

No. SO (COORD) 1-13/79

Dated the 16<sup>th</sup> March 1980

Subject: **TRANSFER POLICY**

I am directed to say that in supersession of all previous instructions on the subject, the Government has prepared a fresh transfer policy, which will come into force with immediate effect.

### **TRANSFER POLICY**

The subject of posting and transfers is an important personnel function. It is complementary to officer's career-planning/management. It is only through a balance and correct adjustment of officers, according to experience and qualifications that a corps of competent and qualified civil servants is provided to the society. The achievement of this laudable objective is ensured mainly through postings, based on experience, qualifications, and merit. Proper career management envisages that an officer should be provided equal opportunities of holding secretariat/staff and field appointments so that he may acquire right type of experience at various stages of his career. Rotation between field and secretariat/staff appointments, therefore, need hardly be emphasized.

The policy of postings should be designed so as to ensure stability in the appointments to encourage professionalism by recognizing and promoting merit, while providing an all-round experience to the individual officers. In order to avoid stagnation in performance and ideas and to provide dynamic administration, repeated appointments to the same type of job need to be avoided unless in some special cases, specialization is desired. The transfer policy is to be guided foremost by the service of public interest and the individual's interest is to be integrated therewith as far as possible for ensuring greater harmony and efficiency. Important assignments need to be filled in by those officers who have good record of service so that they may develop their talent and may make maximum contribution to the public welfare. In cases, where officers show certain weaknesses in professional and character traits, they may be so positioned as to be amenable to direction, advice and guidance.

As a rule every civil servant shall be liable to serve anywhere within or outside the province in any post under the Government of Punjab or the Federal Government or any other provincial Government or a local authority or a corporation or a body set up or established by any such Government. Where a civil servant is required to serve in a post outside this service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled, if he had not been so required to serve. This condition is not applicable to the transfer of an officer on account of inefficiency or misbehavior or when he is transferred on his written request.

Transfers of officers and staff shall be made by the authorities specified in Schedule-V to the Punjab Government Rules of Business, 1974, and the Delegation of Powers Rules pertaining to different departments but S&GAD shall be consulted, if it is proposed to transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure. Before completion of tenure, every officer may be asked to indicate four places of his choice for posting.

No transfer shall normally be made except under the following circumstances:

- a) On completion of tenure/prescribed stay at hard stations.
- b) On completion of 3 years stay at a particular station in other cases.
- c) On compassionate grounds.
- d) On disciplinary grounds.
- e) On promotion/demotion.
- f) Administrative requirements.
- g) No officer/official shall be transferred, who is under special report nor shall earned leave be granted to him except by the order of the authority, which placed him under such report.

Transfer before the completion of the period of tenure should be ordered only if the competent authority is satisfied that:

- a) The transfer involves appointment to higher service or a post carrying higher emoluments.
- b) The transfer is being made to a post for which the officer has special aptitude, qualifications or experience.
- c) The officer has proved unsuitable in the post from which he is being transferred.
- d) The officer holding a lien on the post, has become available.
- e) The transfer is on compassionate grounds.

Transfers should correspond to academic year unless exigencies of service require otherwise and wherever possible three months notice should be given for routing transfers.

An officer under order of transfer should not be allowed leave for any period except by the authority ordering transfer.

Officers will not be transferred as a result of their taking short leave or their being deputed for training courses for less than 6 months duration. In such cases only an acting arrangement will be made.

If an officer gets a below average assessment from his superior officer, he will be transferred to work under another superior officer.

Government servants under transfer may represent against the order and the representation should be decided by the authority next above transferring authority (except where the transfer has been ordered by the Governor) expeditiously as far as possible, within one month. Officers who submit representations for cancellation or holding in abeyance of transfer order on compassionate grounds may be allowed to stay back till their representations are decided and their relievers should be informed simultaneously.

As far as possible comparatively young officers should be posted against field jobs in the sub-divisions.

No transfer should be made on the ground that the concerned officials are not amenable to discipline or do not exert themselves in their work. Disciplinary action should, on the other hand, be taken against such officers in accordance with the rules.

Officers in BS-16 and above should not, except for exceptional circumstances, be posted to their home districts.

The ban will not apply to;

- i) Government servants working in educational institutions and medical colleges and posted at Secretariat, Headquarters and in the Regional and Divisional offices.
- ii) Government servants on deputation to autonomous or semi-autonomous bodies. (However, autonomous bodies would endeavor to ensure that BS-16 and above officers working on posts which are in the nature of field posts at the district level, will not normally be posted to their home districts).
- iii) Persons who are highly specialized or for whom suitable replacement is not available or for whom reasonably suitable posts outside their home districts are not available.
- iv) Officers who are due to retire in two years or less.
- v) Persons who are appointed as a stopgap arrangements.

