


FORM OF ORDER SHEET

Court of _____

Appeal No. 1870 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1-	09/10/2024	<p>The appeal of Mr. Saleem Khan presented today by Mr. Abdul Ghaffar Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 14.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

S.A. No. 1870 /2024

Saleem KhanV/SGovernment of KPK

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Appellant

Through

Abdul Ghaffar Khan
Advocate
Supreme Court of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

①

Appeal No. 1870 /2024

Saleem Khan SS (Islamiat)
GCMHSS Nahaqi PeshawarAppellant

VERSUS

Government of KPK through:

1. The Chief Secretary Government of KPK Civil Secretariat Peshawar
2. The Secretary Elementary and Secondary Education, Government of Khyber Pakhtunkhwa, Peshawar.
3. The Director Elementary and Secondary Education, Government of Khyber Pakhtunkhwa, Peshawar.....(Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE
KP SERVICE TRIBUNAL ACT, 1947, AGAINST
THE IMPUGNED CANCELATION ORDER DATED
13.06.2024 WHICH WAS PASSED IN UTTER
VIOLATION OF POSTING/TRANSFER POLICY.

PRAYER:

ON ACCEPTANCE OF THIS SERVICE APPEAL,
THE IMPUGNED ORDER DATED 13-06-2024
MAY PLEASED BE SET ASIDE, BEING PASSED
IN VIOLATION OF POSTING/TRANSFER
POLICY. AND THE ORDER DATED 07.06.2024
MAY KINDLY BE RESTORED. MOREOVER THE
RESPONDENT DEPARTMENT MAY PLEASE BE
DIRECTED TO ALLOW THE APPELLANT TO
COMPLETE HIS NORMAL TENURE.

(2)

Respectfully Sheweth:

FACTS:-

1. That the appellant is serving as SS (Islamiat) in the respondent department with full zeal and zest.
2. That the appellant was transfer from GCMHSS Nahaqi Peshawar, and was posted at GMHSS Khar Bajaur against the vacant post vide order dated 07.06.2024. (Copy of the transfer order is annexed as annexure-A)
3. That after the transfer the appellant took over charge in GMHSS Khar Bajaur vide secretary and elementary & secondary education Notification No.SO (S/M)E&SED/5-17/2024/PT/SS dated 07.06.2024. (Copies of the charge report and relieving chit are annexed as annexure-B)
4. That there after the respondent suddenly withdrew the transfer order dated 07.06.2024 without any reasonable/ legal and just cause and due to political interference vide impugned order dated 13.06.2024. (Copy of impugned cancelation order is attached as annexure-C).
5. That the appellant feeling aggrieved from the impugned order dated 13.06.2024 filed departmental appeal but in vain. (Copy of departmental appeal is annexed-D).
6. That the appellant has no other adequate remedy therefore constrained to file this appeal on the following grounds inter alia:


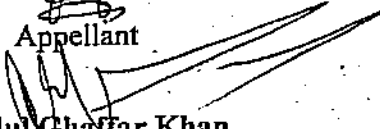
GROUND:

- A. That the impugned order dated 13-06-2024 is against the law, facts, norms of justice, politically motivated, violation of Govt: circulars, therefore not tenable and liable to be set aside.
- B. That the impugned cancellation order dated 13.06.2024 was passed after proper compliance of transfer order dated 07.06.2024 by the appellant without giving any prior notice and opportunity of hearing, which is against the norms of justice.

- C. That the appellant has been subjected to injustice and appellant has not been treated in accordance with law.
- D. That a proper transfer order of the appellant has been withdrawn without any lawful reason, exigencies of service and without any just cause, which is violation of posting transfer police.
- E. That after having taking charge in his school and sudden withdrawal of his transfer order is against the policy and against the rule of legitimate expectation.
- F. That the respondent have transferred the appellant again and again before the impugned order and make the appellant rolling stone, hence the impugned withdrawal order of the transfer of appellant is the result of political ill-will and against the law and policy.
- G. That the cancelation order was made on the basis of external influence and not as a routine transfer, so without showing any cogent reasons and without giving personal hearing is against the law rules, posting and principal of locus poenetentiae.
- H. That the relevant law, rule and regulations have blatantly bypassed/ violated by the respondents and the relevant law, rules and regulation has never been taken into consideration by the respondents and thus the notification so passed by the respondents have no legal sanctity in the eyes of law.
- I. That the impugned order has neither been in the best interest of public service nor in exigencies of service, hence not tenable and liable to be set aside.
- J. That the impugned order is violation of clause-I,IV and XIII of the transfer/posting policy of the government of Khyber Pakhtunkhwa as the appellant has been transferred from his current post.
- K. That the power or jurisdiction are vested in authority to exercise it justiy, fairly, honestly, judiciously and in accordance with law, rules and regulation but the respondents have transgressed upon their power while dealing with the matter in hand.
- L. That the impugned order is not a rational one and based on liking and disliking.

