3-2016

Mst: Shazia Sharif, Assistant Agency Education Officer (F) O/O the Agency Education Officer Khyber Agency under transfer to GGMS Yar Afzal Kalai, Jamrud, Khyber Agency ..... **APPELLANT**

**VERSUS**

- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Social FATA, FATA Secretariat, Warsak Road, Peshawar.
- 3- The Director of Education FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 1.12.2015 WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE POST OF ASSISTANT AGENCY EDUCATION OFFICER (F) KHYBER AGENCY PRE MATURELY AND INVIOLATION OF TRANSFER/POSTING POLICY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD**

**PRAYER:** That on acceptance of this appeal the impugned transfer order dated 1.12.2015 may very kindly be set aside and the respondents may very kindly be directed that not to transfer the appellant from the post of AAEO (F) Khyber Agency till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to file  
31/3/16

**R/SHEWETH:**  
**ON FACTS:**

Brief facts giving rise to the present appeal are as under:

1. That appellant while serving as SET at GGMS Yar Afzal Kalai, Khyber Agency was transferred to the post of Assistant Agency Education Officer (F), Khyber Agency vide

Notification dated 6.11.2015. Copy of the Notification is attached as annexure ..... **A.**

2. That in response to the said Notification dated 6.11.2015 the appellant submitted her charge report and started performing her duty quite efficiently and up to the entire satisfaction of her superiors.
3. That appellant while serving as Assistant Agency Education Officer (F) astonishingly an order dated 1-12-2015 was issued by the respondent No.3 whereby the appellant was prematurely transferred from the post of AAEO (F) Khyber Agency. Copy of the impugned order is attached as annexure ..... **B.**
4. That feeling aggrieved the appellant filed Departmental appeal against the impugned order dated 1.12.2015 and on the said Departmental appeal the respondent No.3 held in abeyance the impugned transfer order of the appellant vide order dated 29.12.2015. That again vide order dated 16.2.2016 the respondent No.3 cancelled the order dated 29.12.2015 and restored the impugned transfer order dated 1.12.2015 of the appellant. Copies of the Departmental appeal, held in abeyance order and cancellation order are attached as annexure ..... **C, D and E.**
5. That appellant feeling aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned order dated 1.12.2015 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned order dated 1.12.2015 has been issued by the incompetent authority; therefore the same is not tenable and liable to be set aside.
- D- That the impugned order dated 24.11.2015 is against the clause I, II, and IV of the transfer/ Posting policy of the Government of Khyber Pakhtunkhwa. (Copy of

Transfer/Posting policy is attached as annexure  
..... **F.**

- E- That the impugned order dated 1.12.2015 has not been issued in public interest nor in exigencies of service.
- F- That the respondents violated the selection criteria for the post of AAEO while issuing the impugned order dated 1.12.2015. Copy of the Notification is attached as annexure ..... **G.**
- G- That the impugned order dated 1.12.2015 has been issued under the direction of political figures which is not tenable in the eye of law.
- H- That the respondents violated the principle of Locus Poenitentiae and as such the impugned transfer order dated 1.12.2015 is not tenable and liable to be set aside.
- I- 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.

Dated: 29.3.2016

**APPELLANT**

  
**SHAZIA SHARIF**

  
**THROUGH:  
NOOR MOHAMMAD KHATTAK  
ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL**  
**PESHAWAR**

**APPEAL NO \_\_\_\_\_/2016**

**SHAZIA SHARIF**

**VS**

**A.C.S FATA**

**APPLICATION FOR SUSPENTION OF OPERATION**  
**OF IMPUGNED ORDER DATED 1.12.2015 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 1.12.2015 is also not issued in the public interest nor exigencies of public service.
- 4- That the grounds of main appeal is also be considered as integral part of this application.

It is therefore humbly prayed that on acceptance of this application the impugned transfer order dated 1.12.2015 may very kindly be suspended till disposal of this appeal.

**APPELLANT**



**SHAZIA SHARIF**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

A-5

DIRECTORATE OF EDUCATION, FATA SECRETARIAT, PESHAWAR

TRANSFER/ADJUSTMENT

The transfer of the following AAEOs/SETs (Male/Female) are hereby ordered in their own pay & scale to the Agency Education Officer Office/School as noted against their names with effect from the dates of their taking over charge:-

S/No	Name/Designation/School	Posted as	Remarks
1	Mr. Khurshid SET GMS Gagra Tehsil Landi Kotal Khyber Agency	AAEO, Office of the AEO Khyber Agency	Against a vacant AAEO post
2	Mst. Shazia Sharif SET GGMS Yar A'zal Kili Khyber Agency	AAEO, Office of the AEO Khyber Agency	-do-
3	Mst. Naveeda Afridi SET GGMS Sur Kamar Khyber Agency	AAEO, Office of the AEO Khyber Agency	Vice S/No.4
4	Mst. Wahida Shinwari AAEO Office of the AEO Khyber Agency	GGMS Sur Kamar Khyber Agency	Vice S/No.3

Note:-

- 1 Charge report should be submitted to all concerned
- 2 TA/DA etc is not allowed

DIRECTOR EDUCATION (FATA)

Encl. No. 11728/06 A-1/Gen AAEOs

Dated Pesh: the 6/11 /2015

Copy forwarded to the:-

- 1 Agency Education Officer, Khyber Agency at Jamrud
- 2 Agency Accounts Officer, Khyber Agency at Jamrud
- 3 PS to Secretary SSD FATA Secretariat
- 4 PA to D.E FATA
- 5 EMIS Local Directorate
- 6 P/Files

*Attended*  
*[Signature]*

BY: DIRECTRESS (ESTAB)  
*[Signature]*



Supd. AC  
09/12/2015

**DIRECTORATE OF EDUCATION, FATA SECRETARIAT, PESHAWAR**  
**CANCELLATION OF TRANSFER/ADJUSTMENT ORDER**

B-6

The transfer/adjustment order in respect of Mst. Shazia Sharif SET GGMS Yar Afzal Killi Khyber Agency to Office of the AEO Khyber Agency as AAEO issued vide this Directorate Endst: No. 11239-46/A-1/Gen AAEOs dated 06/11/2015 occurring at S/No.2 is hereby cancelled on the grounds that she was found absent during the visit of this Directorate team. She was being warned for the same.

**DIRECTOR EDUCATION (FATA)**

Endst: No. 12103-8 /A-1/Gen AAEOs

Dated Pesh: the 11/12 /2015

Copy forwarded to the:-

- ✓ 1 Agency Education Officer, Khyber Agency at Jamrud with the remarks to nominate another SET Female for AAEO post.
- 2 Agency Accounts Officer, Khyber Agency at Jamrud
- 3 PS to Secretary SSD FATA Secretariat
- 4 PA to D.E FATA
- 5 EMIS Local Directorate
- 6 P/Files

  
DY: DIRECTRESS (ESTAB:)  
#

(Anwar)

Alid Shah  
21  
16/12

PCW

سینٹی

سی

2

1

بخدمت جناب سیکرٹری و شل سیکٹر فائنا سیکرٹریٹ پشاور  
عنوان:- اپیل برائے کینسلیشن آف ٹرانسفر آرڈر