Officers in scales below BS-16 (except clerical staff and other officials below BS-7) may not be posted in their own tehsils.

Officials who are liable to transfer should not ordinarily be allowed to stay at Lahore for more than five years at a time. The period of five years will be calculated in the manner indicated in Government of the Punjab, S&GAD's letter No. SOXII-(S&GAD) 8-1/65, dated 14<sup>th</sup> May, 1969 (Annexure-I). Exemption from the operation of this rule can be allowed only in the following cases:

- i) Transfers from educational institutions e.g. Government College, Medical College, Central Training College, High Schools may not be ordered automatically. Transfers in these cases may, however, be ordered bearing in mind the present practice and rules in the various institutions, maintenance of the efficiency of the institutions, availability of good substitutes and the necessity of keeping continuity of traditions, research and courses. These cases may be decided by the administrative departments.
- ii) If a Government servant on deputation to an autonomous or semi-autonomous body has been at Lahore for a long period, he may be allowed to complete his tenure with the autonomous body.
- iii) Persons who are highly specialized or for whom suitable replacement is not available or for whom reasonably suitable post outside Lahore is not available may be continued, and
- iv) Officers due to retire in about two years time, may continue. Orders of S&GAD shall be obtained in case falling in categories (ii) to (iv). Officers who have been at Lahore for five years or more should not be sent on deputation to autonomous or semi-

autonomous bodies at Lahore, as this would amount to an evasion of rule.

Normally the competent authority should make an effort to post husband and wife, when both are Government servants at one station, unless administratively it is not practicable.

Transfer of low paid employees to far-flung places should be avoided. If at all a low paid official has to be transferred, he should be transferred from one desk to another in the same office.

Officers will normally be posted to or near their hometown within 2 years of their retirement.

Normally an officer on transfer may be allowed to avail himself of joining time and telegraphic orders disallowing joining time may be avoided.

No request for transfer of an officer on complaint or unfitness to hold a post shall be entertained unless the officer has spent at least three months on his present assignment and a special report has been initiated on his performance.

Any attempt to obstruct, delay, evade or disregard the orders of transfers is viewed by Government with displeasure and may render the person concerned liable to disciplinary action. Canvassing for transfer is strictly prohibited.

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## ANNEXURE – I

### EXTRACT TAKEN FROM O&M ESTABLISHMENT MANUAL VOLUME - II (REVISED) 1974

Subject: TRANSFER OUT OF LAHORE OF OFFICERS WHO HAVE BEEN  
IN LAHORE FOR FOUR YEARS OR MORE

I am directed to refer to this Department's Circular letter No.SOXII(S&GAD)8-1/665, dated the 13<sup>th</sup> December, 1966 on the subject noted above and to state that a clarification has been sought with regard to calculation of the period of four years stay. The points for clarification are mentioned below:

- i) There are certain officers who have been in Lahore for some years and thereafter they proceeded abroad for training for a period, which has exceeded two years in some case, and on return they were re-posted at Lahore. The question for consideration is whether this absence on training is to be considered as break in the posting period and whether a minimum period of training abroad should be laid down for the purpose of calculation of total period of stay at Lahore.
- ii) There are certain officers who were promoted from ministerial service and thereby their total stay in Lahore including subordinate

and gazetted service comes to more than four years, while in gazetted service is less than four years. The question for consideration is whether the Ministerial service is to be counted towards four years stay at Lahore.

2. With regard to (1) the period of absence on leave or for training irrespective of the length of the period should be deducted from the total period of stay. In other words, the period, preceding the leave or training period abroad and the period succeeding this period should be added up for the calculation of the stay at one station.

3. With regard to (2) the policy of transfer under four years rule does not apply to the members of the ministerial or subordinate service or officers below the rank of Class II service. The period of stay should, therefore, be counted from the date of a person enters Class II or Class I or equivalent post.

