


FORM OF ORDER SHEET

Court of _____

Appeal No. 767/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/06/2024	<p>The appeal of Mr. Zulfiqar Ahmad presented today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 11.06. 2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 767 /2024

Zulfiqar Ahmad

V/S

PHE Department

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APPELLANT

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
0333-9390916

& 
(SHAKIR ULLAH TORANI)
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 767 /2024

Mr. Zulfiqar Ahmad, Senior Clerk (14),
PHE Division Mardan.

(APPELLANT)

VERSUS

1. The Secretary, Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineer (Centre), Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.

(RESPONDENT)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 30.05.2024, WHEREBY THE APPELLANT WAS PREMATURELY TRANSFERRED FROM PHE DIVISION MARDAN TO PHE DIVISION NAWAGAI BAAJAUR ON ADMINISTRATIVE GROUND IN UTTER VIOLATION OF POSTING/TRANSFER POLICY AND CIRCULAR DATED 27.02.2013 AND AGAINST THE REJECTION ORDER/MEMO DATED 03.06.2024, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUND.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 30.05.2024 AND 03.06.2024 MAY KINDLY BE SET ASIDE BEING PREMATURE AND PASSED IN THE VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENTS MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT ON ADMINISTRATIVE GROUND, PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY AND CIRCULAR DATED 27.02.2013. ANY OTHER REMEDY WHICH THIS HONORABLE TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

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**RESPECTFULLY SHEWETH:
FACTS:**

1. That the appellant joined the respondent department as junior Clerk and since his appointment the appellant is performing his duty with devotion and honesty, whatsoever assigned to him and no complaint has been filed regarding his performance by his superiors.
2. That due to good service record and excellent performance, the appellant was promoted to the post of Senior Clerk (BPS-14) along with other Junior Clerks vide order dated 01.12.2023 and was further posted as Senior Clerk at PHE Division Mardan in the same order. **(Copy of order dated 01.12.2023 is attached as Annexure-A)**
6. That the appellant was performing his duty at PHE Division Mardan with entire satisfaction, but just after 05 months the appellant was transferred from PHE Division Mardan to PHE Sub Division Nawagai Bajaur vide order dated 30.05.2024 on administrative ground without completing his normal tenure at PHE Division Mardan. **(Copy of order dated 30.05.2024 is attached as Annexure-B)**
7. That as the appellant has not completed his normal tenure at PHE Division Mardan, therefore, he being aggrieved from the order dated 30.05.2024 filed departmental appeal on 31.05.2024, which was rejected on 03.06.2024 without giving any reason. **(Copies of departmental appeal and rejection order dated 03.06.2024 are attached as Annexure-C&D)**
8. That the appellant has no other remedy except to file the instant appeal in this Honorable Tribunal on the basis of following grounds amongst others.

GROUND:

- A) That the impugned orders dated 30.05.2024 and 03.06.2024 are against the law, facts, norms of justice, premature, violation of posting transfer policy and Government circular dated 27.02.2013, therefore not tenable and liable to be set aside.
- B) That according to posting/transfer policy the normal tenure of posting shall be two (02) years, but just after 05 months the appellant was transferred from PHE Division Mardan to PHE Sub Division Nawagai Bajaur without completing his normal tenure at PHE Division Mardan which is total violation of Government

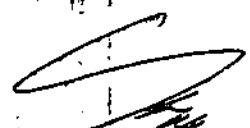
posting/transfer policy. Thus the impugned order is liable to be set-aside on this score alone. (Copy of posting transfer policy is attached as Annexure-E)