- M. 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 there under, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- N. That no reasons has been mentioned in the impugned order which is the violation of Clause-24-A of the General Clause Act 1897.
- O. That this Hon'ble Service Tribunal already accepted the same nature appeal (Muhammad Usman S.A# 993/2024). So the appellant may also be treated at par and the same relief may also be given to the appellant .
- P. That according to the posting transfer policy normal tenure for posting is 2 year, but the appellant transferred order was cancelled just after 7 days, which is total violation of Govt: Posting Transferred Policy. Thus the impugned order is liable to be set aside on this score alone.
- Q. That the appellant seeks permission to advance others ground and proof at the time of hearing.

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


 Appellant
 Through 
Abdul Ghaffar Khan
 Advocate
 Supreme Court of Pakistan

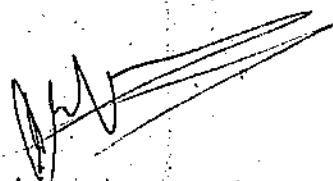
Date: ___ / ___ / 2024

CERTIFICATE:

It is certified that no other service appeal has earlier been filed between the present parties in the Tribunal, except the present one.

LIST OF BOOKS:

1. Constitution of the Islamic republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.


 Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

5

Appeal No. _____/2024

Saleem Khan Appellant

Versus

Govt. of KP through the Chief Secretary and others..... Respondents

AFFIDAVIT

I, Saleem Khan SS (Islamiat) GCMHSS Nahaqi Peshawar (Appellant) do hereby affirm and declare on oath that the contents of appeal are true and correct to the best of my Knowledge and belief and nothing has been concealed from Hon'ble Tribunal.



DEPONENT



09 OCT 2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

6

Appeal No. _____/2024

Saleem Khan Appellant

Versus



Govt. of KP through the Chief Secretary and others..... Respondents

APPLICATION FOR SUSPENDING THE
OPERATION OF ORDER DATED
13.06.2024 TILL THE FINAL DISPOSAL OF
THE CASE.

RESPECTFULLY SHEWETH:

1. That the appellant has filed an appeal along with application in which no date has been fixed so far.
2. That the appellant has good prime facie case and all the ingredients of stay is in favour of appellant.
3. That the ground of the main appeal may also be considered as integral part of this application.
4. That the impugned order has is based on favoritism and nepotism and has been passed in violation of Posting Transfer Policy.
5. That if the order is not suspended and charge will take from the appellant. It badly affect the right of appellant.

It is therefore, most humbly that the order dated 13.06.2024 may please be suspended till the disposal of the main appeal. Any other remedy, which this august tribunal deems fit that may also be awarded in favour of appellant.


Appellant
Through 
Abdul Ghaffar Khan
Advocate
Supreme Court of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

7

Appeal No. _____/2024

Saleem Khan Appellant

Versus

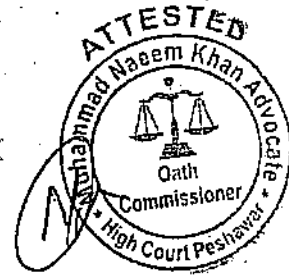
Govt. of KP through the Chief Secretary and others..... Respondents

AFFIDAVIT

I, Saleem Khan SS (Islamiat) GCMHSS Nahaqi Peshawar (Appellant) do hereby affirm and declare on oath that the contents of Application are true and correct to the best of my Knowledge and belief and nothing has been concealed from Hon'ble Tribunal.