4. Above principles should also be applied to the posting of officers at Rawalpindi and Karachi.

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No. SI.1-11/78  
Dated the 8<sup>th</sup> September 1982

Subject: TRANSFER POLICY

I am directed to refer to this department letter No. SO (Coord)1-13/79, dated 16<sup>th</sup> March, 1980 on the subject cited above and to say that the Government have decided that in the transfer policy circulated by the Government of the Punjab, S&GAD, vide its circular letter, referred to above, Rule 19 shall be substituted as below:

–Officers/officials due to retire on attaining the age of superannuation in two years will be given a choice of their last posting. This choice will be either for the station or for the post, but not for both. The authority competent to order transfer will, so far as possible, honour the choice of the officer/official but will not be bound to do so. In particular, lucrative appointments will not be given, especially to officers/officials of ill repute.”

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No. SO (Coord) 1-4/85,  
Dated the 3<sup>rd</sup> November 1985

Subject: INCENTIVES FOR WORKING IN UNATTRACTIVE AREAS

I am directed to refer to the above cited above and to state that it has been decided to give the following additional incentives to all those Government servants who are entitled to get the compensatory allowance called unattractive areas allowance:

- i) Preference will be given in the matter of training abroad in the relevant field.
- ii) The tenure of posting will be two years instead of three years.
- iii) They will be granted fifteen days leave on completion of one year's satisfactory service as recreation leave.

No. SO (COORD) 1-13/86  
Dated the 17<sup>th</sup> November 1986

Subject: TRANSFER POLICY

I am directed to refer to this department's letter of even number dated 16<sup>th</sup> March, 1980 on the subject noted above and to say that in pursuance of the cabinet decision taken in its meeting held on 22<sup>nd</sup> September, 1986, the paragraphs 14 and 15 of the existing transfer policy are amended as under:

- a) Deputy district education officers who are in BS-17 are exempted from the restrictions on their posting in their home district, subject to the conditions that they will not be posted to their home tehsil.
- b) Female civil servants in BS below 16 working in the Government of the Punjab are exempted from the restriction on posting in their home tehsil.
- c) It was also decided to exempt women medical officers posted in periphery from the district on their posting in their home district/home tehsil.

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No. SO(COORD)6-16/85(3166)  
Dated the 10<sup>th</sup> March 1987

Subject: CHECK ON FREQUENT TRANSFER OF OFFICERS

I am directed to refer to the former Government of West Pakistan circular letter No. SOXII (S&GAD) 8-8/67, dated 04.07.1968 on the above subject and to reiterate that the principles laid down therein should be strictly observed while ordering transfer of officers. Normally, officers should be allowed to complete the period of tenure at their stations of posting and frequent transfers should be avoided. Premature transfers should be ordered only in the cases falling under categories (a) to (e) of the said letter.

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No. SO (COORD) 6-10/87  
Dated the 23<sup>rd</sup> November 1987

Subject: TRANSFER POLICY

In continuation of this Department's letter No. SO (Coord) 6-16/85, dated 10.03.1987 on the above subject, I am directed to state that the Chief Minister Punjab has been pleased to direct that steps may be taken to ensure that low paid employees in all the Departments/Organizations of the Provincial Government are posted near the place of their choice i.e. their domicile, as far as possible. It is also advised that wherever needed the transfer powers may be delegated to such lower levels as are considered appropriate and if required the existing rules be amended.

No. SO (COORD)6-16/85

Dated the 24<sup>th</sup> April 1988

Subject: TRANSFER POLICY

I am directed to refer to this department's letter No. SO (Coord)1-13/79, dated 16<sup>th</sup> March, 1980 and SO (Coord) 6-37/87, dated 1<sup>st</sup> December, 1987 on the above subject and to state that the Transfer Policy circulated therewith was issued after the approval of the then Governor/MLA and that proposals seeking relaxation of any of its provisions should be formulated in the form of a summary for the Chief Minister, Punjab which may be routed through this Department.

2. I am further to add that transfer orders not in accordance with the provisions of the said Transfer Policy should be issued only after the Chief Minister Punjab has approved relaxation of provisions, thereof.

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No. US(LIAISON)(I&C)/1-17/89

Dated the 4<sup>th</sup> January 1990

Subject: PROPOSALS FOR RELAXATION OF BAN ON TRANSFER

It has been observed that proposals for relaxation of ban on transfer submitted to the Chief Secretary by various Administrative Departments are deficient in one or all of the following:

- i) The rationale for proposing the transfer is usually not cited. The proposal has to be adequately justified considering that relaxation can only be granted to avert hardship or to fill a vacancy.
- ii) The dates of the present posting of the officers/officials being proposed for transfer are not always indicated.
- iii) The further disposal of the officers/official being replaced is usually not specified.

2. It is requested that in future proposals for relaxation of ban on transfer be submitted to the Chief Secretary complete in all respect including the aforesaid information.