- C) That the transfer of the appellant is also violation of circular based on the Anita Turab case dated 27.02.2013, in which it was clearly mentioned that when the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable, but in the case of the appellant the tenure was not respected and was transferred from PHE Division Mardan to PHE Sub Division Nawagai Bajaur without completing his normal tenure at PHE Division Mardan and without giving compelling reason for such transfer of the appellant by the competent authority. (Copy of circular dated 27.02.2013 is attached as Annexure-F)
- D) That the impugned transfer order dated 30.05.2024 is premature as the appellant has not completed his normal tenure at PHE Division Mardan and as such the impugned orders are liable to be set aside.
- E) That appellant was transferred from PHE Division Mardan to PHE Sub Division Nawagai Bajaur vide order dated 30.05.2024 on administrative ground without specifying the reason of administrative ground which is clear violation of the reported judgment (2012 PLC (CS) 187) of this Honorable Tribunal in which the Honorable Tribunal hold that transfer of civil servant could not be made on complaint/ administrative ground because transfer had not been mentioned as punishment in the penalty list in rules and regulations regarding the conduct of civil servant and as such the impugned transfer order is liable to be set aside.
- F) That according to transfer posting/policy, posting/transfer orders of all the officers up to BS-19 except the Head of the Attached Department irrespective of the grade will be notified by the concerned Administrative Department with the prior approval of the Competent Authority obtained on the Summary, but in the case of the appellant, no prior approval of summary for transfer has obtained, which is violation of the posting/transfer policy.
- G) That in the impugned transfer order dated 30.05.2024 no substitute was provided on the post of the appellant at PHE Division Mardan and the post is still vacant which also effect the smooth running of


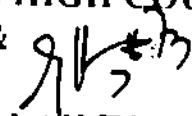
the office and other employee cannot be effected if the impugned transfer order dated 30.05.2024 is set aside.

- H) That the appellant belong to Mardan and was transfer to far flung area of Nawagai Bajaur and being law paid employee it is very inconvenient for the appellant to perform his duty remote area of Nawagai Bajaur, therefore the impugned order dated 30.05.2024 is also liable to be set aside.
- I) That no exigencies or public interest has shown in the impugned transfer order dated 30.05.2024 by the respondent department, which is against the norms of justice and fair play.
- J) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that on the acceptance of this appeal, the impugned orders dated 30.05.2024 and 03.06.2024 may kindly be set aside being premature and passed in the violation of posting/transfer policy. The respondents may further please be directed not to transfer the appellant on administrative ground, prematurely and in violation of posting/transfer policy and circular dated 27.02.2013. Any other remedy which this Honorable Tribunal deems fit and appropriate that may also be awarded in favour of appellant.


 APPELLANT
 Zulfiqar Ahmad

THROUGH:


 (TAIMUR ALI KHAN)
 ADVOCATE HIGH COURT,
 & 
 (SHAKIR ULLAH TORANI)
 ADVOCATE

§

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____/2024

Zulfiqar Ahmad

VS

PHE Department

AFFIDAVIT

I, Zulfiqar Ahmad, Senior Clerk (14), PHE Division Mardan, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.



DEPONENT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2024

Zulfiqar Ahmad

V/ S

PHE Department:

APPLICATION FOR SUSPENDING THE OPERATION OF
ORDER DATED 30.05.2024 TILL THE DECISION OF MAIN
APPEAL.

RESPECTFULLY SHEWETH.

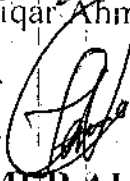
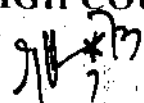
1. That the appellant has filed an appeal against the transfer order dated 30.05.2024, whereby the appellant has prematurely transferred from PHE Division Mardan to PHE Sub Division Nawagai Bajaur on administrative ground along with this application in which no date is fixed so for.
2. That the impugned transfer order dated 30.05.2024 is premature as the appellant has not completed his normal tenure at PHE Division Mardan which is violation of posting/transfer policy and circular dated 27.02.2013 and as such the impugned transfer order dated 30.05.2024 is liable to be suspended.
3. That appellant was transferred from PHE Division Mardan to PHE Sub Division Nawagai Bajaur vide order dated 30.05.2024 on administrative ground without specifying the reason of administrative ground which is clear violation of the reported judgment (2012 PLC (CS) 187) of this Honorable Tribunal as the Honorable Tribunal clearly mentioned in its judgment that transfer of civil servant could not be made on complaint/administrative ground and as such the impugned transfer order dated 30.05.2024 is liable to be suspended.
4. That the post of the appellant is still vacant as no substitute was provided on the post of the appellant at PHE Division Mardan in the impugned transfer order dated 30.05.2024 and no other employee can be effected if the impugned transfer order dated 30.05.2024 is suspended.
5. That the grounds of main appeal may also be considered as integral part of this application.
6. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.