C-7

جناب عالی۔

گزارش ہے کہ ساکنہ GGMS یارا فضل کلے جمروڈ میں بطور SET ہیڈ پوسٹ پر اپنی ڈیوٹی سرانجام دے رہی تھی۔ اس سکول میں کلاس فور اور انکے رشتہ داروں کی بے جا مداخلت اور آئے دن کے لڑائی جھگڑوں سے تنگ آ کر میں نے کئی بار شکایت تحریری طور پر سابقہ AEO عتیق الرحمن کے پاس جمع کرائیں اور انہوں نے خود سکول کا معائنہ کر کے ان لوگوں کو زبانی تنبیہ بھی کی مگر بے سود۔ جب AEO آفس نے ہمارا مسئلہ حل نہیں کیا تو مجبوراً APA جمروڈ کو درخواست دینی پڑی اور انہوں نے انکو حوالات میں بند کر دیا مگر کچھ گھنٹوں بعد یہ چھوٹ کر باہر آ گئے اور میرا اور میرے سٹاف کا سکول آنا اور ڈیوٹی دینا بحال کر دیا۔ تحصیل باڑہ کی AAEO (F) vacant تھی تو سابقہ AEO عتیق الرحمن نے خود ہی AAEO فی میل کیلئے میرا پروپوزل بنا کر مجھ سے پوچھے ڈائریکٹریٹ بھجوا دیا اور 6/11/2015 کو آرڈر نمبر 11239-46 کے مطابق بحیثیت AAEO فی میل باڑہ ایجنسی ایجوکیشن آفس میں میرا تقرر ہوا اور میں نے خود چارج لیکر اپنا کام کرنا شروع کر دیا۔ اسی اثناء میں 1/12/2015 کو آرڈر نمبر 12103-08 کے مطابق میرا آرڈر کینسل کر دیا گیا جسکی وجہ 14/11/2015 ڈائریکٹریٹ ٹیم کا وزٹ قرار دیا گیا جس میں مجھے GGMS یارا فضل کلے جمروڈ سکول میں غیر حاضر کیا گیا تھا۔

جناب عالی۔ میرا تقرر بحیثیت AAEO، 06/11/2015 کو ہوا اور ڈائریکٹریٹ کی ٹیم نے 14/11/2015 کو GGMS یارا فضل کلے جمروڈ کا وزٹ کیا اور جس میں میرا کوئی ذکر نہیں ہے۔ (وزٹ رپورٹ منسلک ہے)

جناب عالی: بغیر کسی Explanation کال، انکو آری کے یوں ٹرانسفر کینسل کر دینا کہاں کا انصاف ہے؟

میں نے اتنے کم وقت میں 50 سے زائد سکولوں کا معائنہ کر کے رپورٹ AEO آفس جمروڈ میں جمع کرا دی ہیں۔

آپ سے اپیل ہے کہ میری درخواست پر ہمدانہ غور کرتے ہوئے 1/12/2015 کو آرڈر نمبر 12103-08 کینسل کر کے،

06/11/2015 آرڈر نمبر 11239-46 کو بحال کر کے مجھے بحیثیت AAEO فی میل باڑہ خیبر ایجنسی کام جاری رکھنے کے احکامات

صادر فرمادیں۔ شکریہ

مورخہ: 15/12/2015

Attentive  
[Signature]

العارضة  
15/12/15  
شازیہ شریف  
AAEO فی میل باڑہ خیبر ایجنسی

E-9

DIRECTORATE OF EDUCATION, FATA SECRETARIAT, PESHAWAR

HELD IN ABEYANCE CANCELLATION

The held in abeyance order in respect of Mst. Shazia Sharif AAEO Office of the AEO Khyber Agency issued vide this Directorate Endst. No. 12767-72/ A-12/ Shazia Sharif AAEO dated 29/02/2015 is hereby withdrawn. She is directed to report to her school for duty as her services are no longer required as AAEO in Khyber Agency on the basis of lack of interest in her assigned duty.

Note:

Charge report should be submitted to all concerned.

DIRECTOR EDUCATION (FATA)

Endst. No. 1706-11 / A-12/Shazia Sharif AAEO Dated Pesh: the 16/2 2016

Copy forwarded to the:-

1 Agency Education Officer, Khyber Agency at Jamrud

2 Agency Accounts Officer, Khyber Agency at Jamrud

3 PS to Secretary SSD FATA Secretariat

4 PA to D.E FATA

5 EMIS Local Directorate

6 P/File

*Attended*  
*[Signature]*

*[Signature]*

ASSTT: DIRECTOR (ESTAB.)



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

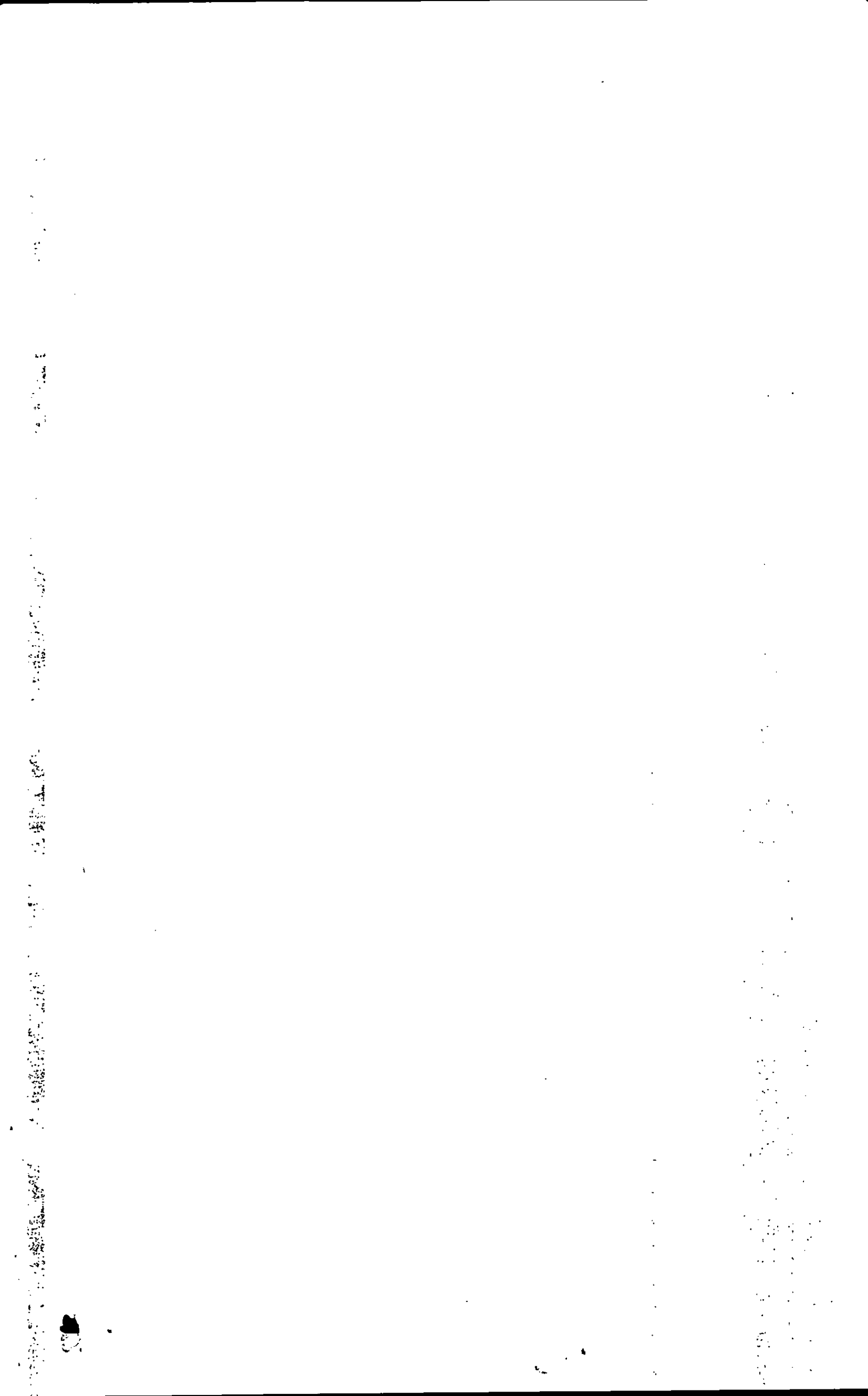
**POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.**

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) <sup>1</sup>{ }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained  
  
<sup>2</sup>While 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.

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

*Attested*  
*[Signature]*

**ATTESI**  
*[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.  
**<sup>1</sup>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:
- 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**

<sup>1</sup> 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: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

.....