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**PROFORMA FOR RELAXATION OF BAN ON TRANSFER**

Sr. No.	Name/Grade/ Designation of officer proposed for transfer	District of domicile	Present posting with date	Proposed place of posting with grade of post	Name & period of posting of officer being replaced	Disposal of officers being replaced	Rationale for transfer proposal
1	2	3	4	5	6	7	8

Signature of  
Head of Attached Department \_\_\_\_\_

Signature of  
Administrative Secretary \_\_\_\_\_

ORDER

PROPOSAL (S) AT SR.NO. \_\_\_\_\_  
PROPOSAL (S) AT SR.NO. \_\_\_\_\_

IS/ARE APPROVED  
IS/ARE NOT APPROVED

(CHIEF SECRETARY)  
PUNJAB

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No. SO(Coord)6-6/90  
Dated the 27<sup>th</sup> January 1990

Subject: BAN ON POSTING/TRANSFERS IN ALL DEPARTMENTS

I am directed to refer to this department's letter No. US (L) (I&C)1-177/89 dated the 18<sup>th</sup> September, 1989, on the subject noted above and to say that some of the proposals for relaxation of ban on transfers submitted to the Chief Secretary by various administrative departments have been observed to be deficient in one or all of the following:

- i) The rationale for proposing the transfer is usually not cited. The proposal has to be adequately justified considering that relaxation can only be granted to avert hardship or to fill a vacancy.
- ii) The dates of the present posting of the officers/officials being proposed for transfer are not always indicated.
- iii) The further disposal of the officers/official being replaced is usually not specified.

2. I am, therefore, directed to request you that proposals for relaxation of ban on postings/transfers may be submitted to the Chief Secretary on the attached proforma.

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NO.SOR-I(S&GAD)17-15/2008  
Dated the 19<sup>th</sup> March 2009

Subject: POSTING/TRANSFER OF OFFICERS – RELINQUISHING OF  
CHARGE

I am directed to state that postings/transfers of officers are a routine function of the Government Departments and the officers on their transfer are expected to comply with the orders of competent authorities and relinquish the charge of the post forthwith and assume charge of the new assignment. However, some of the Administrative Departments approached the S&GAD for taking

disciplinary action against the officers who had relinquished the charge of the post held by them. The Administrative Departments were of the view that charge was relinquished by the officer on transfer without their approval. The issue has been examined in the S&GAD and it has been decided that henceforth the following course of action may be followed by all the Administrative Departments/authorities:

- (i) The officer transferred should, on receipt of posting/transfer orders issued by the competent authority, relinquish the charge forthwith. The concerned Department/Organization should forward his charge relinquish report to the concerned authorities including the District Accounts Officer/Accountant General, Punjab without any delay.
- (ii) If the officer so transferred is handling an assignment of special, sensitive, financial or confidential nature and cannot be relieved without making alternate arrangement then he should be relieved by entrusting the duties/functions to some other suitable officer provisionally. This process should not take more than one working day after receipt of the transfer orders.
- (iii) If for any reason the posting/transfer order cannot be implemented then the competent authority may be approached for cancellation of posting/transfer orders immediately after receipt of the transfer orders. However, this process should not take more than two days. The Competent Authority is expected to take a decision on such requests within 3 days positively.
- (iv) In case any officer to the Federal Government serving in the Punjab is transferred by the Federal Government then orders of the competent authority in the Punjab Government may be awaited before relieving the officer.

2. This issues with the approval of the Governor, Punjab.

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No. SI.1-1/2003  
Dated the 18<sup>th</sup> January 2005

Subject: TENURE POLICY

I am directed to refer to the subject noted above and to intimate that an Agenda Item No.4 titled ‘\_Tenure Policy‘ was placed before the Provincial Cabinet in its meeting held on 06.10.2004 in which the Cabinet approved a minimum tenure of one year for posting of officers/officials, with the following observations:

- i) Tenure of one year should not be taken as a license for wrongdoing or inefficiency rather this tenure is aimed at enhancing efficiency and performance.
- ii) The fixation of tenure of one year is a temporary measure and the final recommendations are to be formulated by the Cabinet Committee which had been constituted earlier.
- iii) Tenure of one year should be applicable to Government servants of all grades/scales.

2. In view of the above, I am further directed to request you to kindly comply with the above said decision of the Provincial Cabinet in letter and spirit.