1

It is therefore most humbly prayed that the operation of the transfer order dated 30.05.2024 may be suspended till the decision of main appeal.


APPELLANT
Zulfikar Ahmad

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
& 
(SHAKIR ULLAH TORANI)
ADVOCATE

AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.


DEPONENT



OFFICE OF THE CHIEF ENGINEER (CENTER)
PUBLIC HEALTH ENGG. DEPT. KHYBER PAKHTUNKHWA, PESHAWAR
 Ph: 091-9212528, E-mail: ce@cehkd@peshawar.gov.pk, Plot No. Sector-II-II, Phase-V, Hayatabad, Peshawar (A) (U)

No 271 CE-9 /PHE.

Dated Peshawar, the 01/12/2023

OFFICE ORDER

On the recommendation of the Departmental Promotion Committee (DPC) in its meeting held on 14.09.2023 at 11:00 AM under the Chairmanship of Chief Engineer (Center) PHED, the competent authority is pleased to promote the following 42-Nos Junior Clerk (BPS-11) to the post of Senior Clerk/SDA (BPS-14) on regular basis, in the best interest of public.

1.	Owais	15.	Mumtaz Ali	29.	Raza Ullah
2.	Khalid Khan	16.	Ijaz Ahmad	30.	Ikram Ullah
3.	Nasir Khan	17.	Mukamil Khan	31.	Naveed Ahmad
4.	Ali Rehman	18.	S.Rahim Badshah	32.	Tila Jan
5.	Anwar Zaib	19.	Muhammad Deyer	33.	Nadeem Jan
6.	Asfandyar	20.	Nasir Ullah	34.	Kafeel Ahmad
7.	Naveed Jan	21.	Zulfqar Ahmad	35.	Alam Zeb
8.	Umair Jamal	22.	Naceem Jan	36.	Fazal Naceem
9.	Zakir Ullah	23.	Naseer Muhammad	37.	Muhammad Riaz
10.	Wasif Ullah	24.	Muhammad Sheraz	38.	Babar Khan
11.	Aizaz Ahmad	25.	Nek Marjan	39.	Gul Farn
12.	Zaheer ud Din	26.	Mehmood-ul-Hassan	40.	Sardar Ali Khan
13.	Jamil Ahmad	27.	Nasir Khan	41.	Gul Rehman
14.	Shafi Raza	28.	Muhammad Ishaq	42.	Asif Iqbal

The above-named Junior Clerks (BPS-11) on promotion to the post of Senior Clerk (BPS-14), they will remain on probation for a period of one year, as per Civil Servants Act 1973, read with Rules-15 of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules 1989.

In order to actualize their promotion to the post of Senior Clerk (BPS-14) on regular basis, the following posting/transfer/adjustment are hereby ordered, with immediate effect.

#	Name	From	To	Remarks
1.	Owais	Junior Clerk, O/o Chief Engineer (South) PHED Peshawar	Senior Clerk/SDA, PHE S/Divn: Bara, Khyber	Vice item No.44
2.	Khalid Khan	Junior Clerk, PHE Division Mardan	Senior Clerk, PHE Division Swabi	Salary will draw against the post of J.S. Stenographer
3.	Nasir Khan	Junior Clerk, PHE Division Charsadda	Senior Clerk, PHE Division Swat-I	Against the vacant post
4.	Ali Rehman	Junior Clerk, PHE Division Mardan	Senior Clerk/SDA, PHE S/Division, Totali, Bunec.	-do-
5.	Anwar Zaib	Junior Clerk, PHE Division Mardan	Senior Clerk (Revenue) PHE Division Mardan	Salary will draw against the post of Accounts Clerk
6.	Asfandyar	Junior Clerk, PHE Division Charsadda	Senior Clerk PHE Division Charsadda	Salary will draw against the post of J.S. Stenographer
7.	Naveed Jan	Junior Clerk, PHE Division Charsadda	Senior Clerk, PHE Division Khyber	Against the vacant post
8.	Umair Jamal	Junior Clerk, PHE Division Mardan	Senior Clerk/SDA, PHE S/Division Matta-II, Swat-II	

