

Posting of officers: FBR turns a deaf ear to FTO's directives

The Federal Board of Revenue (FBR) has failed to implement a key recommendation of the Federal Tax Ombudsman (FTO) to frame a uniform policy for the posting of all those officers whose tenure at a place, particularly at a native station, is more than an adequate period.

Sources told *Business Recorder* that the FTO observed that the FBR appeared to have failed to implement the key recommendation ie, FBR should frame a uniform policy for the posting out of all those officers and employees whose tenure at a place, particularly at a native station, is more than an adequate period to avoid malpractices and controversies that damage the performance of field formations and give a bad name to the FBR. In this regard, the issue of non-compliance of recommendations was initiated on May 24, 2017 by the FTO office.

When contacted the tax lawyer, Waheed Shahzad Butt, Advocate, who is pursuing the matter of implementation told this correspondent that when supervisory officers like chief commissioner and zonal commissioners close their eyes to the assessing officer's acts of omissions/commissions during assessment, such officials cannot justifiably say that their actions are in good faith.

The Supreme Court in 2012 CLD 520 defines mala fide as it literally means in bad faith and action taken in bad faith is usually action taken 'maliciously', in which the person taking the action does so out of personal motives, either to hurt the person against whom the action is taken or to benefit oneself. There is no concept of unfettered discretion in the fiscal laws of this land and arbitrary exercise of discretionary powers required to be struck down. It has been held in 2001 SCMR 256 that 'discretion becomes an act of discrimination' when it is improper or capricious exercise or abuses of discretionary authority and the person against whom that discretion is exercised faces certain appreciable disadvantages, which he would not have faced otherwise, the lawyer added.

Order passed by the FTO states: It has been claimed in the complaint that complaints were filed by the complainant (Mr Sajjad Ahmed Butt) against Shabir Hussain Maan, IRO, RTO, Sailkot in individual capacity and as AR of some taxpayers on the ground that the said IRO, being a local officer, had become biased and used his influence to transfer some tax cases to his nephews, a tax consultant, who were also tax practitioners in the jurisdiction of the RTO, Sailkot. Some other serious allegations of corruption and ownership of unlawful assets were also leveled by the complainant against the IRO, who has been allegedly serving in Sailkot for a long time. The complaints were filed against an IRO, RTO Sialkot, wherein complainant has been insisting that the said IRO had developed likes and dislikes being a local officer who remained posted in Sailkot for a long time and that his brother also remained posted and retired as an Administrative Officer in the RTO Sialkot. It has further been alleged that the said IRO has developed strong connections for getting the cases of taxpayers transferred to his nephew, who is also a tax consultant, the FTO order said.

It is advisable that the FBR should frame a uniform policy for posting out all those officers and employees whose tenure at a place, particularly at a native station, is more than an adequate

period to avoid malpractices and controversies which damage the performance of field formations and give a bad name to FBR. Such recommendations have been made by this office (FTO office) in various identical cases, including a case in complaint No. 419/2004. This decision was upheld in writ petition by the Lahore High Court, both in original judgement and in the judgement of division bench, cited as Fareedullah Vs FTO. A report in the matter is required to be submitted by FBR within 30 days, the FTO ordered.

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