DEPONENT



09 OCT 2024



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223533 Email: sschoolmale@gmail.com



Dated: 07.06.2024

NOTIFICATION

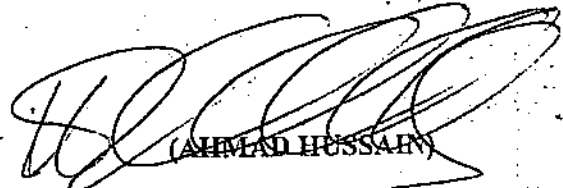
NO.SO(S/M)E&SED/5-17/2024/PT/SS: Mr. Saleem Khan Subject Specialist Islamiyat (BS-17) is hereby transferred from GCMHSS Nahaqi Peshawar, and posted at GMHSS Khar Bajaur against the vacant post of Subject Specialist Islamiyat (BS-17) with immediate effect, in the best public interest.

**SECRETARY TO GOVT OF KHYBER
PAKHTUNKHWA E&SE DEPARTMENT**

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Concerned.
5. District Accounts Officer Concerned.
6. PS to Secretary E&SE Department.
7. Officer Concerned.
8. Office order file.


(AHMAD HUSSAIN)

SECTION OFFICER (SCHOOLS MALE)

ATTESTED




OFFICE OF THE PRINCIPAL GOVERNMENT MODEL HIGHER
SECONDARY SCHOOL KHAR DISTRICT BAJAUR

(B) (9)

CHARGE REPORT

I Mr. Saleem Khan SS took over charge of my duties today on 08/06/2024 (F. N) of the post of Islamiyat at Government Model Higher Secondary School Khar, District Bajaur Vide Secretary Elementary & Secondary Education Notification No.SO (S/M) E&SED/5-17/2024/PT/SS Dated 07/06/2024

Name: - Mr. Saleem Khan
Designation: - SS Isl;
School: - GMHSS Khar Bajaur

Dated: - 08/06/2024

Saleem Khan
PRINCIPAL
Principal Secondary
GMHSS Khar Bajaur

OFFICE OF THE PRINCIPAL GOVERNMENT MODEL HIGHER
SECONDARY SCHOOL KHAR DISTRICT BAJAUR.

Endst: No. 1168-72

Dated. 08/06/2024

Copy to the: -

1. Director E& SE Peshawar.
2. District Education Officer Bajaur.
3. District Accounts Officer Bajaur.
4. DMO (EMA) Bajaur.
5. Official Concerned.

Saleem Khan
PRINCIPAL
Principal Secondary
GMHSS Khar Bajaur

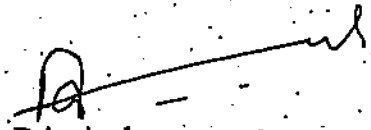
OFFICE OF THE PRINCIPAL GCMHSS NAHAQI PESHAWAR

NO. 46-47

Dated 07/06/2024

Relieving Chit

Consequent upon the approval of competent authority you, Mr. Saleem Khan SS Islamiyat BPS-17 GCMHSS Nahaqi Peshawar has been transferred to GMHSS Khar Bajaur vide Notification No. SO(S/M) E&SED/5-17/2024/PT/SS: dated 07 June 2024. You are hereby relieved from this school today on 07/06/2024 (Afternoon) and to join the post of SS Islamiyat BPS-17 at GMHSS Khar Bajaur against the vacant post.


Principal

GCMHSS Nahaqi Peshawar

PRINCIPAL
GCMHSS Nahaqi
Peshawar


ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Block "A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223533. Email: sschoolmale@gmail.com



Dated: 13.06.2024

NOTIFICATION

NO: SO(S/M) E&SED/5-18/2024/PT/BS-17: While withdrawing this Department Notification of Even No. Dated 07.06.2024 in r/o Mr. Saleem Khan SS Islamiyat (BS-17), the Competent Authority is pleased to transfer Mr. Dilaram Khan SS (Islamiyat) (BS-17) from GHSS Maryamzai Peshawar and post him at GMHSS Khar Bajaur against the post of SS Islamiyat (BS-17) with immediate effect, in the best public interest.

SECRETARY TO
GOVT OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Concerned.
5. District Accounts Officer Concerned.
6. PS to Secretary E&SE Department.
7. Officer Concerned.
8. Office order file.

Pf
ATTESTED

(Signature)
(AHMAD HUSSAIN)
SECTION OFFICER (SCHOOLS MALE)

To,

The Chief Secretary
Government of Khyber Pakhtunkhwa,
Peshawar.