#	Name	From	To	Remarks
9.	Zakir-Ullah	Junior Clerk, PHE Division Bannu	Senior Clerk/SDA, PHE S/Divn: Wazir, Bannu	Against the vacant post
10.	Wasif Ullah	Junior Clerk, O/o Chief Engineer (South) PHED Peshawar	Senior Clerk, O/o Chief Engineer (South) PHE Department Peshawar	Salary will Draw against the post of Accounts Clerk (BPS-14)
11.	Aizaz Ahmed	Junior Clerk, PHE Division Charsadda	Senior Clerk, PHE Division Peshawar-I	Salary will Draw against the post of Junior Scale Stenographer (BPS-14)
12.	Zaheer ud Din	Junior Clerk, PHE Division Nowshera	Senior Clerk/SDA, PHE S/Divn Hassan. Kbel, Peshawar-II	Vice item No.55
13.	Jamil Ahmad	Junior Clerk, PHE Division Chitral Lower	Senior Clerk/SDA, PHE S/Divn: Chitral Lower, Chitral	Against the vacant post
14.	Shafi Raza	SDA (OPS), PHE S/Divn Mardan, Mardan	Senior Clerk/SDA, PHE S/Divn: Mardan, Mardan	Post already occupied
15.	Mumtaz Ali	Junior Clerk, PHE Division Swabi	Senior Clerk, PHE Division Swabi	Against the vacant post
16.	Ijaz Ahmad	Junior Clerk, PHE Division Mardan	Senior Clerk, PHE Circle Mardan	Salary will draw against the post of S.S. Stenographer
17.	Mukamil Khan	Junior Clerk, PHE Division Mardan	Senior Clerk, PHE Circle Mardan	Salary will Draw against the post of ARO
18.	S. Rahim Badshah	Junior Clerk, PHE Division Peshawar-I	Senior Clerk, PHE Division Peshawar-I	Vice item No.43
19.	Muhammad Doyar	Junior Clerk, PHE Circle Mardan	Senior Clerk, PHE Division Swabi	Salary will Draw against the post of Accounts Clerk
20.	Nasir Ullah	Junior Clerk, PHE Circle Swat	Senior Clerk, PHE Circle Swat	Against the vacant post
21.	Zulfiqar Ahmad	Junior Clerk, PHE Division Mardan	Senior Clerk, PHE Division Mardan	Salary will Draw against the post of J.S. Stenographer
22.	Nasem Jan	Junior Clerk, PHE Division Charsadda	Senior Clerk PHE Division Huber	Against the vacant post
23.	Nasoor Muhammad	Junior Clerk, PHE Division Mardan	Senior Clerk, PHE Division Swat-I	Against the vacant post
24.	Muhammad Sheraz	Junior Clerk, PHE Division Swabi	Senior Clerk, PHE Division Swabi	Salary will Draw against the post of Accounts Clerk
25.	Nek Marjan	Junior Clerk, PHE Division Lakki Marwat	Senior Clerk, PHE Division Lakki Marwat	Salary will Draw against the post of Accounts Clerk
26.	Mehmood-Ul-Hassan	Senior Clerk/SDA (OPS), PHE S/Divn: Takht-e-Nasrati, Karak-II	Senior Clerk/SDA, PHE S/Divn: Hangu, Hangu	Against the vacant post
27.	Nasir Khan	Junior Clerk, PHE Circle Bannu	Senior Clerk, PHE Division Kohat	Salary will Draw against the post of J.S. Stenographer
28.	Muhammad Ishaq	Junior Clerk, PHE Division Bakhela	Senior Clerk (Rev), PHE Division Bakhela	Vice item No.47
29.	Raza Ullah	Junior Clerk, PHE Division Dir Upper	Senior Clerk, PHE Division Dir Upper	Against the vacant post
30.	Ikram Ullah	SDA (OPS), PHE Sub Divn: No.2, Swat-I	Senior Clerk/SDA, PHE Sub Divn: No.2, Swat-I	Post already occupied