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Civil petition No. 175 (L) of 1995, decided on 19<sup>th</sup> March, 1995  
(On appeal from the judgment/order dated 12.02.1995 of Lahore High Court  
Lahore, passed in writ petition No. 995 of 1995)

Constitution of Pakistan, 1973—

Art, 212-Petitioner-Success transfers of — this court feels that the manner in which such transfer orders were passed supported the contention of the petitioner that these are not based on any exigency of service but were of reasons which bore no nexus with that spirit and object of the rules governing the transfer of a Government servant — Secretary LG&RD, when called upon to explain stated that he had no role in the successively transfers of the petitioner as all the orders by which he was bound to comply that inherent helplessness noticed in the statement that: More submission to the will of superior was not a commandable trait in a bureaucrat—Further held: That if the transfer orders in this case would have been made in accordance with the policy directives of the Government and power exercised by the competent authority as contemplated by Rule 21 (2) read with maneuvering by the officers violation by such transfer. The fact that the transfers were made in violation of policy directive of the Govt. Which had the Status of a Rule —And provision of Rule 21 (2) *ibid* were not followed strictly opened the door for the Government servant concerned to bring in outside influence to obtain the desired transfer — It is expected that the guidelines mentioned in the policy directive of the Govt. And the Provisions of rule 21 of Rules of Business will be kept in view by all concerned while dealing with the transfers of Government servants — Petition dismissed.

For the Petition: Dr. A. Basit, ASC, with Ch. Mehdi Khan Mehtar, AOR.

For the Respondent: Farooq Badar, Additional A.G. Punjab.

Date of hearing 19<sup>th</sup> March, 1995.

### **JUDGMENT**

SAIDUZZAMAN SIDDIQUI, J. The petitioner, an employee of Punjab, Local Government and Rural Department (LG&RD) challenged his transfer order dated 23.01.1995, from Muzaffargarh in a Constitutional Petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, hereinafter to be referred as the Constitution only before the Lahore High Court. A learned Judge in chamber by order dated 12.02.1995, dismissed the petition as not maintainable, in view of the bar contained in Article 212 of the Constitution. The petitioner is seeking leave to appeal against the above order of the Lahore High Court.

2. Dr. A. Basit, the learned counsel for the petitioner, firstly, contended before us that the transfer of a Government servant does not fall within the scope of terms and conditions of the service and as such the bar contained in Article 212 of the Constitution is not applicable to the case of the petitioner. In the alternative, the learned counsel for the petition very vehemently contended that the transfer order of the petitioner being malicious and having been passed by the authority not competent under the law, for objects wholly alien to the Punjab Civil Servants Act (hereinafter to be referred as 'the Act' only) was *coram non iudice* and as such it could be challenged before the High Court in a Constitutional Petition under Article 199 of the Constitution notwithstanding the bar contemplated in Article 212 of the Constitution. In support of his contention, the learned counsel for the petitioner relied on the case of Pir Sabir Shah —Government of NWFP (PLD 1994 SC 738).

3. Mr. Farooq Bedar, the learned Additional Advocate General, Punjab, though opposed the grant of leave in the petition on the ground of its incompetence, but on our query frankly stated that 4 orders of transfer of petitioner passed in quick succession within a period of less than a month were not only unusual but also offended against the declared policy of Government relating to the transfer of Government servants.