[Handwritten Signature]
26/06/2024

(D) (11)

Through proper Channel

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED NOTIFICATION DATED 13/06/2024, WHEREBY THE TRANSFER POSTING NOTIFICATION DATED 07/06/2024 OF THE APPELLANT HAS BEEN WITHDRAWN AND ONE MR. DILARAM KHAN SS (BPS-17) HAS BEEN POSTED AGAINST THE POST OF APPELLANT.

Respected Sir,

- 1- That the appellant is the employee of your good-self department and is serving as SS Islamiyat and performing his duties quite efficiently and upto the entire satisfaction of his superiors.
- 2- That the appellant is the permanent resident of District Bajour and performed his duties as SS (BPS-17) at GCMHSS Nahqi Peshawar for more than 04 years.
- 3- That the appellant was transferred from GCMHSS Nahqi Peshawar and posted at GMHSS Khar Bajour against the vacant post of SS Islamiyat (BPS-17) through notification dated 07/06/2024.
- 4- That in compliant to the ibid notification, the appellant assumed the charge of the said post, started perform his duties with zeal and zest.
- 5- That while performing his duties on the said post, astonishingly the transfer notification dated 07/06/2024 of the appellant has been withdrawn vide impugned notification dated 13/06/2024 without any reason and justification, but just to facilitated the blue-eyed person namely Dilaram Khan SS Islamiyat and posted him against the post of appellant through political approach.
- 6- That appellant aggrieved from the impugned notification dated 13/06/2024 being illegal and against the policy of the government, preferred the instant departmental appeal before your honor inter alia on the following grounds:-

07/4
GROUNDS:

[Handwritten Signature]
ATTESTED

- A- That the impugned notification dated 13/06/2024 being contrary to law and rules and in utter violation of the law on the subject hence not tenable in the eye of Law.

- B- That appellant have not been treated by the department concerned in accordance with law and rules on the subject noted above and as such action of the respondent department is violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned notification dated 13/06/2024 is also violative of the transfer/posting policy of the Government of Khyber Pakhtunkhwa as the appellant have been transferred against the law on the subject.
- D- That the treatment meted out to the appellant is a clear violation of the Fundamental Rights of the appellant as enshrined in the Constitution of Pakistan 1973.
- E- That the impugned notification is also violative of Rules 12 of Appointment, Promotion & Transfer Rules, 1989.
- F- That concerned authority has violated Clause-I, Clause-IV and Clause-XIII of the transfer posting policy of the government have been violated by the respondents vide the impugned notification.
- G- That the impugned notification has been issued with malafide intention, just to facilitate the blue-eyed person i.e. Mr. Dilaram Khan SS Islamiyat.
- H- That the impugned notification dated 13/06/2024 has not been issued to the public interest.


It is, therefore, most humbly requested that on acceptance of this departmental appeal the impugned notification dated 13/06/2024 may very kindly be set aside and the appellant be retained on the post of SS Islamiyat at GMHSS Khar Bajour till completion of his normal tenure.

Dated: 26/06/2024


Yours Obediently

Saleem Khan
SS Islamiyat
GMHSS Khar Bajour

03088189055


ATTESTED

*Liaqat Ali
Supalli
Mardan*



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)**

F *1010*
E
13

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) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 0 1/2 years for unattractive areas and one year for hard areas. *(See POG as retained)*
2 years tenure retained for unattractive/hard areas
 - v) *3*
 - vi) "While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, Khyber PakhtunKhwa needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, Khyber PakhtunKhwa shall be obtained."
- Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for 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 (Thana) of his area/residence is situated.

Circular letter No. SOR-VI/E&AD/I-7/2008/Vol-VII dated, the 11th September, 2009
 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) I-4/2008/Vol-VI, dated 2-3-2008. Consequently authorities competent under the Khyber PakhtunKhwa 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.
 Para-VI added vide circular letter No. SOR-VI/E&AD/I-1/2010/Vol-VIII dated 20th March, 2010.
 Sub para-VI (a) added vide circular letter No. SOR-VI/E&AD/I-4/2008 dated 21st October, 2008.

DL
APPROVED

Updated up to April, 2010.

viii) No posting/transfers of the officer's/officials on detailment basis shall be made. 20
14

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.