#	Name	From	To	Remarks
31.	Naveed Ahmad	Junior Clerk, O/o Chief Engineer (East) PHED Peshawar	Senior Clerk, O/o Chief Engineer (East) PHED Peshawar	Against the vacant post
32.	Tilla Jan	Junior Clerk, PHE Division Mardan	Senior Clerk, PHE Division Buner	Salary will Draw against the post of Accounts Clerk
33.	Nadeem Jan	Junior Clerk, PHE Division Haripur	Senior Clerk/SDA, PHE S/Divn: Ghazi, Haripur	Against the vacant post
34.	Kafeel Ahmad	Junior Clerk, PHE Division Charsadda	Senior Clerk, PHE Division Mohmand	Salary will Draw against the post of Junior Scale Stenographer (BPS-14)
35.	Alam Zeb	SDA (OPS), PHE S/Division Kohistan (L)	Senior Clerk/SDA, PHE S/Division Kohistan (L)	Post already occupied
36.	Fazal Naccm	SDA (OPS) PHE Sub Division Warai, Dir Upper	Senior Clerk/SDA, PHE Sub Division: Warai, Dir Upper	Post already occupied
37.	Muhammad Riaz	Junior Clerk, PHE Division Kohistan Lower	Senior Clerk PHE Division Kohistan Lower	Against the vacant post
38.	Babar Khan	Junior Clerk, PHE Division Mansehra	Senior Clerk/SDA, PHE S/Divn: Mansehra, Mansehra	Vice item No.45
39.	Gul Fam	Junior Clerk, PHE Circle Mansehra	Senior Clerk/SDA, PHE S/Divn: Baiskot, Mansehra	Against the vacant post
40.	Sardar Ali Khan	SDA (OPS), PHE S/Divn Daggur-II, Buner	Senior Clerk/SDA, PHE S/Divn: Daggur-II, Buner	Post already occupied
41.	Gul Rehman	Junior Clerk, PHE Division Kohistan (Upper)	Senior Clerk/SDA, PHE S/Division Dasso, Kohistan Upper	Against the vacant post
42.	Asif Iqbal	SDA (OPS), PHE S/Divn: Samarbagh, Dir Lower	Senior Clerk/SDA, PHE S/Divn: Samarbagh, Dir Lower	Post already occupied
43.	Alamgir Khan	Senior Clerk, PHE Division Peshawar-I	Accounts Clerk (OPS), O/o Chief Engineer (North) PHED Peshawar	Against the vacant post
44.	Waheed Ullah	Senior Clerk/SDA, PHE S/Divn: Bara, Khyber	Accounts Clerk (OPS), PHE Circle, Khyber	-do-
45.	Ajmal Khan	Senior Clerk/SDA, PHE S/Divn: Mansehra, Mansehra	Senior Clerk/SDA, PHE S/Divn: Oghi, Mansehra	Vice item No.46
46.	Asad Sarwar Junior Clerk	Senior Clerk/SDA (OPS), PHE S/Divn: Oghi, Mansehra	Junior Clerk, PHE Division Mansehra	Against the vacant post
47.	Zeeshan Khan Junior Clerk	Senior Clerk Revenue (OPS), PHE Division Balakela	Junior Clerk PHE Division Swat-I	-do-
48.	Muhammad Kashif	Junior Clerk, PHE Division Hangu	Senior Clerk/SDA (OPS), PHE S/Divn: Takhi-e-Nasrati, Karak-II	Vice item No.26
49.	Tahir Ali Khan	Senior Clerk/SDA, PHE Sub Divn: Tangi, Charsadda	Accounts Clerk (OPS), PHE Circle Mardan	Vice item No.50
50.	Muslim Khan	Accounts Clerk (OPS), PHE Circle Mardan	Senior Clerk/SDA, PHE Sub Divn: Tangi, Charsadda	Vice item No.49
51.	Mujahid Shah	Junior Clerk, PHE Division Swat-II	Junior Clerk PHE Division Balakela	Vice item No.28