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

ATTESTED



FATA SECRETARIAT  
DIRECTORATE OF EDUCATION

Warsak Road Peshawar

No/2351-~~(1)~~ /11  
A-1/General/AAEO 6/10

To

All the Agency Education Officers  
in FATA

Subject: SELECTION CRITERIA FOR THE POST OF AAEO (M/F)

I am directed to convey the following criteria duly approved by the competent authority for transfer against the post of AAEO (M/F) in your respective Agencies for strict compliance while submitting proposal to this Directorate:-

- i) Seniority position of those to be considered for posting as AAEO/MF should be in the top 10 of the SETs seniority list of the concerned Agency/FR
- ii) Should have clean record of service and no departmental proceedings should be pending against any of those included in the panel
- iii) Should have the ability to deal with the public tactfully and have moral courage to carry out proper feasibility
- iv) A panel of at least three SETs in order of seniority should be prepared for a single post for selection of one through interview
- v) Recommendation of concerned Agency Education Officer would also be considered but not binding
- vi) Knowledge of Budget/Accounts, PC-IV and APT rules including procedure in disciplinary cases will be considered as additional qualification
- vii) Maximum tenure of the post will be five years based on good performance otherwise, the incumbent could be posted out any time on administrative grounds/poor performance
- viii) Once an official has completed 05 years tenure, he/she will not be re-posted as AAEO
- xi) Due to acute shortage of science teachers in high schools SET (Science) will not be considered for the post of AAEO

ADDL. DIRECTOR (ESTAB)

CC

PS to Secy A&C FATA Secretariat  
PA to DE FATA Local Directorate

*Assisted*  
*GP*

*[Signature]*

*Q- (300)*  
*G- (13)*



**VAKALATNAMA**

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2016

Shazia Sharif

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

A.C.S FATA & Other

(RESPONDENT)  
(DEFENDANT)

I/We Shazia Sharif

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

Shazia

CLIENT

N

**ACCEPTED**

**NOOR MOHAMMAD KHATTAK  
(ADVOCATE)**

OFFICE:

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

Phone: 091-2211391

Mobile No.0345-9383141

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Appeal No: 337/2016.

Shazia Sharif .....Appellant.

**VERSUS**

1. The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Peshawar.
2. Secretary Social Sector Department, FATA Secretariat, Peshawar
3. The Director Education FATA Warsak Road Peshawar.....(Respondents)

**Para-wise comments on behalf of respondent No: 1, 2 & 3.**

**Respectively Sheweth:**

**Preliminary Objection**

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the appeal is barred by law and not maintainable being devoid of merit.

**On Facts:**

1. No comments. Pertains to record.
2. No comments. Pertains to record.
3. Incorrect. That the Appellant was transferred finally from the office of Agency Education Office, Khyber Agency vide order dated 16.2.2016 on administrative ground i.e she was found absent from duty which showed her lack of interest in the assigned official tasks. So, therefore, the respondents department considered it imminent for smooth running of official affairs and to transfer the appellant. Copy of the order dated 1.12.2015 and 16.2.2016 attached as Annexures A and B respectively.
4. The appellants transfer order was kept held in abeyance for some time for posting of proper substitute. She was replaced/transferred on administrative ground as mentioned above, therefore, her transfer order was ordered to be restored, further-more, It is with in the executive domain of the respondents department to post/transfer suitable candidates as Assistant Agency Education Officers, the appellant being negligent in her duties was liable to be transferred in the interest of public service.
5. No comments. However, reply on the grounds are as under :-

**Ground.**

- A. Incorrect. The Impugned transfer order issued by the competent authority is in accordance with law/rules and hence not liable to be set aside.
- B. Incorrect. Respondents are fully abide by the constitution and have treated the appellant as per law. There is no violation of Article 4 and 25 of the constitution. The constitution where enunciate "Rights" also provide for correlative "duties" duties being part and parcel of the provisions of constitution has to be performed, therefore negligence of duties is no excuse in the eyes of Law.
- C. Incorrect. The Impugned order have been issued by the competent authority and valid in all respects in the eye of Law.

D. Incorrect. The impugned order is issued as per policy, the appellant being negligent in discharge of her duties, as public duties are sacred trust which has to be performed with utmost official zeal and honesty. Negligence and willful absence from duty has to be checked by the respondents department which is their obligations under the law for the smooth running of public functionaries, which empowers the respondents department for posting of suitable official in public interest.

E. Incorrect. Hence denied. As explained in above paras.

F. Incorrect. The Notification dated 6/10/2011 is not a selection criteria but a guideline for posting of Assistant Agency Education Officer, which has its own terms and conditions.

G. Incorrect. No Political pressure/figure has dictated for transfer of the appellant. The appellant's transfer was issued in public interest on administrative ground.

H. Incorrect. The appellant was treated as per law.

I. Respondents also seeks permission to advance other grounds at the time of arguments.

In the light of above facts it is most humbly prayed that the appeal may be dismissed in favour of the respondents with cost.

Respondent No. 1.

  
For  
Additional Chief Secretary FATA

Respondent No.2.

  
Secretary Social Sectors FATA.

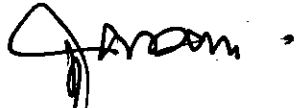
Respondent No.3.

  
Director Education FATA.

AFFIDAVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our Knowledge and belief that nothing has been concealed from this Honorable Tribunal.

Respondents No.1.

For 

Additional Chief Secretary FATA.

Respondents No. 2.



Secretary Social Sectors Deptt;

Respondents No. 3.

  
Director Education FATA.

Supd. Kk  
05/12/2015

DIRECTORATE OF EDUCATION, FATA SECRETARIAT, PESHAWAR  
CANCELLATION OF TRANSFER/ADJUSTMENT ORDER

B-6

The transfer/adjustment order in respect of Mst. Shazia Sharif SET GGMS Yar Afzal Killi Khyber Agency to Office of the AEO Khyber Agency as AAEO issued vides this Directorate Endst: No: 11239-46/A-1/Gen AAEOs dated 06/11/2015 occurring at S/No.2 is hereby cancelled on the grounds that she was found absent during the visit of this Directorate team. She was being warned for the same.

DIRECTOR EDUCATION (FATA)

Endst: No. 12103-8 /A-1/Gen AAEOs

Dated Pesh: the 11/12 /2015

Copy forwarded to the:-

- ✓ 1 Agency Education Officer, Khyber Agency at Jamrud with the remarks to nominate another SET Female for AAEO post.
- 2 Agency Accounts Officer, Khyber Agency at Jamrud
- 3 PS to Secretary SSD FATA Secretariat
- 4 PA to D.E FATA
- 5 EMIS Local Directorate
- 6 P/Files

DY: DIRECTRESS (ESTAB:)

Atif Ghani

16/12

(Anwar)

Attest

1  
2  
3  
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جنسی

فاتا

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**APPEAL No. 337/2016**

**SHAZIA SHARIF**

**VS**

**A.C.S FATA & OTHERS**

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

**R/SHEWETH:**

**PRELIMINARY OBJECTIONS:**

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

**ON FACTS:**

- 1- Admitted correct by the respondents hence need no comments.
- 2- Admitted correct by the respondents hence need no comments.
- 3- Incorrect and not replied accordingly. That the transfer order dated 6.11.2015 regarding posting of the appellant as Assistant Agency Education Officer in the Office of the AEO Khyber Agency has been withdrawn by the respondent No.3 vide impugned order dated 1.12.2015 on the ground of absentia while the appellant has regularly performed her duty at the concerned station quite efficiently and up to the entire satisfaction of her superiors.
- 4- Incorrect and not replied accordingly. That there is proper criteria of the respondent Department regarding posting of AAEO and as such in light of the said criteria and policy of the provincial Government the tenure of the appellant on the post has not been completed, therefore the impugned transfer order is not ten able and liable to be set aside.
- 5- Admitted correct hence need no comments.