¹ 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 Khyber Pakhtunkhwa 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 AFUG, 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.	Secretary of the Department concerned.

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

ATTESTED

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

(21) 3 (15)

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 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.

(Signature)
ATTESTED

Updated up to April, 2010.

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.

22

16

{Authority: Letter No: SOR-V/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 KHYBER PAKHTUNKHWA
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshawar, _____

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 KHYBER PAKHTUNKHWA

Encl. No. and date even.

Copy forwarded

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

(NAME)
SECTION OFFICER
Administrative Department

{Authority: Letter No. SO (E-I) F&AD/9-12/2006 dated 22-12-2006}

ATTESTED

The competent authority has been pleased to direct that Para I(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the Khyber Pakhtunkhwa Government Rules of Business, 1985 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, any time during the year, in genuinely deserving and necessary cases, in public interest.

Updated up to April, 2010.

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 postings/transfers of Government Servants.

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.

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: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008.

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 posted 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 on their posts, have been adjusted on posts other than those they held previously.

(Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28th Oct, 2005.

The Chief Minister Khyber PakhtunKhwa has directed that:-

- 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 case, they should approach the Administrative Secretaries who could process the case according to policy;
- 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/1-4/2005, dated 8-6-2004 & Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2006.)

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) Khyber PakhtunKhwa 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 decide 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 Khyber PakhtunKhwa Govt Servants (Conduct) Rules 1987 shall be proceeded against under the Khyber PakhtunKhwa Removal from Service (Special Powers) Ordinance 2000. As required under the Khyber PakhtunKhwa Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect.

Updated up to April, 2010:

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, 29-6-2007).

In continuation of this Department circular letter No.SOR-V/E&AD/1-4/2008/Vol-VII dated 11th September, 2009, I am directed to refer to the subject and to say that the Provincial Cabinet in its meeting held on 30th March, 2010 inter-alia approved the following for the purpose of Posting/Transfer Policy:-

Unattractive/Hard Areas

1. The distinction between unattractive/hard areas should be done away with and both should be labeled as Unattractive areas.
2. Existing list of FATA areas be retained.
3. The following areas were recommended/approved to constitute unattractive areas in NWFP:-

- a. Kohistan District.
- b. Tank District.
- c. Chitral District.
- d. Bargram District.
- e. Shangla District.
- f. Hangu District.
- g. PATA areas of Mansehra (Kata Diraka)

1) Tenure for settled area of unattractive area is 02 years
(P-I)

Tenure of posting.

- i. The erstwhile normal tenure of 2 years be retained.
- ii. Existing tenure for unattractive areas be retained. However, in case of married civil servants, transfer should be made just at the beginning of school session and tenure should be one year instead of 1.5 year, so that academic disruptions are avoided.
- iii. At the time of entry in service, all civil servants be asked to give 4 options from unattractive areas.
- iv. After a stint of service in unattractive area, employees may be offered option to serve in district of choice.

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 the parent organization of the participant from where the individual had applied. This will be in

No. SOR-V/E&AD/1-4/2010/Vol-VIII Dated Postwar, the, 10th April, 2010
Placement Policy has been made part of the posting/transfer policy vide Urdu circular No SOR-VI(E&AD)/1-4/06, dt 9-7-2007

Red
ATTESTED

(24) For A.P. Haddad (18)

Sr. No. Date of order/proceedings

Order or other proceedings with signature of Judge or Magistrate

1 2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 66/2018

Date of Institution: 16.01.2018
Date of Decision: 04.04.2018

Muhammad Miskeen, Head Clerk, (BPS-16) Hazara Irrigation Division, Abbottabad.

APPELLANT

1. The Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Peshawar.
2. The Chief Engineer (SOUTH) Irrigation Department Khyber Pakhtunkhwa Peshawar.
3. Muhammad Hamayun Head Clerk, Swabi Irrigation Division No.2 Swabi.

RESPONDENTS

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER:

04.04.2018

Learned Counsel for the appellant present. Learned Deputy District Attorney on behalf of official respondents present. Learned Counsel for private respondent No. 3 present.

2. The appellant has filed the present appeal u/s 4 Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 13.12.2017 whereby transfer/posting order dated 02.11.2017 regarding transfer of appellant.