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#	Name	From	To	Remarks
52.	Kafeel Ahmad Junior Clerk	PHE Division Charsadda	PHE Division Hangu	Against the vacant post
53.	Farhan Ullah	Senior Clerk (Rev), PHE Division Hangu	Senior Clerk/SDA, PHE S/Divn Kohat, Kohat	Vice item No.54
54.	Faheem Ullah	Senior Clerk/SDA, PHE S/Divn Kohat, Kohat	Senior Clerk/SDA, PHE S/Divn: Shakardara	Against the vacant post
55.	Muneeb-Ur-Rehman	Senior Clerk/SDA, PHE S/Divn Hassan Khel, Peshawar-II	Computer Operator (OPS), PHE Division Peshawar-II	-do-

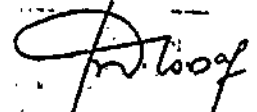

Chief Engineer (Center)

Endstt: No 07/CE-2/PHE,

Dated Peshawar, the 01 / 12 / 2023

Copy forwarded to:

1. The Accountant General Khyber Pakhtunkhwa Peshawar.
2. The Chief Engineer (North/South/East) PHE Department Peshawar.
3. All Superintending Engineers PHE Circle South/North/East/Center Khyber Pakhtunkhwa.
4. All Executive Engineers PHE Division South/North/East/Center Khyber Pakhtunkhwa.
5. The Section Officer (Estt) PHE Department Peshawar.
6. The Research Officer (W/O) PHE Central Lab Peshawar.
7. The District Accounts Officers Concerned.
8. The official concerned.


Chief Engineer (Center)



OFFICE OF THE CHIEF ENGINEER (CENTER)
PUBLIC HEALTH ENGG. DEPT. KHYBER PAKHTUNKHWA, PESHAWAR
Ph: 091-9217422, E-mail: ce@pheed2@gmail.com, PHE-19, Swat (Cell), Ph: 091-1144144, Peshawar (6/21)

B
11

12

No. 13 / CE-9 / PHE.

Dated Peshawar, the 30 / 05 / 2024.

OFFICE ORDER

The following posting/transfer of SDA/Senior Clerk (BPS-14) are hereby ordered on administrative ground with immediate effect, in the best public interest.

#	Name	From	To	Remarks
1.	Zulfiqar Ahmad Senior Clerk	Working against the post of J.S. Stenographer, PHE Division Mardan	SDA PHE Sub Division Nawagai, Bajaur	Against the vacant post
2.	Shafi Raza Senior Clerk	SDA PHE Sub Division Mardan, PHE Mardan	Senior Clerk, PHE Division Karak-II	Salary will draw against the post of Head Clerk
3.	Mukamil Khan	PHE Circle Mardan	Senior Clerk, PHE Division, Lakki Marwat	Salary will draw against the post of Head Clerk

Chief Engineer (Center)

Encls: No. 13 / CE-2 / PHE.

Dated: 30 / 5 / 2024

Copy forwarded to:

1. The Chief Engineer (South/North) PHE Department Peshawar.
2. The Superintendent Engineers PHE Bannu/Kohat/Mardan/Malakand at Timergara.
3. The Executive Engineers PHE Division Mardan/Karak-II /Lakki Marwat/Bajaur.
4. The District Accounts Officer Mardan/Kohat/Karak/Lakki Marwat/Bajaur.
5. The official concerned.

Chief Engineer (Center)

To

The Chief Engineer (Center)
Public Health Engineering Department,
Khyber Pakhtunkhwa, Peshawar.

9

13

Subject

Departmental Appeal Against The Order Bearing No 13CE-9/PHE Dated 30/05/2024 Whereby Appellant Has Been Transferred Prematurely And In Violation Of Policy From The Post Of JS Stenographer PHE Division Mardan To SDA PHE Sub Division Nawagai Bajaur Without Any Lawful Authority And Based On Political Victimization

Prayer

On Acceptance of This Departmental Appeal the Impugned Transfer Order of Appellant, Dated 30/05/2024, May Graciously Be Set-Aside And Canceled/Withdrawn And Appellant May Posted Against His Position At PHE Mardan Division

Respectfully Submitted


1. That the appellant is working in Public Health Engineering Department as Senior Clerk and is posted as JS Stenographer PHE Mardan Division since 01/12/2023. ***Copy Annexed as "A"***
2. That appellant has been transferred to Bajaur vide impugned transfer order dated 30/05/2024. ***Copy Annexed as "B"***
3. That appellant assails the impugned transfer order by filing the instant Departmental Appeal on the following grounds:

Grounds

- A. That the impugned transfer order is against the law, rules principles of natural justice hence void ab initio and not sustainable.