**GROUND:**

All the grounds of main writ petition 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 1.12.2015 issued by the respondent Department is pre-mature and in violation of the transfer/posting policy promulgated by the Government of Khyber Pakhtunkhwa. That it is also pertinent to mention that the cancellation of transfer of the appellant shows clear malafide on the part of the respondent Department to adjust his near and dears in place of the appellant. Moreover transfer cannot be awarded as punishment.

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

**APPELLANT**



**SHAZIA SHARIF**

**THROUGH:**

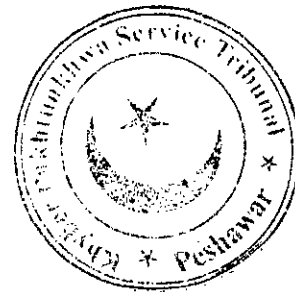


**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

SERVICE APPEAL NO. 1246/2015

Date of institution ... 05.11.2015  
Date of judgment ... 09.01.2017



Mst. Ulfat Noreen, Charge Nurse,  
IKD, HMC Hayatabad Peshawar.

... (Appellant)

VERSUS

1. The Secretary of Health, Khyber Pakhtunkhwa, Peshawar.
2. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. The Director Institute of Kidney Diseases HMC Hayatabad Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE ORDER DATED 02.11.2015 WHEREBY THE DEPARTMENTAL APPEAL OF  
THE APPELLANT AGAINST THE ORDER DATED 23.09.2015 HAS BEEN  
REJECTED FOR NO GOOD GROUND.

Mr. Muhammad Asif Yousafzai, Advocate.  
Mr. Muhammad Adeel Butt, Additional Advocate General  
Mr. Waseem-ud-Din Khattak, Legal Advisor

.. For appellant.  
.. For respondents No. 1&2.  
.. For respondent No. 3.

MR. ASHFAQUE TAJ  
MR. MUHAMMAD AZIM KHAN AFRIDI

.. MEMBER (JUDICIAL)  
.. CHAIRMAN

JUDGMENT

ASHFAQUE TAJ, MEMBER:-

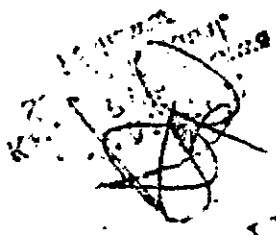
Mst. Ulfat Noreen, Charge Nurse, IDK, HMC

Hayatabad Peshawar hereinafter called appellant filed an appeal under Section-4 of the Service Tribunal Act, 1974 against the order dated 02.11.2015 whereby she had challenged her transfer order to DHQ Hospital Karak from IDK Hayatabad Peshawar on administrative grounds.

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar





ALLIED

Issued on the basis of an administrative finding that there was no competent authority on the matter. The impugned order clearly reflects that it was

1. The record is silent to the effect that the impugned order was obtained from the Government of Punjab for issuance of Notifications.

Department and the Administrative Department shall send approved Unattached Departments (UAD) shall be issued by the Establishment All notifications orders of B2-30 and above and Heads of shall be issued as per specimen given below for guidance.

Competent authority obtained on the matter. The Notifications orders concerned Administrative Department with prior approval of the Unattached Departments irrespective of grades will be notified by the notifications orders of all the officers up to B2-10 except Heads of

It has been decided by the Provincial Government that

411 10, 10/11/50

reproduce the relevant portion of the impugned order of Provincial Government provided

2. After going through specimens in this regard, it is felt that the order was issued on the basis of an administrative finding of D.C. Health

for no competent authority the specimen with regard to the working of the impugned order. This impugned order issued many orders in specialized fields. It is felt that the Institute of Clinical Diseases HMC Rawalpindi was a Semi-Government

3. Mr. Waseem-ud-Din Khan, Senior Advocate for respondent No. 3, also expressed requests that this matter should be finally dismissed.

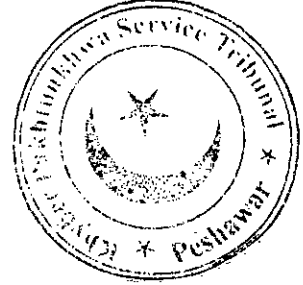
Impugned order was over-ruled and it was issued on administrative finding and to the effect that it was not a notification but a general order and so for competent authority. That the impugned order was issued on administrative finding and that the impugned order was a notification of the

4. On the other hand learned Advocate General raised the question of

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

SERVICE APPEAL NO. 1246/2015

Date of institution ... 05.11.2015  
Date of judgment ... 09.01.2017



Mst. Ulfat Noreen, Charge Nurse,  
IKD, HMC Hayatabad Peshawar.

... (Appellant)

VERSUS

1. The Secretary of Health, Khyber Pakhtunkhwa, Peshawar.
2. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
3. The Director Institute of Kidney Diseases HMC Hayatabad Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE ORDER DATED 02.11.2015 WHEREBY THE DEPARTMENTAL APPEAL OF  
THE APPELLANT AGAINST THE ORDER DATED 23.09.2015 HAS BEEN  
REJECTED FOR NO GOOD GROUND.

Mr. Muhammad Asif Yousafzai, Advocate.  
Mr. Muhammad Adeel Butt, Additional Advocate General  
Mr. Waseem-ud-Din Khattak, Legal Advisor

.. For appellant.  
.. For respondents No. 1&2.  
.. For respondent No. 3.

MR. ASHFAQUE TAJ  
MR. MUHAMMAD AZIM KHAN AFRIDI

.. MEMBER (JUDICIAL)  
.. CHAIRMAN

JUDGMENT

ASHFAQUE TAJ, MEMBER:- Mst. Ulfat Noreen, Charge Nurse, IDK, HMC

Hayatabad Peshawar hereinafter called appellant filed an appeal under Section-4 of the Service Tribunal Act, 1974 against the order dated 02.11.2015 whereby she had challenged her transfer order to DHQ Hospital Karak from IDK Hayatabad Peshawar on administrative grounds.

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

2. Facts in brief are that appellant is working in Health Department as Charge Nurse in BPS-16 posted at IKD Peshawar. That on verbal directions of Secretary to Government of Khyber Pakhtunkhwa Health Department order dated 12.08.2015 was issued by D.G Health Services and the appellant was relieved from her duty on so called administrative grounds and was placed at the disposal of DG Health Services, Khyber Pakhtunkhwa. That on the request of appellant the Secretary Health held in abeyance the order dated 12.08.2015 vide order dated 21.08.2015. That thereafter appellant was placed at the disposal of DG Health Services, KPK vide order dated 26.08.2015. That the Director Institute of Kidney Diseases Hayatabad, Peshawar further requested on 03.09.2015 that after transfer of appellant and one other Charge Nurse Rabia Rashid no replacement has been provided by the Health Department and due to heavy workload in IKD request was made to withdraw the said office order. That on request of Director IKD Hayatabad, Peshawar the DG Health Services KPK, Peshawar posted back the appellant and other Charge Nurse Rabia Rashid on 17.09.2015. That on 23.09.2015 again she was transferred to DHQ Hospital Karak on administrative grounds, feeling aggrieved the appellant preferred a departmental appeal on 07.10.2015 which was regretted on 02.11.2015 without assigning any reason and hence the instant service appeal.

3. The learned counsel for appellant at the very outset asserted that all these orders had been made in violation of laid down rules and procedures of posting transfer policy of the Provincial Government 2009. The impugned order of transfer dated 23.09.2015 reflect that it was issued on administrative grounds but no administrative ground had been disclosed. More so the procedure according to posting/ transfer policy is that all the posting/transfer orders would be with approval of the competent authority obtained on the summery, but in the instant case no such procedure was adopted rather mostly were issued on verbal directions as mentioned in the different orders. The learned counsel for appellant placed reliance on 2012 PLC (C.S) 187 and 1991 SCMR 2330.