4. On a tentative examination of the material produced before us in the case, we also felt that the manner in which successive transfer orders of the petitioner were passed in the case, supported the contention of the petitioner that these transfer orders were not based on any exigency of service but were for reasons which bore no nexus with the spirit and object of Rules governing the transfer of a Government servant. We, accordingly, directed the learned Additional A.G. to seek instructions from the authorities concerned and place before us full facts concerning frequent transfers of the petitioner between the period from 04.07.1994 to 23.01.1995. The learned Addl. AG. in response to our direction candidly submitted before us a detailed note today, containing the facts relating to the transfer of petitioner between the period from 04.07.1994 to 23.01.1995. After going through this note, we were convinced that the various transfer orders of petitioner passed between the period from 04.07.1994 to 23.01.1995 could not be described/treated as a normal incident of transfer in service but were based on extraneous considerations bearing no nexus with the object and spirit of rules governing the transfer of Government servants. We, accordingly, further directed the Secretary Local Government and Rural Department, Punjab to appear before us in the case at 11.30 a.m. and state the reasons behind this unusual and frequent transfer of the petitioner. Mr. Shafqat Ezdi Shah, Secretary, LG&RD accordingly appeared before us at 11.30 a.m. and stated that he had no role in the successive transfers of the petitioner in the case. According to Mr. Shafqat Ezdi Shah, all the orders for transfer of the petitioner in the case were passed by the Minister in-charge of his department which, he was bound to comply. The inherent helplessness noticed by us in the above statement of the secretary LG&RD was not only shocking but also disappointing. We need not stress here that a tamed and subservient bureaucracy can neither be helpful to Government nor it is expected to inspire public confidence in the administration. Good governance is largely dependent on an upright, honest and strong bureaucracy. Therefore, mere submission to the will of superior is not a commendable trait to a bureaucrat. Elected representative placed as incharge of administrative departments of Government are not expected to carry with them a deep insight in the complexities of administration. The duty of a bureaucrat, therefore, is to apprise these elected representatives of the nicety of administration and provide them correct guidance in discharge of their functions in accordance with the law. Succumbing to each and every order or direction of such election functionaries sometimes amount to an act of indiscretion on the part of bureaucrat, which may not be justifiable on the plans of hierarchical discipline. It hardly needs to be mentioned that a Government servant is expected to comply only these orders/directions of his superior, which are legal and within his competence. Compliance of an illegal or an incompetent direction order can neither be justified on the plea that it came from a superior authority nor it could be defended on the ground that its non-compliance would have exposed the concerned Government servant to the risk of disciplinary action.

5. In the case before us, the Minister of LG&RD directed secretary LG&RD on 03.08.1994 that Sh. Ehsan Elahi, Asstt. Engineer, LG&RD, Lodhran, be transferred

and posted as AE. Faisalabad, vide Sh. Zahid Akhtar (petitioner) who was transferred from Faisalabad and posted as AE. Kasur. Copy of the order of Minister was endorsed to Nawab Sher Waseer MPA, Haji Muhammad Ismail MPA and Mr. Wasee Zafar MPA Secretary LG&RD complied with the above order of the Minister LG&RD and issued the necessary notification dated 04.08.1994. On 10.08.1994, the Minister LG&RD cancelled the posting of petitioner and allowed Mr. Khalid Mahmood, LCS Engineer, to continue as AE Kasur on deputation. Copy of this order was endorsed to besides the Secretary LG&RD to Rao Abdul Qayyum MP A PP-151 and Sardar Hussain Dogar MPA PP-146. The Secretary LG&RD complied with this order of the Minister on 16.08.1994. On 13.9.1991 the Minister LG&RD was again pleased to direct that the petitioner, who was awaiting posting, be posted as AE. LG&RD Faisalabad vice Sh. Ehsan Ellahi, who should report to Government of this further posting. Copy of this order for Minister was endorsed to Secretary LG&RD and Mr. Wasi Zafar MPA, Faisalabad. The Secretary LG&RD on 19.09.1994 complied with the order of Hon'able Chief Minister's Secretariat on 05.10.1994, informing Secretary LG&RD that posting of Sh. Ehsan Ellahi as S.D.O. in the Local Government Faisalabad, has been approved by the Chief Minister. Copy of this letter was endorsed to Minister LG&RD. Consequent to this order, the Secretary LG&RD recalled his earlier orders dated 19.09.1994, transferring Sh. Ehasan Ellahi, from Faisalabad to Narowal and reposted him as AE. Faisalabad. As a result thereof the petitioner, who was posted as A.E. Faisalabad was transferred from there and was directed to report to the LG&RD Department, Government of the Punjab. The petitioner thereafter, awaited his posting until 28.12.1994 when the Hon'able Minister for LG&RD passed an order for his posting as AE. LG&RD Muzaffargarh vice. Mr. Abdul Khaliq, who was directed to report to Government for further posting. Copy of this letter was endorsed by the Minister to Malik Bilal Mustafa Khar, MPA PP-213, Muzaffargarh. This order was complied by the Secretary LG&RD on 29.12.1994. The Hon'able Minister LG&RD on 09.01.1994 cancelled the posting order of petitioner issued by Secretary LG&RD in compliance of his orders dated 29.12.1994 and directed that Abdul Khaliq should continue as AK Muzaffargarh. Copy of this order of the Minister was endorsed to Malik Bilal Mustafa Khar MPA, Muzaffargarh. The Secretary LG&RD immediately complied with the above directions of his Minister by issuing another order dated 10.01.1995 cancelling the posting order of petitioner dated 29.12.1994. On 16.01.1995, the Hon'able Minister LG&RD again issued an order directing Secretary LG&RD to post the petitioner as AE. LG&RD Muzaffargarh vice Abdul Khaliq, AE, who was directed to report to Government for further posting. Copy of this order of Minister was endorsed to Malik Abdul Rehman Khan, MPA, Muzaffargarh. No sooner the above order of Minister LG&RD was implemented by the Secretary by issuing the posting order dated 18.01.1995, another order was issued by the Hon'able Minister LG&RD on 21.01.1995 canceling the order of Secretary LG&RD dated 18.01.1995 which he had issued in compliance with the earlier order of Minister dated 10.01.1995. The Secretary LG&RD dutifully complied with the orders of the Minister and issued another order dared 23.01.1995 canceling earlier posting of the petitioner.