- B. That as per transfer and posting policy normal tenure is two years however the impugned transfer of appellant is premature and in violation of policy hence not tenable.
- C. That the appellant is domiciled from Mardan and it is highly inconvenient for him to perform the duty in remote area of Bajaur.
- D. That as per judgments of Superior Courts the authority given to an official must be exercised in public interest as trust and in accordance with law and rules, however the impugned transfer order is an example of misuse of authority and in violation of law/rules.
- E. That the impugned transfer order is not in public interest rather in based on malafide.
- F. That because of impugned transfer, the appellant has been punished; as well, the impugned transfer will affect the performance of appellant. Beside the impugned transfer order is in violation of principles laid down by Apex Court in judgement reported as 2012 SCMR 1411.
- G. That impugned transfer order is politically motivated because it is premature, without any reason i.e. no complaint, no slackness in duty no explanation or any other departmental action rather is in violation of policy law and rules

THEREFORE, IT IS HUMBLY PRAYED THAT ON ACCEPTANCE OF THE INSTANT DEPARTMENTAL APPEAL THE IMPUGNED TRANSFER ORDER OF THE APPELLANT MAY GRACIOUSLY BE CANCELED AS PRAYED FOR IN PRAYER

 31/5/2024

Faithfully Yours

**Zulfiqar Ahmad Senior Clerk Working as JS Stenographer
PHE Mardan Division**



OFFICE OF THE CHIEF ENGINEER (CENTER)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

15

No. 04/CE-2/PHE(C)

Dated Peshawar the, 03/06/2024

To

Mr. Zulfiqar Ahamd Senior Clerk /
Jr. Stenographer, PHE Division Mardan

Subject:-

appeal / representation against order No. 13/CE-9 Dated 30-05-2024
Your Application / Appeal dated 03.06.2024.

Refer to your application / appeal under reference, in this regard it is communicated that the subject order has been issued by the undersigned in the public interest,

Therefore your appeal after examining thoroughly is hereby rejected due to the said reason.


CHIEF ENGINEER (CENTER)

appeal / representation
order No. 13/CE-9
dated 30-05-2024
after examining thoroughly is hereby



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) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- vi) 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 DFOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thana) of his area/residence is situated.

Para-I(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2003/Vol-VI, dated 3-6-2003. 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. Added vide Urgent circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

ATTESTED

Posting - Transfer Policy - updated till 10 Jan, 2005

- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement. DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales.
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the 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, PSF 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 APUC, PCS(EG) and PCS(SC).	-do-
3.	Heads of Attached Departments and other Officers in B-18 & 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	

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

ATTESTED

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a) Within the same Department.	Secretary of the Department concerned.
b) To and from an Attached Department	Secretary of the Dept in consultation with Head of Attached Department concerned.
c) Within the Secretariat from one Department to another	Secretary (Establishment)

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

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

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

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

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

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

ATTESTED

[Handwritten signature]

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.

SPECIMEN NOTIFICATION

GOVERNMENT OF NWFP
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshwar, _____

NOTIFICATION

NO. _____ The Competent Authority is pleased to order the transfer of Mr. _____ Department and to post him as _____ in the interest of public service, with immediate effect.

CHIEF SECRETARY
GOVERNMENT OF NWFP

Encl. No. and date van.
Copy forwarded

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

ATTESTED

ATTESTED

- i) Submission of summary would not be required in case of mutual transfer.
- ii) Posting/transfer shall be made according to the policy.
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister.
- iv) In genuinely deserving cases, they should approach the Administrative Secretaries who could process the case according to policy.

The Chief Minister NWFP has directed that:-

.....
 According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains provided in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years in their posts, have been adjusted on posts other than those they hold previously.
 (Authority: Letter No: SOH-VI (E&AD)/14/2008/1 dated 01.01.2008)

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.
 (Authority: Letter No: SOH-VI (E&AD) 1-4/2008/Vol-VI, dated 3-9-2008)

The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

The competent authority has been pleased to direct that para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOH-I (E&AD) 1-186 Vol-II, dated 16-2-2003 shall stand deleted, with immediate effect. Consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1986 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out posting/transfers of Government Servants.