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

4. On the other hand learned Additional Advocate General resisted the arguments of appellant counsel by submitting that the posting/transfer was a prerogative of the competent authority. That the transfer order was issued on administrative ground and that appellant had already served for more than eight years at a strength at Peshawar and so her posting here was over-matured and it was issued on administrative grounds and so requested that this service appeal in hand may kindly be dismissed.

5. Mr. Waseem-ud-Din Khattak, Leager Advisor for respondent No. 3, also appeared and stated that the Institute of Kidney Diseases HMC Peshawar was a Semi-Government institute. That Institute had trained many nurses, in specialized Kidney field. That they had got no complaint against the appellant with regard to her working. Rest posting/transfer was the administrative authority of D.G Health.

6. After going through arguments in detail, at the very outset we would like to reproduce the relevant portion of posting transfer policy of Provincial Government updated till 10<sup>th</sup> January 2009.

*"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 Department with prior approval of the Competent Authority obtained on the Summery. 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".*

7. The record is utterly silent to the effect that the transfer order was obtained from the competent authority on summery. The impugned transfer order clearly reflects that it was issued on the basis of an administrative ground. Had there been any summery available we

ATTESTED

Signature  
Khalid Ahmad  
Secretary  
Peshawar

would have been in a better position to look at the administrative ground based for transfer. Propriety demands that every action should be taken as per scheme and conception of laid down rules and procedure. So the impugned transfer order is suffering from an inherent defect hence without touching the other merits of the case we found this shortcoming sufficient to set-aside the impugned transfer order. The appeal in hand therefore stands accepted and the transfer order dated 23.09.2015 is hereby set-aside. The parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
09.01.2017

*Sd/- Asif Ali Taj, Member*

*Sd/- M. Azim Khan Afzali, Chairman*

Certified to be true copy  
M. AZIM KHAN AFZALI  
Chairman  
Service Tribunal  
Peshawar

Date of Presentation of Application 18-01-2017  
Number of Words 1600  
Copying Fee 10/-  
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Date of Completion of Copy 18-01-2017  
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MONITORING REPORT OF THE SCHOOLS IN TEHSIL

JAMRUD, KHYBER AGENCY.

REPORT BY:

ABIDA AZEEM AFRIDI

ADDITIONAL DIRECTOR (PLANNING & MONITORING)

1/2  
DSS

1. In pursuance of the direction of the Secretary Social Sectors FATA Secretariat, the Additional Director (Planning & Monitoring) inspected the following schools on Saturday 14.11.2015.

1. GGPS Haji Talam Khan
2. GMS Kashmir Killi.
3. GGPS Kabal Khan Ghundi.
4. GPS Khan Akbar Ghundi.
5. GGPS Khewa Gul.
6. GGMS Yar Afzal Killi.

1. Govt. Girls Primary School Haji Talam Khan

**Observations:**

- i. There are 4 sanctioned posts in the school and all are filled. The detail of posts is as under:

PST	Caller	Chowkidar	Total
2	1	1	4

- ii. Mst. Farida Nazli PST, head of the school remains wilfully absent from duty.
- iii. Class-wise enrolment in the school is as follow:

KG	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	Total
116	71	18	9	12	4	230

- iv. Mst. Istrat, PST requested for provision of PST teacher for smooth functioning of the school.
- v. Class-IV Mr. Ayub Jan, Chowkidar and Mst. Nasreen, Caller don't perform their duty, the cleanliness situation of the school was quite deplorable.
- vi. The gate of the school has been destroyed during army operation.
- vii. School needs rehabilitation as gate is destroyed and wash rooms need repair.
- viii. There are no mats for students in class rooms.

**Recommendations:-**

- i. The Agency Education Officer may take action against Mst. Farida Nazli, PST and class-IV Mr. Ayub Jan and Mst. Nasreen for their wilful absence from duty.
- ii. School may be included in Reconstruction & Rehabilitation scheme.
- iii. Tats may be provided for students.

**2. Govt. Middle School Kashmir Killi**

- i. There are 12 sanctioned posts in the school, the detail is as under:

SET	CT	DM	PET	AT	PTC	TT	Chowkidar	N/Q	Swpr	Total
1	2	1	1	1	2	1	1	1	1	12

- ii. All staff was present and was busy in supervision of examination.

- iii. The class-wise enrolment is as follow:

KG	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	Total
96	67	54	56	52	54	52	51	20	502

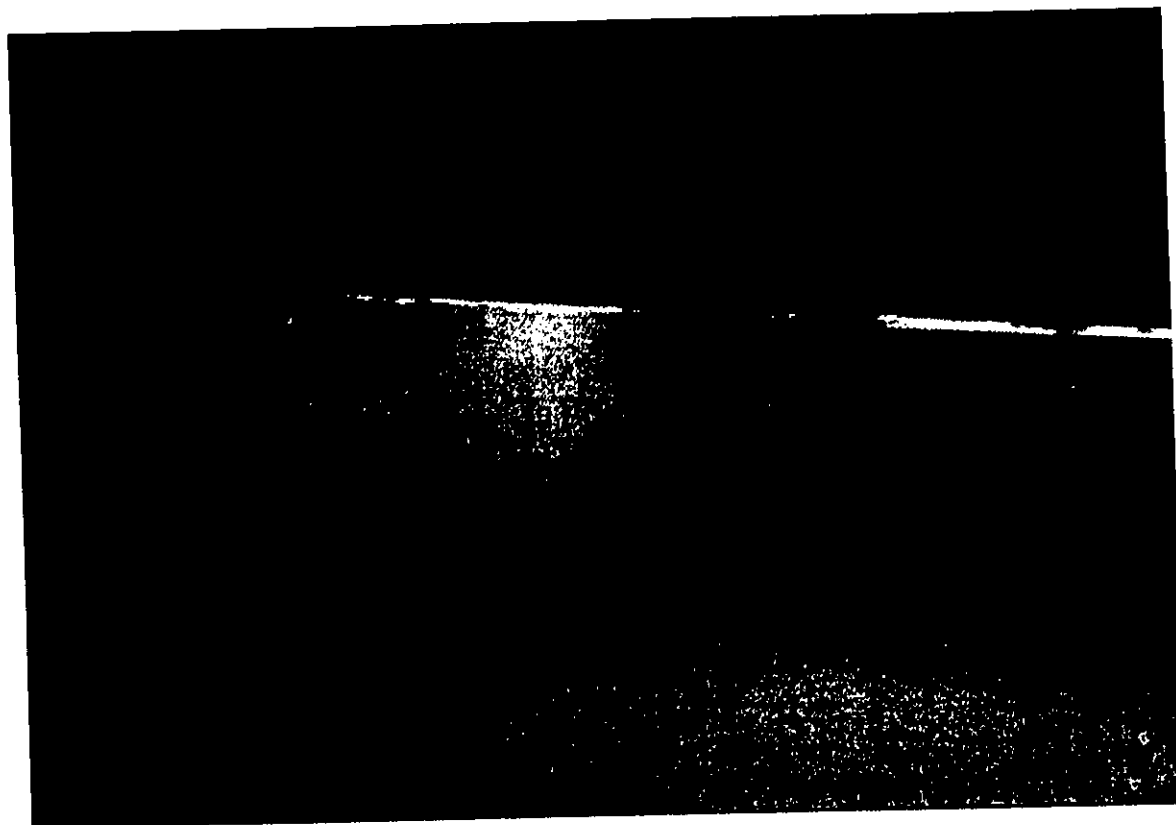
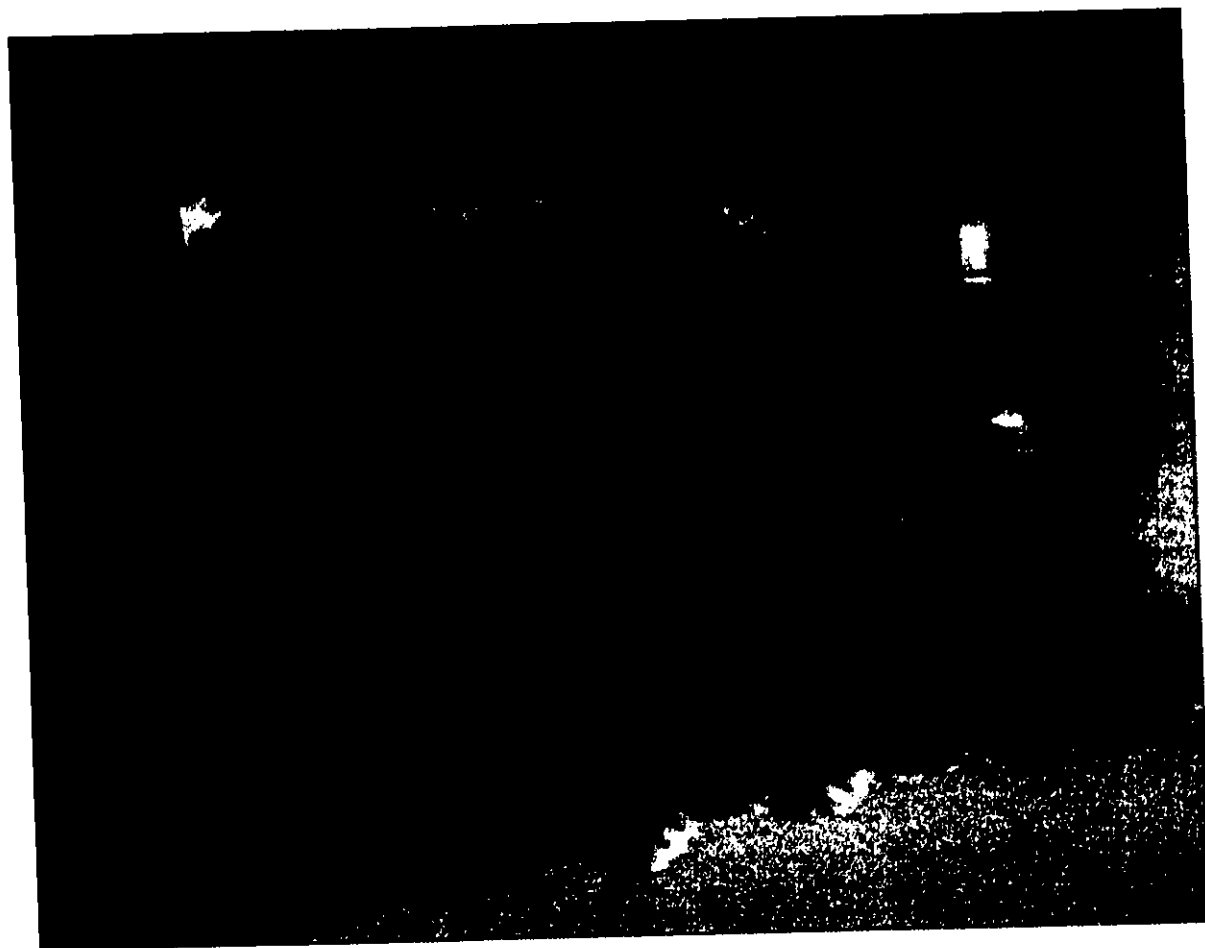
- iv. School needs rehabilitation as there are huge cracks in the building which is dangerous safety-wise. One class-room in the Primary Section is under lock and key due to huge dangerous cracks. Moreover, there is no latrine in the middle portion, the massive enrolment quite justifies the construction of latrine block.