6. The narration of the above facts makes it abundantly clear that none of the orders in the case passed by the Hon'able Minister, transferring or canceling the posting of the petitioner was motivated by the exigencies of the service. The endorsements on the letter of the Minister LG&RD produced before us, sufficiently unveiled the forces at work in the background of these transfers. It required no

intelligence to conclude that these transfer orders were passed by the Hon'able Minister for reasons which had no bearing either with the exigencies of the service or with the good administration of the department. The scenario looked more like a little of wits than an ordinary case of transfer of Government servant as every time the petitioner was able to get a posting order for a particular station. The incumbent already working there was able to frustrate it, perhaps with his better approach or connections, leaving the petitioner in lurch. The ugly situation could be avoided easily by following the existing policy and rules in this regard. The Government of Punjab, as late as 16.03.1980, issued memorandum No. S.O. (COORD) 1-13/79 laying down the broad guidelines for transfer of Government servants. Paragraph 4 of this policy decision lays down amongst other, the following principles for transfer of Government servants.

—4. Transfers of officers and staff shall be made by the authorities specified in Schedule-V to the Punjab Government Rules of Business, 1974 and the Delegation of Powers Rules pertaining to different departments but Services, General Administration and Information Department shall be consulted, if it is proposed to transfer the holder of a tenure post before the completion of his tenure. Before completion of tenure, every officer may be asked to indicate four places of his choice for posting.

No transfer shall normally be made except under the following circumstances:

- a) On completion of tenure/prescribed stay at hard stations.
- b) On completion of 3 years stay at a particular station in other cases.
- c) On compassionate grounds.
- d) On disciplinary grounds.
- e) On promotion/demotion.
- f) Administrative requirements.
- g) No officer/official shall be transferred, who is under special report nor shall earned leave be granted to him except by the order of the authority which placed him under such report.

Transfer before the completion of period of tenure should be ordered only if the competent authority is satisfied that:

- a) The transfer involves appointment to higher service or a post carrying higher emoluments.
- b) The transfer is being made to a post for which the officer has special aptitude, qualifications or experience.
- c) The officer has proved unsuitable in the post from which he is being transferred.
- d) The officer holding a lien on the post, has become available.
- e) The transfer is on compassionate grounds.”

7. No request for transfer of an officer on complaint or fitness to hold a post shall be entertained unless the officer has spent at least three months on his present assignment and a special report has been initiated on his performance.

The spirit behind the transfer policy was stated in the above policy decision as follows:

–The policy of postings should be designed so as to ensure stability in appointments to encourage professionalism by recognizing and promoting merit, while providing an all-round experience to individual officers. In order to avoid stagnation in performance and ideas and to provide dynamic administration, repeated appointments to the same type of job need to be avoided unless in some special cases, specialization is desired. The transfer policy is to be guided foremost by the service of public interest, and the individual's interest is to be integrated therewith as far as possible for ensuring greater harmony and efficiency. Important assignments need to be filled in by those officers, who have good record of service so that they may develop their talent and may make maximum contribution to the public welfare. In case, where officers show certain weaknesses in professional and character traits, they may be so positioned as to be amendable to direction, advice and guidance.”

8. The Rules of Business (Provincial Government) 1974 framed under Article 139 of the Constitution in respect of Province of Punjab, lays down the functions of the Provincial Minister, incharge of an administrative department as follows:-

–6. Functions of the Minister

A Minister shall -

- (a) be responsible for policy matters and for the conduct of business of his Department:

Provided that in important political economic or administrative matters, the Minister shall consult the Chief Minister;

- (b) submit cases to the Chief Minister as required by the provisions of these rules;
- (c) keep the Chief Minister informed of any important case disposed of by him without reference to the Chief Minister; and
- (d) conduct the business relating to his Department in the Assembly.”