(Authority: Letter No. SO (E-D) E&AD/9-12/2006 dated 29-12-2006)

(NAME)
 SECTION OFFICER
 Administrative Department

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- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

(Authority: Urdu circular No: SOR-VI/E&AD/1-4/2003, dated 8-6-2004.
Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2005.)

- It has been decided with the approval of the competent authority that:-
- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
 - ii) NWFP Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

(Authority: Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005)

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting officers/officials be taken to task & entries to this effect shall be made in their PERS/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

(Authority: Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29.8.2007)

PLACEMENT POLICY

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy is as follows:-

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go to the parent organization of the participant from where the individual had applied. This will be in consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.
- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and then the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training institution within the country. The knowledge gained by the

Placement Policy has been made part of the posting/transfer policy vide Urdu circular No SOR-VI(E&AD)/1-4/06, dt 9-9-2007

APPROVED

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officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:-

- a) Permanent posting of an officer to the training institutions for 2-3 years;
- b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
- c) Earmarked as a visiting faculty member for specific subject.
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participant will decline/represent against his/hor posting.

ATTESTED

[Signature]

F 23

GOVERNMENT OF KHYBER PAKHTUNKHWA
 ESTABLISHMENT DEPARTMENT
 (REGULATION WING)
 NO. SOR.VI (E&AD) 1-4/2005/Vol-II
 Dated Peshawar, 27th February, 2013.

Recd
 28
 2013
 Govt. of Khyber Pakhtunkhwa
 Establishment Department

To
 2
 2013

1. The Additional Chief Secretary (P&D), Khyber Pakhtunkhwa.
2. The Additional Chief Secretary (PATA), Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.

Subject

CONSTITUTION PETITION NO:23 OF 2012 OUT OF SUD
MOTO CASE NO. 3/2012 (PETITION BY MS. ANITA TURAB
FOR PROTECTION OF CIVIL SERVANTS REGISTERED
UNDER ARTICLE 184 (3) OF THE CONSTITUTION OF
ISLAMIC REPUBLIC OF PAKISTAN 1973.)

Sir,

I am directed to refer to the subject noted above and to state that the Supreme Court of Pakistan vide the subject cited judgment has enunciated the following principles of Law with regard to protection and conduct of civil servants.

(i) **Appointments, Removals and Promotions:** Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.

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(iii) **Tenure, Posting and Transfer:** When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

my own

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- iii. **Illegal orders:** Civil Servants owe their first and foremost allegiance to the law and the constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule base norms instead in such situations, they must record their opinion and if necessary.
- iv. **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale / grade within 03 months of his/her order as OSD.

2. I am, therefore, directed to request you to note the above principles of law for strict compliance.

Yours faithfully

(Sd/--
(Naj-Mus-Sahar)
Section Officer (Reg-VI)

Encl: as above

A copy is forwarded to:

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Registrar, Peshawar High Court, Peshawar.
6. The Secretary, Khyber Pakhtunkhwa, Public Service Commission.
7. All Addl: Secretaries Establishment & Administration Department.
8. All Deputy Secretaries in Establishment & Administration Department.

Section Officer (Reg-VI)

ATTACHED

23

VAKALAT NAMA

NO. _____/2024

IN THE COURT OF Khyber Pakhtunkhwa Service Tribunal

Zulfiqar Ahmad (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

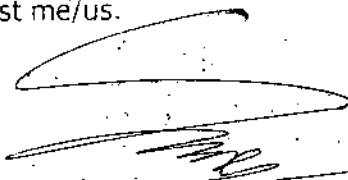
PHE Deptt (Respondent)
(Defendant)

I/We, Zulfiqar Ahmad

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

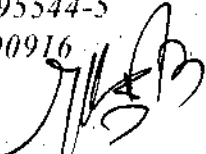
Dated _____/2024


(CLIENT)

ACCEPTED


TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916


Shabir Ullah Torani
Advocate