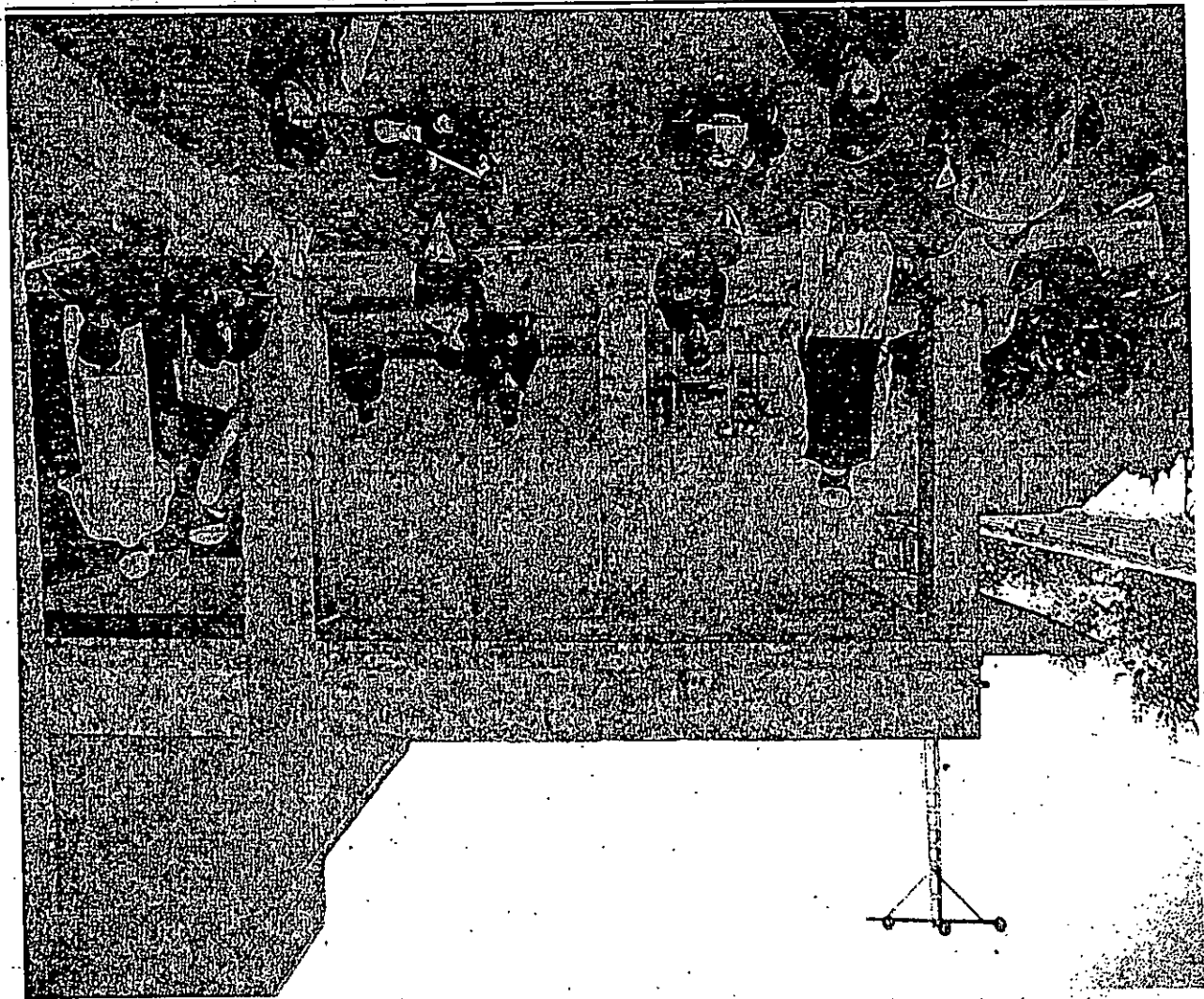
- v. The Principal requested for additional staff for smooth running of the school.

**Recommendations:-**

- i. The school may be included in the scheme Reconstruction / Rehabilitation and Provision of Basic Facilities.
- ii. One teacher Mr. Farooq Shah, PST has been redeployed to the school, however keeping in view the heavy enrolment in Primary Section, the Agency Education Officer Khyber may provide another teacher for smooth functioning of the school.







3. Govt. Girls Primary School Kabal Khan Ghundi.

**Observations:**

- i. There are 4 sanctioned posts and all are filled. The detail of posts is as under:

PST	Caller	Chowkidar	Total
2	1	1	4

- ii. The class-wise enrolment of the students is as follow.