ATTESTED

(25)

(20)

Swabi Irrigation Division No.2 Swabi to Hazara Irrigation Division Abbottabad was cancelled. The departmental appeal of the appellant could not prove successful. Hence the present service appeal.

3. Learned counsel for the appellant argued that appellant was stationed at Swabi Irrigation Division since year 2014 while respondent No.5 was stationed at Hazara Irrigation Division Abbottabad since year 2014. That by order dated 02.11.2017 the appellant was transferred to Hazara Irrigation Division Abbottabad while respondent No.3 was transferred to Swabi Irrigation Division Swabi, however just after one month of the issuance of transfer order, the respondent department cancelled the same vide impugned order dated 13.12.2017 on the basis of political influence and in violation of transfer/promotion policy. Learned counsel for the appellant vehemently stressed that the impugned order is liable to be set aside.

4. As against that learned counsel for private respondent argued that the appellant was promoted as Head Clerk by order dated 07.11.2016 and was still on probation when the transfer order dated 02.11.2017 was issued hence the

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was rightly cancelled by the respondent department. Further argued that after promotion to the post of Head Clerk on regular basis vide order dated 07.11.2016 the appellant has not yet completed his normal tenure at Swabi Irrigation Division No.2 Swabi as such the impugned order is not open to any exception.

5. Learned DDA adopted the arguments of Learned counsel for private respondent and relied upon the written reply/para wise comments of the official respondents.

6. Arguments heard. File perused.

7. It is not disputed that the appellant was serving Swabi Irrigation Division No.2 Swabi and respondent No.1 was serving at Hazara Irrigation Division Abbottabad since year 2014 and vide order dated 02.11.2017 the appellant was transferred from Swabi to Abbottabad while respondent No.3 was transferred from Abbottabad Swabi. However after one month of issuance of transfer order the same was cancelled by respondent department without assigning any reason in the impugned order dated 13.12.2017.

8. Learned DDA remained unable to demonstrate


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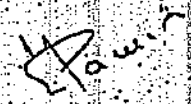
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ATTESTED

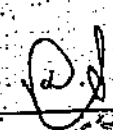
valid reason or exigencies of service due to which the transfer order dated 02.11.2017 was cancelled just after one month of its issuance.

9. There is no dispute that the respondent No.3 has already served for a period more than his normal tenure in Abbottabad before his transfer to Swabi Irrigation Division No.2 Swabi vide order 02.11.2017. Arguments of learned counsel for private respondent No.3 that the appeal should not be transferred out from Swabi Irrigation Division No.2 Swabi being a probationer, carries no weight.

10. In the light of above discussion, this Tribunal is of considered opinion that the impugned order dated 13.12.2017 is arbitrary and issued on extraneous considerations, hence not tenable in the eyes of law. Consequently the present service appeal is accepted and the impugned order dated 13.12.2017 is set aside, resulting the transfer order dated 02.11.2017 is restored. Parties left to bear their own costs. File be consigned to the record room after its completion.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER


ATTESTED

60170	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈوکیٹ: عبد الغفار خان ایڈووکیٹ	PESHAWAR BAR ASSOCIATION
بار کونسل ایسوسی ایشن نمبر: 09-1669	
رابطہ نمبر: 0300 5956376	

بجالت جناب: **صبر و محنت خواہ سروس ٹریڈنگ (پرائیویٹ) لمیٹڈ KPL**

منجانب: ایبیل اسٹ	دعویٰ: سروس اسٹ
سلیم خان	علت نمبر:
بنام	موضوع:
حکومت و شہرہ	جرم:
	تقاضا:

بابت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام کسٹورر کے عبد الغفار خان ایڈووکیٹ کو مکمل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا ایبل کی برائگی اور منسوخی، نیز دائر کرنے ایبل مگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قابلی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور ان کا ساختہ بڑا داخست منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائد التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند

Accepted

PESHAWAR BAR ASSOCIATION
KHYBER PAKHTOONKHA

الرقوم: 10/10/2029

بجالت جناب: **صبر و محنت خواہ سروس ٹریڈنگ (پرائیویٹ) لمیٹڈ**

مقام: _____ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی قوت کو کاپی نامہ قابل قبول ہوگی۔

سلیم خان (ایبیل اسٹ)