9. Rule 21 of the Rules of Business, *ibid*, which deals with the appointment, posting, promotion and transfer of a Government servant reads as follows:

–21. Appointments, Postings, Promotions and Transfers

- (1) Approval of the Chief Minister will be obtained before issue of orders in cases relating to appointments, promotions, postings and transfers to posts mentioned in Schedule-IV.
- (2) Transfers of civil servants shown in column 1 of Schedule-V shall be made by the Authority shown against each in column 2 thereof.

- (3) The Services and General Administration Department shall be consulted if it is proposed to -
- (a) transfer the holder of a tenure post before the completion of tenure or extend the period of his tenure; and
  - (b) require an officer to hold charge of more than one post for a period exceeding four months.
- (4) Tenure.”

10. The normal tenure of posts specified in column I of the Schedule VI shall be as shown against such posts in column 2 thereof.

11. Schedule V of the Rules of Business, *ibid* which is relevant in the present case reads as follows:

SCHEDULE-V  
[See Rule 21(2)]

Authorities competent to make transfers to and from the Secretariat

(i)	Officers of All Pakistan Service	Services and General Administration Department in consultation with the Department concerned
(ii)	Heads of Attached Department and equivalent posts	Ditto
(iii)	Head of Regional Offices	Ditto
(iv)	Officers shown in the Schedule IV, other than those specified above, in the Secretariat	
(v)	Secretaries	Services and General Administration Department
(vi)	Section Officer/Under Secretaries and other officers of equivalent rank: a) within the same Department b) to and from an Attached Department c) within the Secretariat from one Department to another	Secretary Services and General Administration Department Ditto
(vii)	Officials below the rank of Section Officers:	
	a) within the same Department b) to and from an Attached Department/Regional Office c) Within the Secretariat from one Department to another	Secretary Services and General Administration Department Ditto

12. A reading of Rule 21(2) with Schedule V of the Rules of Business *ibid*, makes it clear that the transfer of a Section officer/Under Secretary and other

officers of equivalent rank within the department is to be done by the Secretary of that Department. Rule 21 of Rules of Business, which deals with power of posting, promotion and transfer of Government servants, does not contemplate exercise of these powers by the Minister. The normal period of posting of a Government servant at a station, according to the above referred policy decision of the Government, is 3 years, which has to be followed in the ordinary circumstances, unless for reasons, of exigencies of services mentioned in the aforesaid policy of Government, a transfer before expiry of 3 years period becomes necessary in the opinion of competent authority. The transfer order in the present case, therefore, could be justified on the plea of policy directive of Government referred to above, nor were they sustainable on the language of Rule 21(2) read with Schedule-V of the rules of Business, *ibid*. We are in no doubt that if the transfer orders in the case before us would have been made in accordance with the policy directives of the Government referred to above and power was exercised by the competent authority as contemplated in Rule 21(2) read with Schedule V of the Rules of Business, *ibid*, there would have been no room for maneuvering by the officers affected by such transfer. The fact that the transfers were made in violation of policy directive of the Government which has the status of a Rule, and provisions of Rule 21(2) *ibid*, were not followed strictly, opened the door for the Government servant concerned to bring in outside influences to obtain the desired transfers. We are also sorry to note that the Secretary LG&RD, neither resisted these unethical and desirable mover of his subordinates nor he pointed out to the Hon'able Minister Incharge that the transfer orders made by him from time to time in respect of various officers of his department were neither in conformity with the declared policy of Government nor these transfer orders conform to the provisions of Rule 21(2) of the Rules of Business, *ibid*. It was the duty of the Secretary LG&RD to have pointed out to the minister concerned the extent of his authority in such matter, besides brining to his notice that such frequent transfers of a Government servant could neither be justified as the exigencies of service nor could it be described in the public interest. We are constrained to observe that such unconcerned attitude on the part of head or a Government department is not expected to promote discipline or efficiency in the department On the contrary, such attitude may have a demoralization effect on his subordinates encouraging them to seek intervention, favour of outside agencies, which may ultimately adversely affect the overall discipline and efficiency in the department. We, therefore, expect that the guidelines mentioned in the policy directive referred to above and the provisions of Rule 21 of the Rules of Business, *ibid*, will be kept in view by all concerned while dealing with the transfers of Government servants. The office is directed to send a copy of this judgment to the Government of Punjab for circulating it to all its departments, for future guidance. With these observations, this petition stands dismissed as not maintainable.

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No. SOR.II(S&GAD)2-59/78

Dated the 19<sup>th</sup> April 2003