KG	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	Total
120	36	29	15	7	4	211

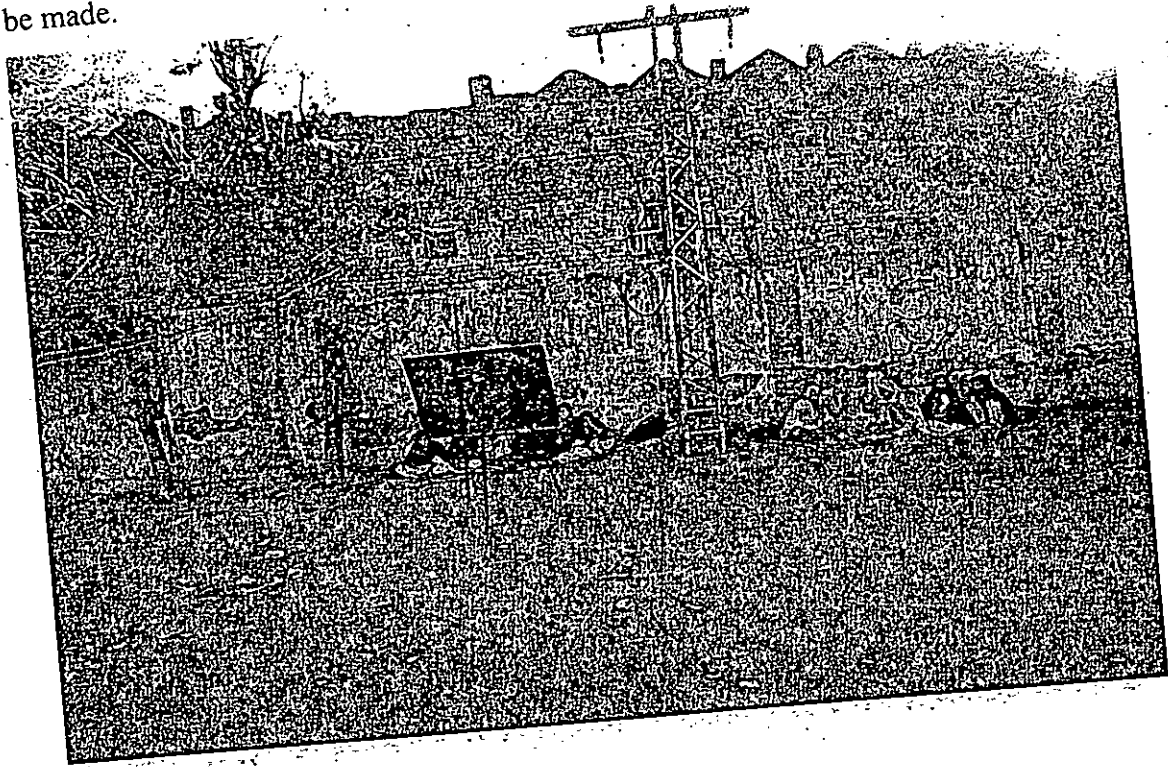
- iii. There is no tats for students and no arrangement of water supply.

- iv. Since its establishment in 1990's, the school has not been whitewashed, it needs whitewash.

- v. The Head teacher Mst. Neelofar, PST requested for additional PST for smooth functioning of the school.

**Recommendations:-**

- i. The school may be provided additional PST teacher by the Agency Education Officer Khyber for smooth functioning of the school.
- ii. Tats may be provided for students and proper arrangement for water supply may be made.



#### 4. Govt. Primary School Khan Akbar Ghundi

##### Observations:

- i. There are 5 sanctioned posts in the school, detail is as under:

PST	TT	Chowkidar	Total
2	2	1	5

- ii. Class-wise enrolment of the students is as follow:

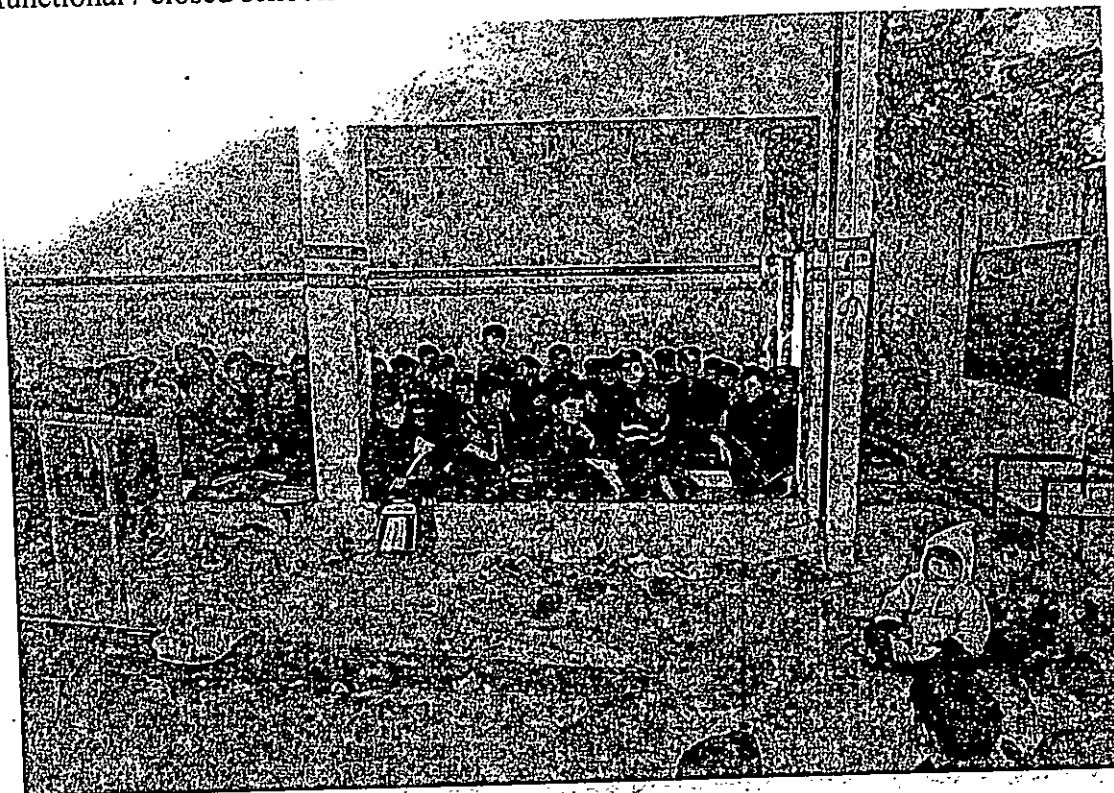
KG	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	Total
64	70	51	24	31	21	261

- iii. There is need for additional class-room, as students sit in veranda.

- iv. The Head teacher Mr. Sher Yazdan, PST requested for provision of additional teaching staff for smooth functioning of the school.

##### Recommendations:-

- i. The school needs to be included in the scheme "Construction of Additional Class-rooms in overcrowded schools" for construction of additional classroom.
- ii. The Agency Education Officer Khyber may redeploy one PST from non-functional / closed schools from Bara tehsil for smooth functioning of the school.



5. GGPS Khewa Gul

**Observations:**

i. There are 4 sanctioned posts in the school, detail is as under:

PST	Caller	Chowkidar	Total
2	1	1	4

ii. The total enrolment of the students is as follow:

KG	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	Total
103	58	72	29	19	10	291

iii. There are no tats for students, and no furniture for teachers.

iv. The doors of the class rooms are broken and there is no black board in the school.

v. There is no water supply and washroom in the school.

vi. The Head teacher Mst. Majida, PST requested for additional staff for smooth functioning of the school.

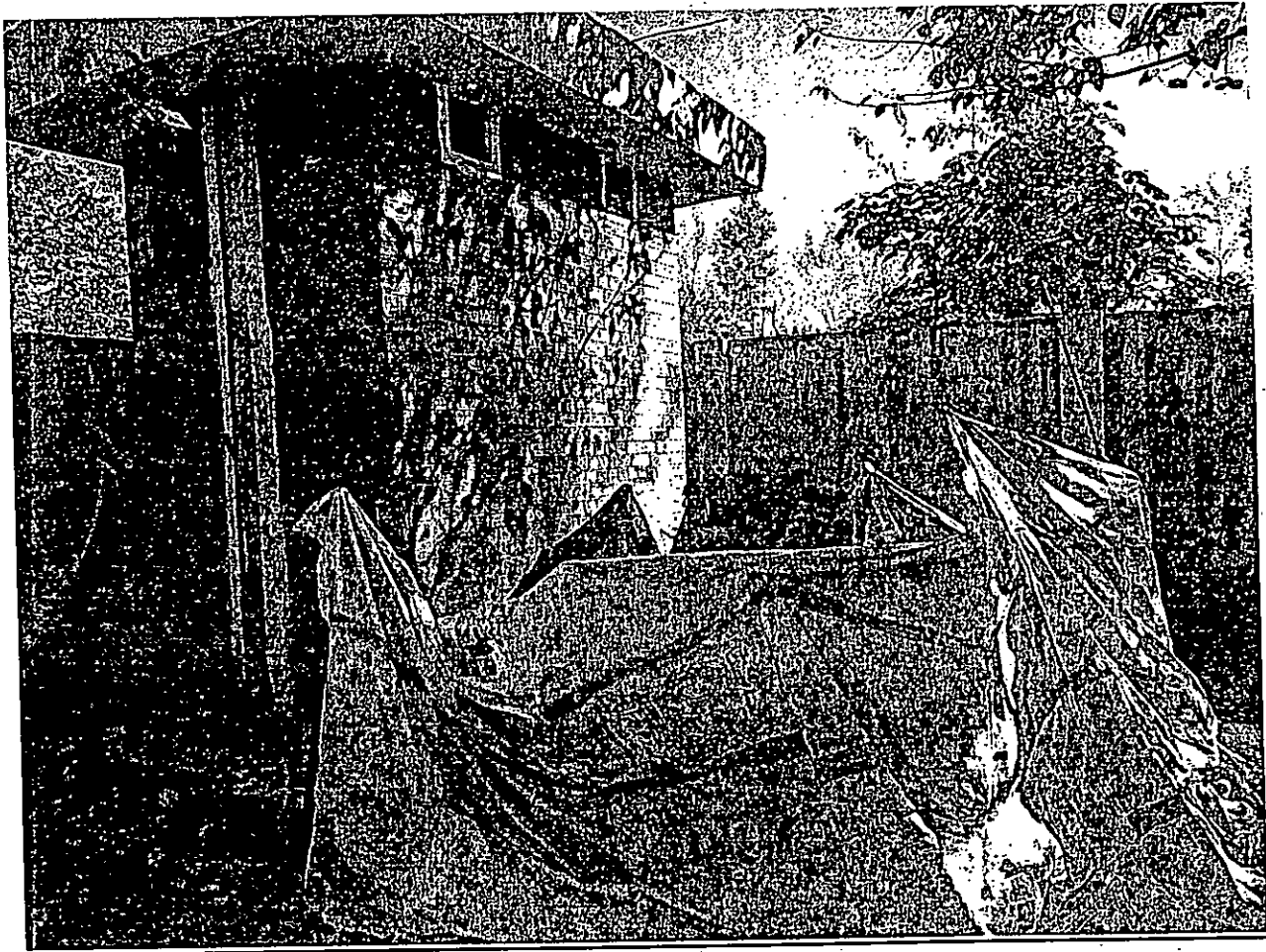
**Recommendations:-**

i. Tats for the students and furniture for the teachers i.e. table and chairs may be provided by the Agency Education Officer Khyber Agency.

ii. The school may be included in the scheme "Provision of Basic Facilities" for construction of wash rooms and repair of class room doors.

iii. Black Boards may be provided at the earliest.

iv. Additional PST teachers may be redeployed from non-functioning schools for smooth functioning of the school.



6. GGMS Yar Afzal Killi

Observations:

- i. There are 12 sanctioned posts in the school, detail is as under:

SET	CT	AT	DM	PET	PST	Caller	Chowkidar	N/Q	Swpr	Total
1	2	1	1	1	2	1	1	1	1	12

ii. Class-wise enrolment of the students is as follow:

KG	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	Total
109	98	98	52	57	30	28	19	17	508

iii. Two posts i.e. SET and CT are lying vacant in the school.

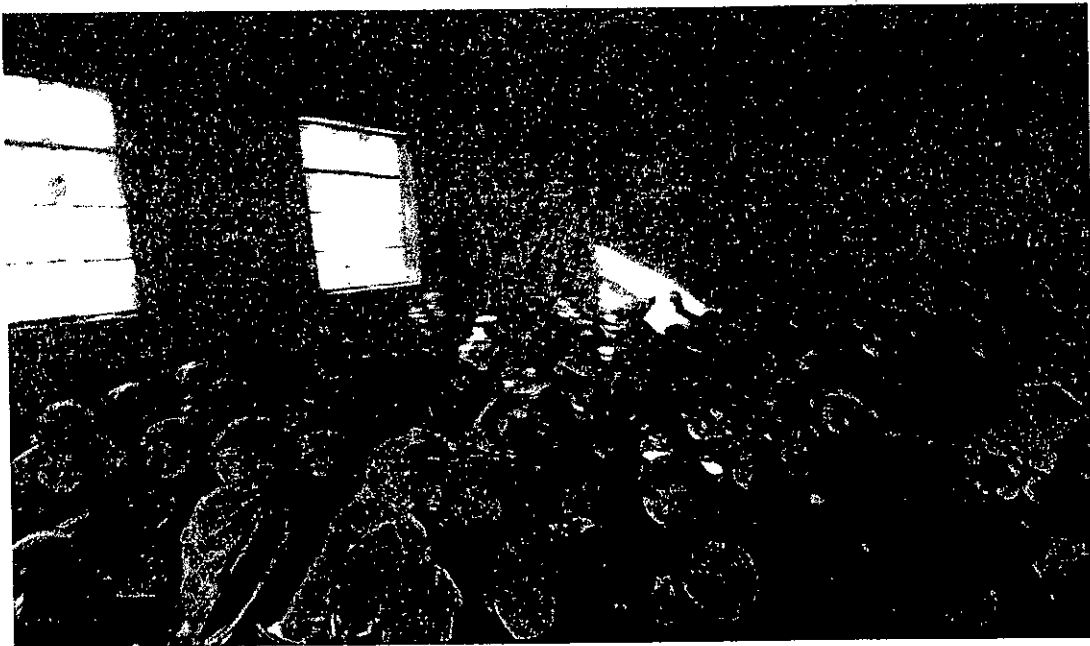
iv. Mst. Nargis Bibi, CT and Mst. Naila Shaheen, DM were absent, the staff and class-IV reported that they wilfully remain absent from duty.

v. The Incharge Mst. Saba Gul, AT requested for additional staff for smooth functioning of the school.

vi. The Incharge informed that the class-IV usually remain absent from duty.

**Recommendations:-**

- i. The vacant posts i.e. SET and CT may be filled keeping in view the huge enrolment in the school.
- ii. The Agency Education Officer Khyber Agency may take action against Mst. Nargis Bibi and Mst. Naila Shaheen, DM for their willful absence from duty.
- iii. The Agency Education Officer may also take action against the class-IV who mostly remain absent from duty.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 1776 /ST

Dated 28 /7/ 20

To

The Directorate of Education FATA,  
Government of Khyber Pakhtunkhwa,  
FATA Secretariat Warsak Road Peshawar .

Subject: -

JUDGMENT IN APPEAL NO. 337/2016, MST. SHAZIA S

I am directed to forward herewith a certified copy of the Judgement dated 10.07.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

SECRETARY  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR