

ORDER

02.02.2022

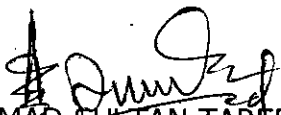
Learned counsel for the appellant present. Mr. ~~Kabirullah Khattak~~


~~Additional Advocate General~~ Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 1018/2021 "Syed Zakir Jan Versus The Commissioner Malakand Division, Saidu Sharif Swat and one another", we are constrained to dismiss the instant service appeal. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

02.02.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

28.01.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Due to paucity of time, arguments could not be heard. To come up for arguments on 02.02.2022 before the D.B.

(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

08.11.2021

Clerk of learned counsel for the appellant present.
Mr. Kabirullah Khattak, Addl: AG for respondents present.

Arguments could not be heard due to general strike
of the Bar. Adjourned. To come up for arguments on
01.03.2022 before D.B.



(Mian Muhammad)
Member(E)



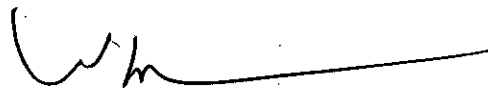
(Rozina Rehman)
Member(J)

01.12.2021

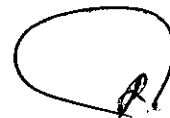
Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate
General for respondents present.

Former made a request for adjournment in order to
prepare the brief; granted. To come up for arguments on
~~18.01~~ 28.01.2022 before D.B.



(Atiq ur Rehman Wazir)
Member (E)

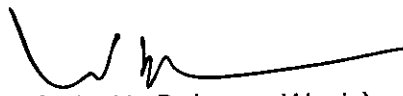


(Rozina Rehman)
Member (J)

19.01.2022

Counsel for the appellant present. Mr. Muhammad
Rasheed, DDA for the respondents present.

Due to paucity of time, arguments could not be
heard. To come up for arguments on 28.01.2022 before
the D.B.



(Atiq-Ur-Rehman Wazir)
Member (E)



Chairman

29.07.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

A request for adjournment was made on behalf of appellant; granted. To come up for arguments on 01.09.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

1-9-21

Due to summer vacations, the case is
adjourned to come up for the same on
dated. 10-10-21

\$
Recorded

1-10-21

DIB is on Tour case to come up
for the same on dated. 8-11-21

\$
Recorded



24.05.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.06.2021 for the same as before.


Reader

07.06.2021

Junior to counsel for the appellant, Mr. Kabirullah Khattak, Addl. AG alongwith Muhammad Ibrahim, Finance Officer for the respondents present.

Respondents have not furnished reply/comments. The respondents are directed to submit written reply within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file to the Worthy Chairman with a report of non-compliance. File to come up for arguments on 28.06.2021 before the D.B. The restraint order dated 26.03.2021 shall remain operative till the date fixed.


(Rozina Rehman)
Member(J)

28.06.2021

Counsel for the appellant and Mr. Javidullah, DDA alongwith Muhammad Ibrahim, Finance Officer for the respondents present.

The Worthy Chairman is on leave, therefore, the Bench is incomplete. To come up for arguments on 29.07.2021 before the D.B. The restraint order dated 26.03.2021 shall remain operative till the date fixed.


(Rozina Rehman)
Member(J)

26.03.2021

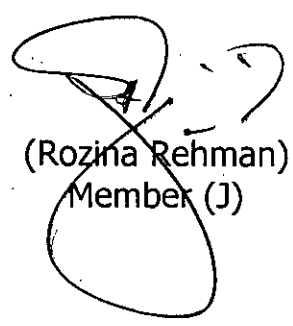
Counsel for the appellant present. Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents. To come up for reply/comments on 12/04/2021 before S.B.

Annex^e with the memo of appeal is an application for interim relief. Notice of the said application be issued to the respondents. In the meanwhile, the operation of the impugned order shall remain suspended, if not acted upon earlier.

Appellant Deposited
Process Fee

23/4/21



(Rozina Rehman)
Member (J)

12.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 28.04.2021 for the same as before.



Reader

28.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 24.05.2021 for the same as before.





Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 3670 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/03/2021	<p>The appeal presented today by Mr. Mir Zaman Safi Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/03/21</u></p> <p style="text-align: right;"> MEMBER(J)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL No. _____/2021

SHAKEEL AHMAD

VS

**COMMISSIONER MKD
& OTHERS**

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 4.
2	Stay application	5.
3	Condonation of delay	6.
4	Application	A	7.
5	No Objection Certificates	B & C	8- 9.
6	Order dated 06.07.2020	D	10.
7	Charge report	E	11.
8	Order dated 28.07.2020	F	12.
9	Applications	G	13- 14.
10	Order dated 11.08.2020 & Departmental appeal	H & I	15- 16.
11	Forwarding letters & comments	J & K	17- 21.
12	Impugned order dated 13.11.2020	L	22.
13	Revision petition	M	23- 24.
14	Rejection	N	25.
15	Transfer/posting policy	O	26- 28.
16	Vakalat nama	29.

APPELLANT

THROUGH: 
MIR ZAMAN SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 3670 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3963

Dated: 19/3/2021

Mr. Shakeel Ahmad, Tehsil Accountant (BPS-08),
Office of the District Kanungo, District Malakand.....APPELLANT

VERSUS

1. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. The Commissioner, Malakand Division at Saidu Sharif, Swat.
3. The Deputy Commissioner, Malakand at Batkhela.

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED ORDERS DATED 11.08.2020 & 13.11.2020
WHEREBY THE ORDER DATED 06.07.2020 AND
ADJUSTMENT/POSTING ORDER DATED 28.07.2020 OF THE
APPELLANT HAVE PRE- MATURELY BEEN WITHDRAWN
AND AGAINST THE IMPUGNED APPELLATE ORDER
DATED 31.12.2020 WHEREBY REVISION PETITION OF THE
APPELLANT HAS BEEN REJECTED ON NO GOOD
GROUNDS.**

PRAYER:

That on acceptance of this service appeal the impugned orders dated 11.08.2020, 13.11.2020 and 03.12.2020 may very kindly be set aside and may not transfer the appellant from Office of the Deputy Commissioner, Malakand. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day
Registrar
19/3/2021

R/SHEWETH:

ON FACTS:

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

- 1- That appellant is the employee of respondent Department and is serving as Tehsil Accountant (BPS-08) in the office of Deputy Commissioner, Malakand at Batkhela, quite efficiently and upto the entire satisfaction of his superiors.
- 2- That appellant while performing his duty as Tehsil Accountant (BPS-08) at the office of Deputy Commissioner, Dir Lower filed an application before

the respondent No.2 for his transfer from the Office of Deputy Commissioner, Dir Lower to the Office of Deputy Commissioner, Malakand. Copy of the application is attached as annexure.....**A**.

- 3- That regarding the posting/adjustment of appellant in District Malakand against the post of Tehsil Accountant (BPS-08) both the authorities i.e. Deputy Commissioner, Dir Lower and Deputy Commissioner, Malakand issued proper NOCs to the appellant vide dated 23.06.2020 and 26.06.2020. Copies of the NOCs are attached as annexure.....**B & C**.
- 4- That vide order dated 06.07.2020 the services of appellant alongwith his another colleague (Mr. Syed Zakir Jan, Tehsil Accountant) were placed by respondent No.2 at the disposal of Deputy Commissioner, Malakand for further posting. That in pursuance of the order dated 06.07.2020 the appellant submitted his charge assumption report on 08.07.2020 in the office of respondent No.3. Copies of the order dated 06.07.2020 and charge report are attached as annexure.....**D & E**.
- 5- That the respondent No.3 properly adjusted the appellant against the vacant post of Tehsil Accountant (BPS-08) in the office of District Kanungo, Malakand vide order dated 28.07.2020. That after adjustment against the vacant post of Tehsil Accountant in the appellant started performing his duty at the concerned station with all zeal and zest. Copy of the order is attached as annexure.....**F**.
- 6- That after adjustment against the said vacant post some local patwar candidates of District Malakand submitted application before the authorities by opposing the posting of appellant on the reason that it was the sole right to be promoted to the post of Tehsil Accountants (BPS-08). That it is pertinent to mention that the patwar candidates who submitted application against the posting of the appellant and against his another colleague, have not been appointed in the said Department yet but the respondent No.3 has been taken action on their application without any lawful justification and withdraw the adjustment order dated 28.07.2020 through impugned order dated 11.08.2020. Copies of the application and impugned order dated 11.08.2020 are attached as annexure.....**G & H**.
- 7- That feeling aggrieved from the impugned order dated 11.08.2020 the appellant preferred Departmental appeal before the respondent No.2 which was properly forwarded through forwarding letter dated 07.09.2020 to the respondent No.3 to furnish his comments on the matter and on the same the respondent No.3 submitted his comments before the respondent No.2 vide dated 30.09.2020. Copies of the Departmental appeal, letters and comments are attached as annexure.....**I, J & K**.

- 8- That astonishingly the respondent No.2 has also been issued the impugned order dated 13.11.2020 whereby order dated 06.07.2020 vide which the services of appellant was placed at the disposal of respondent No.3 is hereby withdrawn. Copies of the impugned order dated 13.11.2020 is attached as annexure.....L.
- 9- That appellant feeling aggrieved preferred revision petition before the respondent No.2 against the order dated 13.11.2020 but the same has been rejected vide impugned appellate order dated 31.12.2020 on no good grounds. Copies of the revision petition and appellate order dated 03.12.2020 are attached as annexure.....M & N.
- 10- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 11.08.2020, 13.11.2020 and 31.12.2020 are against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That impugned orders dated 11.08.2020, 13.11.2020 and 31.12.2020 issued by the respondent No. 2 & 3 are not in the best interest of public service.
- D- That the impugned orders dated 11.08.2020, 13.11.2020 and 31.12.2020 have been issued by the authorities due to political interference/pressure on them.
- E- That the impugned orders dated 11.08.2020 and 13.11.2020 has been issued in clear violation of clause-I, II & IV of the transfer/posting policy of the provincial Government. Copy of the transfer/posting policy is attached as annexure.....O.
- F- That impugned orders dated 11.08.2020 and 13.11.2020 has been issued by the authorities pre-maturely and in violation of the law and rules, hence the same are not tenable in the eye of law and liable to be set aside.
- G- That the post in question is still vacant as no suitable candidates are available in the whole District, so on this score too, the applicant is entitle to serve on the same post.

H- That the appellant seeks permission to advance any other ground at the time of hearing.

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

Dated: 19.03.2021.

APPELLANT


SHAKEEL AHMAD

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

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

SERVICE APPEAL No. _____/2021

Shakeel Ahmad
ZIA ULLAH

VS

**COMMISSIONER MKD
& OTHERS**

**APPLICATION FOR SUSPENSION OF OPERATION OF THE
IMPUGNED ORDERS DATED 11.08.2020, 13.11.2020 &
31.12.2020 TILL THE DISPOSAL OF THE ABOVE
MENTIONED APPEAL**

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned orders dated 11.08.2020, 13.11.2020 & 31.12.2020 whereby the appellant has been pre-maturely transferred from the office of District Kanungo, Malakand to the office of Deputy Commissioner, Dir Lower.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned orders dated 11.08.2020, 13.11.2020 & 31.12.2020 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned orders dated 11.08.2020, 13.11.2020 & 31.12.2020 may very kindly be suspended till the disposal of the above mentioned service appeal.

Dated: 19.03.2021

APPLICANT


SHAKEEL AHMAD

THROUGH:


**MIR ZAMAN SAFI
ADVOCATE**

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

SERVICE APPEAL No. _____/2021

Charceel Ahmed
ZIAULAB

VS

**COMMISSIONER MKD
& OTHERS**

**APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL**

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so far.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2002 PLC C.S 1388, 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.
- C- That the Honourable Supreme Court of Pakistan also held in its judgment that when relief has been given in the identical case, no limitation would run in the same identical case. The same is reported in 1995 SCMR 950 and 2019 SCMR 1004.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT

THROUGH:

MIR ZAMAN SAFI
**MIR ZAMAN SAFI
ADVOCATE**

A-7

To

The commissioner Malakand Division at Saidu Sharif swat.

Through,

Assistant to commissioner (Revenue)

Office of the commissioner Malakand Division.

Subject: Transfer from DC office Dir lower to DC office Malakand.

Honorable sir,

It is submitted that I am performing my duty as Tehsil Accountant (BS-8) in office of the DC Dir Lower in capacity of (Revenue field staff) in district Dir lower since 19, 9, 2009.

Due to my long term tenure now I wish to transfer to another District for the betterment of my service in future.

It is further added that a post of Tehsil accountant (TA) is lying vacant in office of the DC Malakand for which NOC has been obtained from DC Malakand.

Similarly NOC has also been obtained from DC lower Dir. For relieving from the post of Tehsil Accountant,

It is therefore requested that orders for my transfer from district lower Dir to district Malakand on vacant post of Tehsil accountant (TA) may kindly be issued and obliged. I shall be very grateful for you're this kindness.

(Copy of both NOC's issued by DC Malakand & DC Dir Lower are enclosed)

You're sincerely,

Shakeel Ahmad Tehsil Accountant (TA)

DC Office Dir lower.

29-06-2020

ATTESTED

E.A

put up
please
ACR/ta 29/06/2020

49



OFFICE OF THE DEPUTY COMMISSIONER
DISTRICT MALAKAND

No. 8628 /1/2/Estt:

Dated. 23 /06 /2020

To


Mr. Shakeel Ahmad, Tehsil Accountant,
Deputy Commissioner's Office, Dir Lower

Subject:

REQUEST FOR ISSUANCE OF NOC IN RESPECT OF POSTING BY
TRANSFER AS TEHSIL ACCOUNTANT / TEHSIL REVENUE
ACCOUNTANT (BPS-07) IN THE OFFICE OF DEPUTY COMMISSIONER
MALAKAND.

Memo:

Refer to your application dated 03.06.2020 on the subject noted above and it is to inform that this office has got no objection regarding your posting by transfer as Tehsil Revenue Accountant / Tehsil Accountant (BPs-7) against the vacant post in the office of Deputy Commissioner, Malakand.


DEPUTY COMMISSIONER
MALAKAND

Endt: No. 8629-30 /1/2 /Estt:

Copy forwarded to the:-

1. Deputy Commissioner, Dir Lower
2. The Addl: Deputy Commissioner, Malakand


DEPUTY COMMISSIONER
MALAKAND

ATTESTED


10
C-9



**OFFICE OF THE
DEPUTY COMMISSIONER
DIR LOWER**

No. 10380 /Estt
Dated Timergara the 26 06/2020

dcdirlower@gmail.com deputy Commissioner Dir Lower @dcdirlower 0945-9250001

NO OBJECTION CERTIFICATE:

It is certified that Mr Shakeel Ahmad S/O Raham Zeb is serving in this office as Tehsil Accountant (BS-8) w.e.f 19-09-2009. This Office has no objection on his transfer /Adjustment in the office of Deputy Commissioner Malakand.


Deputy Commissioner
Dir Lower 

ATTESTED




OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Dated: 06/07/2020

ORDER

D-10

No. 1775-80 2/19/Estt: The services of Mr. Shakeel Ahmad, Tehsil Accountant, office of the Deputy Commissioner Dir Lower is hereby placed at the disposal of Deputy Commissioner Malakand, for further posting in the larger public interest.

Sd/-
COMMISSIONER MALAKAND DIVISION

Endst: No & Date Even

Copy forwarded to:-

1. The Deputy Commissioner Malakand with reference to letter No.8628/1/2/Estt., dated 23/06/2020.
2. The Deputy Commissioner Dir Lower with reference to letter No.10380/Estt., dated 26/06/2020.
3. The Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. The District Accounts Officers Malakand and Dir Lower.
5. The Official concerned, for compliance.


ASSISTANT TO COMMISSIONER (REV/GEN)
MALAKAND DIVISION.

ATTESTED



P-45 P-60

CHARGE ASSUMPTION REPORT.

✓
E-11

In compliance with the Order of Honourable Commissioner Malakand division at Saidu Sharif swat, Khyber Pakhtunkhwa, issued vide order No.1775-80/2/19/Estt: dated 06-07-2020, I Mr. Shakeel Ahmad, assumed the Charge of the post of Tehsil Accountant in the office of Deputy Commissioner, Malakand today on 08th July, 2020 (F.N).



(SHAKEEL AHMAD)
TEHSIL ACCOUNTANT
DEPUTY COMMISSIONER OFFICE
MALAKAND

No: 9495-981

Dated: 08/07/2020

✓ Copy for information is forwarded to: -

1. The Commissioner, Malakand Division Saidu at Sharif Swat with reference to his order quoted above.
2. The Deputy Commissioner, Dir Lower.
3. The Deputy Commissioner, Malakand.
4. The District Account Officer, Dir Lower.
5. The District Account Officer, Malakand.
6. The Superintendent, DC Office, Malakand.
7. Accounts Assistants DC Office, Malakand.
8. Personal File.


DEPUTY COMMISSIONER
MALAKAND 08/07/20

ATTESTED



61



**OFFICE OF THE DEPUTY COMMISSIONER
MALAKAND**

F-12

OFFICE OF THE COMMISSIONER
Malakand Division.
Diary No. 7137
Date 5-8-20
File No. _____

Dated the: 28/7/2020.

ORDER

No. _____ /1/2/Estt: In pursuance to the Commissioner, Malakand Division' Order No.1775-80/2/19/Estt: dated 06-07-2020 the services of **Mr. Shakeel Ahmad, Tehsil Accountant (BPS-08)** office of the Deputy Commissioner, Dir (Lower) are hereby adjusted against the vacant post of Tehsil Accountant (BPS-07) in the office of Deputy Commissioner, Malakand.

Further, the afore-named incumbent is posted in the office of District Kanungo, Malakand with immediate effect till further orders in the interest of public at large.

**DEPUTY COMMISSIONER,
MALAKAND.**

Endt: No. 10312-22 /1/2/Estt:

Copy forwarded for information to: -

- 1) The Secretary, Board of Revenue, Revenue & Estate Department, -Government of Khyber Pakhtunkhwa, Peshawar.
- 2) The Deputy Commissioner, Dir Lower.
- 3) The Additional Deputy Commissioner, Malakand.
- 4) The Assistant to Commissioner, Malakand Division at Saidu Sharif Swat with reference to above.
- 5) The District Accounts Officer, Dir Lower.
- 6) The District Accounts Officer, Malakand.
- 7) The Superintendent, D.C. Office, Malakand.
- 8) The Accountant, D.C. Office, Malakand.
- 9) The District Kanungo, D.C. Office, Malakand.
- 10) The official concerned for compliance and report.
- 11) For Record.

EA

ATTESTED

mb

[Signature]
**DEPUTY COMMISSIONER,
MALAKAND.**

ADD/9
4/8/20

RIK
Link B file

Plu an.
5/8/2020

(21)

(21)

سید صاحب ملائکہ ڈویژن

G

عنوان: درخواست کنندہ اور ایجنٹس کے درمیان تفریق اور

سائلان کو اپنا حق دینا۔
Secretary

(13)

ACR

جناب عالی: شکرار سے حسب ذیل ہے۔
Pl. take up the matter with DC Malakand

یہ کہ سائلان ضلع ملائکہ کے اعلیٰ باشندگان

for redressal of the genuine grievances of the applicants

یہ کہ سائلان کی بطور شکرار میں بطور ایجنٹس اور ایجنٹس کے نام

درخواست ہے۔ یہ کہ سائلان کو معلوم ہو چکا ہے کہ ACR اسٹیٹ

کمیونٹی صاحب نے دو عدد پوسٹ (T.R.A) ضلع ملائکہ میں دو

افراد کی شکرار کی ہے (جسے آڈر لکھی ہے)

یہ کہ ڈی جی کمیونٹی صاحب ملائکہ نے مذکورہ آڈر کی تصحیح کرتے

10/8/2020

یہ کہ سائلان نے D.C ملائکہ کو شکرار ہی درخواست کی ہے۔

جس پر ناطک عملہ در آمد میں ہوا ہے۔ (جولف ہے)

یہ کہ مورخہ 29/6/2020 کو مذکورہ پوسٹ (Abolish) ہو چکی ہے

یہ کہ پٹواری پوسٹ میں تبدیل ہو چکی ہے اور مذکورہ پوسٹ

پر کثرت پٹواری مورخہ 1/7/2020 سے عملہ آمد ہو چکی ہے

ضلع ملائکہ میں تین عدد T.R.A پوسٹ جو بہوش

E.A

(Signature)

ACR/9

11/08/2020

P.T.O

Reminded (cost) میں ہوتے ہیں

(Reminded) لکھی ہے

put up DFA

or directed

Signature

E/A

(L) 11/12/20 DC (M)

for information

put up DFA for office of

ATTESTED



OFFICE OF THE DEPUTY COMMISSIONER
MALAKAND

Dated: 11/1/2020

ORDER

No. 10938 /1/2/Estt: This office order No. 1031/1/1/2/Estt: dated 28.07.2020 regarding the posting / adjustment of Mr. Shakeel Ahmad as Tehsil Accountant (BPS-08) against the vacant post in the office of Deputy Commissioner, Malakand is hereby withdrawn immediately in the interest of general administration as well as public at large.


DEPUTY COMMISSIONER
MALAKAND

Endt: No. 10939-50 /1/2/Estt:

Copy for information is forwarded to: -

13. The Secretary, Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa, Peshawar.
14. The Deputy Commissioner, Dir Lower.
15. The Additional Deputy Commissioner, Malakand.
16. The Assistant to Commissioner, Malakand Division at Saidu Sharif, Swat with reference to above.
17. The District Accounts Officer, Dir Lower.
18. The District Accounts Officer, Malakand.
19. The Superintendent, D.C. Office, Malakand.
20. The Accountant, D.C. Office, Malakand.
21. The District Kanungo, D.C. Office, Malakand.
22. The official concerned for compliance and report.
23. The District Kanungo, Malakand at Bathkela Secretariat.
24. For record.

ATTESTED



DEPUTY COMMISSIONER
MALAKAND

(16)

بخدمت جناب کمشنر ملاکنڈ ڈویژن صاحب بمقام سید و شریف سوات

درخواست برآمد منسوخی 10938 order No withdrawn

11-08-2020 بابت تشکیل احمد تحصیل اکاونٹنٹ DC آفس ملاکنڈ

Secretary
A.C.R

Signature

commv 27/8/2020

مورد بانہ گزارش ہے۔

جناب عالی۔
28-8-2020

یہ کہ من سائل تشکیل احمد تحصیل اکاونٹنٹ ڈپٹی کمشنر آفس ملاکنڈ / سکرٹریٹ بٹ جیلہ میں اپنا فرایض منصبی مورخہ 08-07-2020 سے سرانجام دے رہا ہوں۔

یہ کہ بعد ازاں ضلع ملاکنڈ کے چند Private افراد نے من سائل کے خلاف کمشنر صاحب ملاکنڈ ڈویژن سوات کو تحریر درخواست گزاری تھی۔ جس میں درخواست دہندہ گان کا موقف تھا۔ کہ سائل کی تعیناتی ضلع ملاکنڈ میں غیر قانونی کی گئی ہے۔ اور درخواست دہندہ گان نے پٹواری ٹریننگ کر کے اسکے حق تلفی کی گئی ہے۔؟

جناب عالی۔ اس حوالے سے من سائل حسب ذیل عرض رساں ہوں۔

- (1) یہ کہ درخواست دہندہ گان ناخال private candidate ہے اور مذکورہ ڈیپارٹمنٹ کے ملازم نہیں ہیں۔ اور نہ درخواست دہندہ گان نے درخواست کے ساتھ پٹواری کے کاغذات اور درخواست گزاران کے دستخط ہائے مثبت ہے اسلئے درخواست گزاران کا من سائل کے خلاف اس نسبت درخواست کرنے کا کوئی قانونی حق حاصل نہ ہے۔
- (2) یہ کہ من سائل پٹواری کیڈر سے نہیں ہوں۔ اور من سائل کا اپنا علیحدہ کیڈر ہے۔ جس کا پٹواری اور قانون گو کیڈر سے کوئی تعلق نہ ہے۔ بلکہ سائل پنے کیڈر کے پرائمری پوسٹ 71-BPS Naib Tehsil Accountant سے اپنے ڈسٹرک لوڈر میں تحصیل اکاونٹنٹ کے پوسٹ پر one step سے پروموٹ ہوا ہوں۔ جس کے بعد من سائل نے اپنے سرورس کی مزید بہتری اور حفاظت کے خاطر دونوں اضلاع کے ڈپٹی کمشنران صاحبان سے NOC s حاصل کر کے بذریعہ کمشنر صاحب ملاکنڈ ڈویژن کے order کے مطابق ضلع ملاکنڈ میں Transfer / Posting adjustment ہوئی ہے۔

- (3) یہ کہ درخواست دہندہ گان نے اپنے درخواست میں جس notification مورخہ 29-06-2020 کا ذکر کیا ہے۔ اسی نوٹیفیکیشن میں ضلع ملاکنڈ شامل نہ ہے۔ اور نہ مذکورہ Notification میں ضلع ملاکنڈ کے تحصیل اکاونٹنٹ کی پوسٹ Abolish کی گئی ہے۔ لہذا درخواست دہندہ گان نے غلط بیانی کر کے انجناب کو Misguide کیا ہے۔ اور post / Creat کے لیے مذکورہ بالا نوٹیفیکیشن پہلے سے جاری ہو چکا ہے۔ کیونکہ مذکورہ پوسٹ کا کیڈر NTA پہلے سے ضلع ملاکنڈ میں موجود ہی نہیں ہے۔

R/K put up with pps please.

28/8/2020

ATTESTED

16/A

(4) یہ کہ ضلع ملاکنڈ میں پہلے سے 12 عدد پٹوار sancion post موجود ہیں۔ جس میں بحال کچھ آسامیاں خالی ہیں۔ جس پر مذکورہ درخواست دہندہ گان، مذکورہ پٹواری پوسٹوں پر مردوجہ قانون کے مطابق بھرتی ہو سکیں گے۔ بدیں وجہ من سائل کی تعیناتی کا درخواست گزاران کے حق تلفی سے کوئی تعلق نہ ہے۔

(5) یہ کہ درخواست دہندہ کا درخواست صرف جھوٹ، بدعتی اور تعصب پر مبنی ہے اور صرف من سائل بے جا تنگ کرنے اور سائل کے سروس کو نقصان پہنچانے کے درپے ہیں۔

جناب عالی : بحالات بالا چونکہ درخواست دہندہ گان کا درخواست پر یکطرفہ کارروائی عمل میں لا کر سائل کی موجودہ posting / adjustment تحصیل اکاؤنٹ ضلع ملکینڈ میں ڈپٹی کمشنر صاحب نے withdrawn کی ہے لہذا آپ صاحبان سے گزارش ہے کہ درخواست دہندہ گان کے درخواست کو بلا مزید قانونی کارروائی خارج فرما کر من سائل کا: Cancel arڈر withdrawn order No. 10938 /1/2/Estb فرمادیں۔

مورخہ 26-8-2000

تخلیل احمد

تخلیل احمد تحصیل اکاؤنٹ بی پی ایس-8 ڈپٹی کمشنر آفس ملاکنڈ ضلع ملاکنڈ

Attest



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

No. 3292-93
2/26 /Estt:

Dated: 07/09/2020

To

The Deputy Commissioner, Malakand

J-17

Subject:-

**APPLICATION FOR WITHDRAWAL OF ORDER NO.10925 AND 10938,
DATED 11/08/2020**

Dear Sir

I am directed to enclose herewith copy of applications submitted by Syed Zakir Jan and Mr. Shakeel Ahmad, Tehsil Accountants, dated 26/08/2020, the contents of which are self-explanatory, on the above noted subject.

2. I am further directed to request to furnish your comments in the subject matter for further course of action please.

ENCLOSED AS ABOVE.


ASSISTANT TO COMMISSIONER (REV/GEN)
MALAKAND DIVISION.

Endst:No & Date Even.

Copy forwarded to PS to Commissioner Malakand Division.


ASSISTANT TO COMMISSIONER (REV/GEN)
MALAKAND DIVISION.

ATTESTED



1900

1900



**OFFICE OF THE DEPUTY COMMISSIONER
MALAKAND**

18

No. 14332 /1/2/Estt:

Dated: 30/9/2020.

To,

**The Assistant to Commissioner (REV/GEN),
Malakand Division, Saidu Sharif, Swat.**

OFFICE OF THE DEPUTY COMMISSIONER

Slary No. 9768

Date 08/10/20

File No. 25

Subject: **APPLICATION FOR WITHDRAWAL OF ORDER NO.10925 AND
10938 DATED 11.08.2020.**

Office Memo: -

Reference: Your letter No.3292-93/2/26/Estt: dated 07.09.2020 on the subject noted above.

2. The required comments are sent herewith as attached for further course of action as desired please.

Encl: As above.

[Signature]
DEPUTY COMMISSIONER
MALAKAND

Secretary / ACR

ATTESTED

SA
6/10/2020

ACR
9/11/20

E.A
ACR
10/09/20

RUK
put up with
PPS
8/10/20

A BRIEF OF THE CASE / COMMENTS: -

K - (19)¹

An application dated 22/07/2020 was filed by the outside's namely M/S Roidar Shah & 14 others, being aggrieved of the adjustments of M/S Shakeel Ahmad and Syed Zakir Jan as Tehsil Revenue Accountant against the two vacant posts in this office which had been lying vacant since long terming the same action as illegal and against the rules particularly that pertaining to district cadre posts as born on the strength of Deputy Commissioner Office Malakand.

Accordingly, the matter was brought into the knowledge of competent authority with following observations as per available record: -

1. That being outsiders, the applicants have provided no such document as enclosure with their request to establish their claim as bona fide residents of District Malakand So, this office is not in a position to comment in this regard:
2. No comments as no such credential has been enclosed with the application to support the stance of said applicants that they had passed Patwar Exam/Patwar qualified and registration may be confirmed from the office of District Administration of Malakand. However, their registration may be confirmed from the office of District Kanungo, Malakand who is the sole custodian and maintainer authorized by the competent authority, Besides, the filling up of currently lying vacant positions of Revenue Patwari (BPS-09) is also being handled by the office of District Kanungo, the current status of which, may be ascertained there-from:
3. That, no illegal recruitment of Tehsil Revenue Accountant (BPS-11) has been carried out by this office. As per rules, the direct recruitment against the post of Tehsil Revenue Accountant (BPS-07) is out of question as post of Tehsil Revenue Account (BPS-07) could / can only be filled – in through the way of promotion only, on the basis of seniority – cum – fitness, from amongst the Naib Tehsil Accountant, having three (03) years' service as such.
It is pertinent to add here that as per existing strength of Deputy Commissioner's Office, Malakand, there is no post / position of Naib Tehsil Accountant and dur to this anomaly, the post i.e. 03 Nos of Tehsil Accountant / Tehsil Revenue Accountant (BPS-07) had been lying vacant since long. Anyhow, the redressal of such like anomalies have recently been taken up by the Finance Department in consultation with the district administration and consequently, a step has been taken by converting the post of Tehsil Accountant / Tehsil Revenue Accountant (BPS_07), Naib tehsil Accountant and Naib Tehsil Office Kanungo to the post of Revenue Patwari (BPS-09) in various districts of Khyber Pakhtunkhwa, excluding this office. Further proceedings in this regard may be ascertained from the concerned section i.e. DK's Office and Budget & Finance Section.
4. That, the posting by transfer against the vacant posts of Tehsil Accountant / Tehsil Revenue Accountant (BPS-07) has been made in accordance with the rules and there is no question of any violation or disregard of anybody's rights involved therein. In addition to that, No Objection Certificates have also been issued from both the corners i.e. originating office of Deputy Commissioner, Dir Lower as well as Deputy Commissioner's Office, Malakand. Further the office of Commissioner, Malakand Division has also placed their services for further adjustment in the office of Deputy Commissioner, Malakand against the vacant posts of Tehsil Revenue Accountant / Tehsil Accountant (BPS-07).

ATTESTED



After going through the afore-explained scenario, it is proposed that an adequate response be made to the applicants concerned, thereby, clarifying that no such action i.e. so called illegal recruitment of Tehsil Revenue Accountant / Tehsil Accountant (BPS-07) has been carried out by the district administration as the way of filling up the same position is promotion only, whereby, the posting by transfer of individuals against the said posts have been made on administrative grounds which would be revisited after the anomaly in downward channel of promotion against the same post be addressed by the high ups.

Continued on

After going through afore-entailed pros & cons, the matter was fixed for joint discussion of establishment Assistant and District Kanungo on 24/07/2020 but could not be carried out as the matter of District Kanungo was seriously ill who was occupied with the patient as attended.

In the meanwhile, the applicants approached the Commissioner's Office without waiting for the disposal of their applicant pending before the Court of Deputy Commissioner this act on behalf of applicants as outsider/public falls in repudiation of settled norms of Judicial Magistrate system.

As far as the impugned order dated 11.08.2020, wherein the adjustment/posting by transfer of M/S Shakeel Ahmad & Syed Zakir Jan as Tehsil Revenue Accountants against the vacant posts in Deputy Commissioner, Office Malakand was done is concerned it is contended that to withdraw its previous order dated 17.07.2020 & 28.07.2020 in the face of building pressure from the public of District Malakand who were resisting the filling up of district cadre posts of Tehsil Revenue Accountant from the outside district candidates as officials working in the office of Deputy Commissioner, Dir Lower.

AM
Establishment Assistant
DC Office Malakand

29/9/2020

ATTESTED

nt

11/11/11 11:11:11 11/11/11

21

CHANNEL OF PROMOTION TO THE POST OF DISTRICT REVENUE ACCOUNTANT

AA = SMBR

District Revenue Actt: (BPS-14)

AA = SMBR

District Kanungo (BPS-14)

↑ Promotion

↑ Promotion

AA = DC

Tehsil Acctt: / T.R.A (BPS-7)

AA = DC

Kanungo (BPS-11)

↑ Promotion

↑ Promotion

AA = DC

Naib Tehsil Accountant (BPS-5)

AA = DC

Revenue Patwari (BPS-9)

ATTESTED

Naib Tehsil Office Kanungo (BPS-7)

By transfer

secretarytocmd@gmail.com

Commissioner Malakand Division

@commissionermkd



L-22

OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Dated: 13/11/2020**ORDER**

No. 3756-60 2/19/Estt: This office order bearing No.1775-80/2/19/Estt., dated 06/07/2020 vide which services of Mr. Shakheel Ahmad , Tehsil Accountant , office of the Deputy Commissioner Dir Lower were placed at the disposal of Deputy Commissioner Malakand, is hereby withdrawn with immediate effect in the best public interest.

By order
COMMISSIONER MALAKAND DIVISION

Endst: No & Date Even

Copy forwarded to:-

1. The Deputy Commissioner Malakand
2. The Deputy Commissioner Dir Lower.
3. The Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. The District Accounts Officers Malakand and Dir Lower.
5. The Officials concerned, for compliance.


ASSISTANT TO COMMISSIONER (REV/GEN)
MALAKAND DIVISION. T

ATTESTED


بخدمت جناب عزت مآب قابل قدر کمشنر ملاکنڈ ڈویژن صاحب

بمقام سید و شریف سوات

M-23

درخواست بمراد نظر سانی / revesion ورحم اپیل بحوالہ حالیہ جاری شدہ آرڈر نمبری-3756
60/2/19/Estt: مورخہ-13,11,2020 بابت تشکیل آئڈ تشکیل اکاؤنٹنٹ

جناب عالی! سائل حسب ذیل عرض ہے۔

(1) - یہ کہ سائل ڈپٹی کمشنر آفس ضلع ملاکنڈ میں بحیثیت تحصیل اکاؤنٹنٹ/TA (بی پی ایس-8) تعینات تھے کہ بعد آزاں جناب ڈپٹی کمشنر صاحب نے پرائیوٹ افراد کی طرف سے جنہوں نے کمشنر ملاکنڈ ڈویژن آفس میں سائل کے پوسٹنگ کے خلاف ذاتی تعصب کے بنا پر ایک درخواست دائر کیا تھا، جو کہ بطور رپورٹ ڈپٹی کمشنر ملاکنڈ مارک شدہ تھا جس پر بعد آزاں ڈپٹی کمشنر ملاکنڈ صاحب نے جلد بازی میں سائل کی پوسٹنگ ایڈجسٹمنٹ کا آرڈر بغیر کسی وجوہات کی بنا پر پرائیوٹ افراد کے درخواست پر یکطرفہ کارروائی کرتے ہوئے سائل کی پوسٹنگ آرڈر withdrawal کی۔ جو کہ سراسر سائل کیساتھ زیادتی اور بے انصافی پر مبنی ہیں۔

(2) یہ کہ سائل نے ڈی سی ملاکنڈ کے مزکورہ withdrawan order کے حوالے سے سائل نے الجناب کمشنر ملاکنڈ ڈویژن صاحب کے ہاں ایک درخواست / اپیل دائر کی تھی جس پر بعد آزاں ڈی سی ملاکنڈ سے رپورٹ و کنٹس طلب کی گئی تھی۔ لیکن اسکے بعد سائل نے کی بد بزیعہ اے سی آر آفس اپیل بدے معلومات کی جو کہ کئی دنوں تک بقول اے سی آر آفس بدوستور میرے فائل / درخواست، اپیل الجناب کمشنر صاحب کے دفتر زیر غور تھا۔

(3) یہ کہ کافی طویل انتظار کے بعد جب معزز دفتر الجناب کمشنر ملاکنڈ ڈویژن صاحب نے بسلسلہ withdrawn order DC Malakand اور اسکے ساتھ ہی جڑا ہوا دوسری بڑی اہم وجہ یہ بھی پائی گی کہ انورزیب نامی بندہ جو کہ ڈی سی آفس لوئر ڈیر میں بحیثیت تحصیل اکاؤنٹنٹ تعینات ہے کہ ایک فائل / کیس میں بورڈ آف ریونیوں نے بلخصوص انورزیب کے کیس فائل کے حوالہ سے ایک اینڈ پوسٹنگ ٹرانسفر آف ریونیوں سٹاف جاری کیا تھا کہ بنیاد پر الجناب کمشنر ملاکنڈ

Pl. exam
3/12
Rdr
COM
3/12
True Copy
Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

ڈویژن صاحب نے سائل کی پوسٹنگ ایڈجسٹمنٹ کا آرڈر واپس ڈی سی آفس لوئر ڈیر جاری کی ہیں

24

(4) یہ کہ مزکورہ انورزیب نامی بندے کا اپنے غیر قانونی درخواست جو کہ بغیر کسی "این او سی" کے پروسس کرنے کا مطلب و مقصد صرف اور صرف جو کہ اسے بورڈ آف ریونیوں کے ایک اہلکار کیساتھ مل ملاپ کی صورت میں سائل کے پوسٹنگ کو صرف نقصان پہنچانا تھا جسکے لئے مزکورہ لیٹر سازش کے تحت بورڈ آف ریونیوں کے اسٹنٹ سیکٹری سے جا رکیا جو کہ ریونیوں سٹاف کے پرموشن پروسیجر کے حوالے سے ہے، جبکہ "ٹی آر اے" کے ٹرانسفر کے حوالے سے نہیں ہے اور نہ مزکورہ رولز میں ایسی کوئی شق موجود ہے۔

(5) یہ کہ مزکورہ لیٹر کا سائل کی ڈسٹرکٹ ملاکنڈ میں تعیناتی اور سائل کی پہلے سے دائر کردہ اپیل سے کوئی بلاواسطہ تعلق نہیں رکھتا ہے جبکہ سائل پہلے سے ڈی سی آفس ملاکنڈ میں ٹرانسفر شدہ تھا اور نہ میں سائل ڈسٹرکٹ ملاکنڈ میں بحیثیت پرموشن گیا ہوں۔

(6) یہ کہ درجہ بالا حقائق کی روشنی میں ضلع ملاکنڈ کے کچھ پرائیوٹ عناصر اور انورزیب نامی بندہ نے گھٹ جوڑ توڑ کر کے سائل کی پوسٹنگ کی خلاف گھناؤنی سازش میں سرکاری دفاتر کو مِس گانڈ کر کے اپنی مقصد میں کامیاب ہوئے جس کے نتیجے میں سائل کی پوسٹنگ واپس ضلع لوئر ڈیر ہوئی۔

(7) مزید عرض کہ سائل کو تمام تر کروائی میں ڈی سی ملاکنڈ اور الجنباب کمشنر آفس ملاکنڈ ڈویژن نے سائل کو وضاحت اور بحث/hearing کا موقع نہ دے کر سائل کے درخواست/اپیل کو مسلسل نظر انداز کر کے نہ صرف سائل کی حق تلفی کی گئی بلکہ حوصلہ شکنی اور سخت مایوسی کا شکار بھی ہوئے۔

جناب عالی.. بحالات بالا انتہائی عاجزانہ آپ صاحبان سے التماس ہے کہ سائل پر رحم کر کے سائل کی اپیل پر دوبارہ نظر ثانی/revision فرمائی جا کر سائل کا تبادلہ واپس ضلع ملاکنڈ کے احکامات صادر فرمادیں...

مورخہ 03-12-2020

شکیل احمد

سائل تاحیات مشکور اور اور دعاگوں رہے گا۔

Attested to be true Copy

Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

سائل شکیل احمد تحصیل آکاؤنٹنٹ ضلع ڈیر پائین

(36)

BEFORE THE COMMISSIONER, MALAKAND DIVISION
AT SAIDU SHARIF SWAT.

Case No.170/CMD

Date of Institution: 03/12/2020

SHAKIL AHMAD TEHSIL ACCOUNTANT, DEPUTY COMMISSIONER OFFICE
MALAKAND AND SYED ZAKIR JAN TEHSIL ACCOUNTANT DEPUTY
COMMISSIONER OFFICE MALAKAND

APPLICATION/APPEAL REGARDING REVISION/REJECTION OF ORDER NO.
3751-55/2/19/ESTT., DATED 13.11.2020 PASSED BY THE COMMISSIONER
MALAKAND DIVISION.

ORDER
31.12.2020

N - (25)

This order shall dispose of the revision/mercy petition filed by the appellants Mr. Shakil Ahmad and Syed Zakir Jan Tehsil Accountants, Dir Lower against the office order No. 3751-55/2/19/Estt., dated 13.11.2020, passed by this court, whereby the appellants were repatriated to their parent office.

In the memo of appeal, the appellants have stated that they were performing their duties as Tehsil Revenue Accountants, in Dir Lower. After following proper procedure and obtaining NOCs from both the Deputy Commissioners, i.e Deputy Commissioner, Dir Lower & Malakand they were transferred to District Malakand vide this office order dated 06.07.2020. They performed their duties with honesty and dedication in District Malakand. Recently due to unknown reason their transfer order was cancelled and they were repatriated to their parental District i.e District Dir Lower vide order dated 13.11.2020, aggrieved from the said order the appellants prepared the instant appeal.

The appellants were heard in person. During the course of personal hearing the appellants failed to convince this court. Furthermore there is no provision in rules for transfer of Tehsil Revenue Accountants from one District to other District. Hence, the revision being meritless is hereby dismissed and this office order dated 13.11.2020 is maintained.

ANNOUNCED:
31.12.2020

Attested to be true Copy
Shahid Khan
Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.
15-01-2021

S.O.
COMMISSIONER MALAKAND DIVISION
Commissioner, Malakand Division

ATTESTED



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) ¹{
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained

²While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

¹ Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules.
² Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

ATTESTED

Muhammad

Attested

ATTESTED

16

(scribble)

27

- 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, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent:	

¹ Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

ATTESTED

Attested

ATTESTED

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 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.

ATTESTED

Attested

ATTESTED

ATTESTED

VAKALATNAMA

Before the Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

_____ OF 2021

Shakeel Ahmad

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Commissioner Malakand & Others (RESPONDENT)
(DEFENDANT)

I/We Shakeel Ahmad

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021

Shakeel Ahmad
CLIENT

Mir Zaman Safi
ACCEPTED

MIR ZAMAN SAFI
ADVOCATE

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.
Mobile No.0323-9295295

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No.3670/2021

Shakeel Ahmed

..... (Petitioner)

VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar & others

..... (Respondents)

INDEX

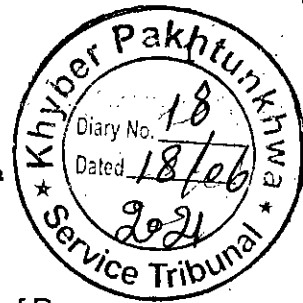
S.No	Description of Documents	Annexure	Page Number
1.	Comments		01-02
2.	Affidavit		03
3.	Application for suspension		04
4.	Addresses of parties		05
5.	Authority		06
6.	Office Order dated 28-07-2020	A	07
7.	Office Order dated 11-08-2020	B	08
8.	Office Order dated 13-11-2020	C	09
9.	Office Order dated 06-07-2020 & Order dated 31-12-2020 and Service Rules	D	10-15
10.	Application in respect of Shakeel Ahmed	E	16-17

Deponent



**Finance Officer
Office of DC Malakand
CNIC: 16101-3137862-7**

BEFORE THE HONRABLE SERVICE TRIBUNAL PESHAWAR,
(SERVICE APPEAL NO.3670/2021)



Shakeel Ahmad -----VS ----- (1) The Senior Member, Board of Revenue,
Khyber Pakhtunkhwa, Peshawar.
(2) The Commissioner, Malakand Division.
(3) The Deputy Commissioner, Malakand.

Subject: - APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT,1974 AGAINST THE IMPUGNED ORDERS DATED 11.08.2020 & 13.11.2020 WHEREBY THE ORDER DATED 06.07.2020 AND ADJUSTMENT/POSTING ORDER DATED 28.07.2020 OF THE APPELLANT HAVE PRE- MATURELY BEEN WITHDRAWN AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 31.12.2020 WHEREBY REVISION PETITION OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth!

Preliminary Objections:

1. *That the petitioner has no locus standi / cause of action to file the instant service appeal against the respondents.*
2. *That the instant service appeal is not maintainable in its present form.*
3. *That the instant service appeal is based on malafide and with ulterior motive.*
4. *That the petitioner has concealed real facts from this Hon'ble Tribunal.*
5. *That the appellant has not come with clean hands to file the instant service appeal.*
6. *That the instant appeal is barred by law & badly time barred.*
7. *That the appeal is bad for mis-joinder & non-joinder of necessary and proper parties.*

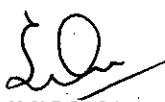
Reply on FACTS: -

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Pertains to record.
5. Pertains to record.
6. Admitted to the extent that the appellant's adjustment/ posting order dated 28/07/2020 (ANNEXURE 'A) against the district cadre post of TRA was withdrawn through order dated 11/08/2020 (ANNEXURE 'B) as did not cover under the rules. Further, the rest of para is incorrect and baseless.
7. Pertains to record.
8. Admitted as the said order dated 13/11/2020 (ANNEXURE 'C) was issued by the Commissioner, Malakand Division thereby withdrawing its preceded order dated 06/07/2020 and regarding adjustment of appellant against the district cadre post of TRA as being not covered by the rules. (ANNEXURE 'D)
9. Pertains to record. Respondent No.2 dismissed the departmental appeal of the appellant dated 26/08/2020 (ANNEXURE 'E)
10. Incorrect.

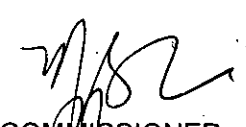
• GROUND:-


- a) Incorrect as the said order has been issued in accordance with the rules & regulation.
- b) The post of Tehsil Revenue Accountant is purely a District Cadre post and transfer/posting of outside District official against the same position is not covered under the rules. Hence, the official from one district cannot be adjusted in another district and therefore, order was withdrawn. Accordingly, the question of staying posted against the same post, on the District Cadre strength, for two years is not justifiable as being having no legal footings and against the rules and regulations.
- c) The said transfer/adjustment order was withdrawn in accordance with the rules and not under any kind of political pressure. The relevant recruitment rules of 2008 vide Para No.7 are quit indicative that Tehsil Revenue Accountant will be promoted on the basis of seniority cum-fitness from amongst the Naib Tehsil Revenue Accountants having three years' service as such.
- d) Incorrect. As an official of one District cannot be transferred to district cadre post of another district.
- e) Impugned orders were passed in public interest according to law and rules.
- f) Incorrect.
- g) Incorrect.
- h) That the respondents also seek permission to agitate further grounds at the time of arguments.

It is, therefore, humbly prayed that on acceptance of instant Para-wise Comments, the instant service appeal may kindly be dismissed with cost.


 COMMISSIONER,
 MALAKAND DIVISION,
 AT SAIDU SHARIF, SWAT.
 (RESPONDENT NO.2)

Commissioner Malakand Division.


 DEPUTY COMMISSIONER,
 MALAKAND.
 (RESPONDENT NO.3)
 Deputy Commissioner,
 Malakand


 SENIOR MEMBER, BOARD OF REVENUE,
 KHYBER PAKHTUNKHWA,
 PESHAWAR.
 (RESPONDENT NO.1)

Senior Member
 Board of Revenue
 Khyber Pakhtunkhwa

BEFORE THE HONRABLE SERVICE TRIBUNAL PESHAWAR,

SERVICE APPEAL NO.3670/2021


Shakeel Ahmad-----VS -----(1) The Senior Member, Board of Revenue,
Khyber Pakhtunkhwa, Peshawar.
(2) The Commissioner, Malakand Division;
(3) The Deputy Commissioner, Malakand.

**Subject: - APPLICATION FOR SUSPENSION OF OPERATION OF THE
IMPUGNED ORDERS DATED 11.08.2020, 13.11.2020 & 31.12. 2020 TILL
THE DISPOSAL OF ABOVE-MENTIONED APPEAL.**


Respectfully Sheweth: -


1. Para no 1 of application needs no reply.
2. In correct as the said orders have been issued as per law and without an iota of immaturity or any kind of violation.
3. In correct.
4. In correct, as the said orders have been issued in accordance with law and relevant rules & regulation.

It is, therefore, humbly prayed that on acceptance of above-arrayed Para-wise Comments, the instant application may kindly be dismissed with cost as the suspension of orders dated 11.08.2020, 13.11.2020 and 31.12.2020 is according to rules/policy. The transfer/posting/adjustment of out district in the said cadre would be clear violation of Rules & Regulation.


COMMISSIONER,
MALAKAND DIVISION,
AT SAIDU SHARIF, SWAT.

(RESPONDENT NO.1)
Commissioner Malakand Division.


DEPUTY COMMISSIONER,
MALAKAND.
Deputy Commissioner,
Malakand
(RESPONDENT NO.3)


SENIOR MEMBER, BOARD OF REVENUE,
KHYBER PAKHTUNKHWA,
PESHAWAR.
(RESPONDENT NO.1)

Senior Member
Board of Revenue
Khyber Pakhtunkhwa

(4)



BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No.3670/2021

Shakeel Ahmed

..... (Petitioner)

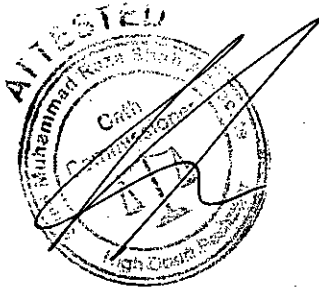
VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar & others

..... (Respondents)

AFFIDAVIT

I, Muhammad Ibrahim, Finance Officer (BPS-17) DC Office Malakand do hereby solemnly affirm and declare on oath that the contents of the accompanying Comments on behalf of the Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court please.



18 JUN 2021

Deponent

**Finance Office
Office of DC Malakand
CNIC: 16101-3137862-7**

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

5

Service Appeal No.3670/2021

Shakeel Ahmed

..... (Petitioner)

VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar & others

..... (Respondents)

Addresses of Parties

Shakeel Ahmed, Tehsil Accountant (BPS-08)

Office of District Kanungo,, District Malakand


..... (Petitioner)

VERSUS

1. The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
2. The Commissioner Malakand Division, Saidu Sharif Swat.
3. The Deputy Commissioner Malakand

..... Respondents

Deponent



**Finance Office
Office of DC Malakand
CNIC: 16101-3137862-7**

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

6

Service Appeal No.3670/2021

Shakeel Ahmed

..... (Petitioner)

VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar & others

..... (Respondents)

AUTHORITY:

Mr. Muhammad Ibrahim, Finance Officer DC Office Malakand is hereby authorized to attend the Service Tribunal, Khyber Pakhtunkhwa Peshawar and submit Comments regarding subject case on behalf of the Respondents.



Commissioner
Malakand Division,
Saidu Sharif Swat
(Respondent No.02)

Commissioner Malakand Division.



Deputy Commissioner
Malakand
(Respondent No.03)
Deputy Commissioner
Malakand



Senior Member Board of Revenue,
Khyber Pakhtunkhwa
Peshawar
(Respondent No.01)

Senior Member
Board of Revenue
Khyber Pakhtunkhwa

**OFFICE OF THE DEPUTY COMMISSIONER
MALAKAND**

OFFICE OF THE COMMISSIONER

Malakand Division.

Diary No. 7137Date 8-8-20

File No. _____

Dated the: 28/7/2020.**ORDER**

No. _____ /1/2/Estt: In pursuance to the Commissioner, Malakand Division' Order No.1775-80/2/19/Estt: dated 06-07-2020 the services of Mr. Shakeel Ahmad, Tehsil Accountant (BPS-08) office of the Deputy Commissioner, Dir (Lower) are hereby adjusted against the vacant post of Tehsil Accountant (BPS-07) in the office of Deputy Commissioner, Malakand.

Further, the afore-named incumbent is posted in the office of District Kanungo, Malakand with immediate effect till further orders in the interest of public at large.

**DEPUTY COMMISSIONER,
MALAKAND.**

Endt: No. 10312-22 /1/2/Estt:

Copy forwarded for information to: -

- 1) The Secretary, Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa, Peshawar.
- 2) The Deputy Commissioner, Dir Lower.
- 3) The Additional Deputy Commissioner, Malakand.
- 4) The Assistant to Commissioner, Malakand Division at Saidu Sharif Swat with reference to above.
- 5) The District Accounts Officer, Dir Lower.
- 6) The District Accounts Officer, Malakand.
- 7) The Superintendent, D.C. Office, Malakand.
- 8) The Accountant, D.C. Office, Malakand.
- 9) The District Kanungo, D.C. Office, Malakand.
- 10) The official concerned for compliance and report.
- 11) For Record.

**DEPUTY COMMISSIONER,
MALAKAND.**

**OFFICE OF THE DEPUTY COMMISSIONER
MALAKAND**

Dated: 11 / 8 / 2020.

ORDER

No. 10935 /1/2/Estt: This office' order No.10311/1/2/Estt: dated 28.07.2020 regarding the posting / adjustment of Mr. Shakeel Ahmad as Tehsil Accountant (BPS-08) against the vacant post in the office of Deputy Commissioner, Malakand is hereby withdrawn immediately in the interest of general administration as well as public at large


**DEPUTY COMMISSIONER
MALAKAND**

Endt: No. 10939-50 /1/2/Estt:

Copy for information is forwarded to: -

13. The Secretary, Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa, Peshawar.
14. The Deputy Commissioner, Dir Lower.
15. The Additional Deputy Commissioner, Malakand.
16. The Assistant to Commissioner, Malakand Division at Saidu Sharif, Swat with reference to above.
17. The District Accounts Officer, Dir Lower.
18. The District Accounts Officer, Malakand.
19. The Superintendent, D.C. Office, Malakand.
20. The Accountant, D.C. Office, Malakand.
21. The District Kanungo, D.C. Office, Malakand.
22. The official concerned for compliance and report.
23. The District Kanungo, Malakand at Batkhela Secretariat.
24. For record.

ATTESTED



**DEPUTY COMMISSIONER
MALAKAND**

secretarytocmd@gmail.com

Commissioner Malakand Division

@commissionermkd



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Dated: 13/11/2020

ORDER

No. 3756-60 2/19/Estt: This office order bearing No.1775-80/2/19/Estt., dated 06/07/2020 vide which services of Mr. Shakheel Ahmad, Tehsil Accountant, office of the Deputy Commissioner Dir Lower were placed at the disposal of Deputy Commissioner Malakand, is hereby withdrawn with immediate effect in the best public interest.


By order
COMMISSIONER MALAKAND DIVISION

Endst: No & Date Even

Copy forwarded to:-

1. The Deputy Commissioner Malakand
2. The Deputy Commissioner Dir Lower.
3. The Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. The District Accounts Officers Malakand and Dir Lower.
5. The Officials concerned, for compliance.


ASSISTANT TO COMMISSIONER (REV/GEN)
MALAKAND DIVISION.

ATTESTED


OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Dated: 06/07/2020

ORDER

No. 1775-80 2/19/Estt: The services of Mr. Shakeel Ahmad, Tehsil Accountant, office of the Deputy Commissioner Dir Lower is hereby placed at the disposal of Deputy Commissioner Malakand, for further posting in the larger public interest.


Sd/-
COMMISSIONER MALAKAND DIVISION

Endst: No & Date Even

Copy forwarded to:-

1. The Deputy Commissioner Malakand with reference to letter No.8628/1/2/Estt., dated 23/06/2020.
2. The Deputy Commissioner Dir Lower with reference to letter No.10380/Estt., dated 26/06/2020.
3. The Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. The District Accounts Officers Malakand and Dir Lower.
5. The Official concerned, for compliance.


~~ASSISTANT TO COMMISSIONER (REV/GEN)~~
MALAKAND DIVISION.

ATTESTED


P-45

P-60

(36)

(11)

BEFORE THE COMMISSIONER, MALAKAND DIVISION
AT SAIDU SHARIF SWAT.

Case No.170/CMD

Date of Institution: 03/12/2020

SHAKIL AHMAD TEHSIL ACCOUNTANT, DEPUTY COMMISSIONER OFFICE
MALAKAND AND SYED ZAKIR JAN TEHSIL ACCOUNTANT DEPUTY
COMMISSIONER OFFICE MALAKAND

APPLICATION/APEAL REGARDING REVISION/REJECTION OF ORDER NO.
3751-55/2/19/ESTT. DATED 13.11.2020 PASSED BY THE COMMISSIONER
MALAKAND DIVISION.

N-25

ORDER
31.12.2020

This order shall dispose of the revision/mercy petition filed by the appellants Mr. Shakil Ahmad and Syed Zakir Jan Tehsil Accountants, Dir Lower against the office order No. 3751-55/2/19/Estt. dated 13.11.2020, passed by this court, whereby the appellants were repatriated to their parent office.

In the memo of appeal, the appellants have stated that they were performing their duties as Tehsil Revenue Accountants, in Dir Lower. After following proper procedure and obtaining NOCs from both the Deputy Commissioners, i.e Deputy Commissioner, Dir Lower & Malakand they were transferred to District Malakand vide this office order dated 06.07.2020. They performed their duties with honesty and dedication in District Malakand. Recently due to unknown reason their transfer order was cancelled and they were repatriated to their parental District i.e District Dir Lower vide order dated 13.11.2020, aggrieved from the said order the appellants prepared the instant appeal.

The appellants were heard in person. During the course of personal hearing the appellants failed to convince this court. Furthermore there is no provision in rules for transfer of Tehsil Revenue Accountants from one District to other District. Hence, the revision being meritless is hereby dismissed and this office order dated 13.11.2020 is maintained.

ANNOUNCED:
31.12.2020

Attested to be true Copy

Shakil Ahmad
Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

15-01-2021

SQ
COMMISSIONER MALAKAND DIVISION

Commissioner, Malakand Division.

Annexure

(14)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE / REVENUE AND ESTATE DEPARTMENT.

(TEHSILDAR, NAIB TEHSILDAR / SUBORDINATE REVENUE SERVICE RULES, 2008)

NOTIFICATION

Established, dated 23-01-2015

No. 1942/Estt:1/135/SSRC. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with the Cabinet Division Notification No. SKO. 45/1/2001 dated 28th June, 2001 and in supersession of an previous rules issued by the Revenue and Estate Department, in consultation with the Establishment and the Finance Department, hereby lay down the method of recruitment, qualification and conditions specified in column 3 to 7 of the Appendix to this Notification and applicable to posts born on the cadre strength of Revenue and Estate Department in column 2 of the said appendix:-

APPENDIX

1	2	3	4	5	6	7
S.No	Nomenclature of the post	Appointing Authority	Minimum Qualification for appointment by initial recruitment or by transfer	Minimum Qualification for appointment by promotion	Age limit	Method of recruitment
1.	Tehsildar (BPS 16)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Deleted	21 - 30 years For initial recruitment	(a) Twenty percent by initial recruitment: and (b) Sixty percent by promotion, on the basis of joint selection from amongst Naib Tehsildars, District Revenue Officers, Kanungos and Sub-Registrar with at least five years service. (c) Twenty percent by promotion on the basis of joint selection from amongst Assistants of the office of Board of Commissioners, Deputy Commissioners and Political Officers with at least five years service as such.

Information received
ABC
9/2/2015

15

1	2	3	4	5	6	7
1 A	Reader to Senior Member / Members Board of Revenue	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
	Inspector Stamps	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
	Naib Tehsildar (BPS 14)	Secretary (SMBR)	Graduation from any University recognized by the Higher Education Commission		20 years For initial recruitment	(a) twenty percent by initial recruitment, through subject Service Commission based on the result of a Com conducted by it in accordance with syllabus, and (b) twenty five percent by promotion on the basis of Ser from amongst Kanungos with at least Five Years Servi passed the Departmental Examination of Naib Tehsildar. (c) fifteen percent by promotion, on the basis of joint Ser from amongst Senior Clerks of the office of Board of Re and Deputy Commissioners Offices in the Division conce (d) Ten percent by promotion on the basis of senior amongst Junior Clerks as Political Muharrirs of the offic with atleast ten years service.
3.	District Kanungo (Saddar Kanungo) (BPS 14)	Administrative Secretary (SMBR)	-	-	-	By promotion on the basis of seniority-cum-fitness, from of the concerned District with at-least three years service
4.	Head Clerk Revenue (BPS - 14)		-	-	-	By transfer from amongst Naib Tehsildar (Deleted) (Post has been abolished)

	1	2	3	4	5	6	7
6	District Revenue Accountant (BPS-11)	Administrative Secretary (SMBR)					By promotion, on the basis of seniority-cum-fitness, from Accountant of the district with at least three years service as such.
7	Kanungo (BPS-11)	District Collector					By promotion, on the basis of seniority-cum-fitness, from am and Naib Office Kanungos of the district concerned with this such and who have passed the Departmental examination of F
8	Tehsil Accountant	District Collector					By promotion, on the basis seniority-cum-fitness from among Accountants having three (03) years service as such.
8	Patwari (BPS-09)	District Collector	Intermediate or equivalent qualification, who have passed the Patwar Examination.			18 to 35	"By initial appointment from amongst the Patwar passed ca the Tehsil patwar candidate register maintained by District district concerned.
9	Naib Tehsil Accountant / Naib Tehsil Office Kanungo	District Collector					By transfer from amongst the Patwaris.

M. S. S.

15
No 1943-81/Estt: I/135/SSRC

17

Copy forwarded for information and necessary action to the:-

- 13
1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
 2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
 3. Secretary to Government of Khyber Pakhtunkhwa Education Department.
 4. Secretary Khyber Pakhtunkhwa Public Service Commission.
 5. Registrar Peshawar High Court.
 6. Government Secretariat Peshawar.
 7. All Commissioners / Political Agents in Khyber Pakhtunkhwa.
 8. All Deputy Commissioners, Khyber Pakhtunkhwa.
 9. Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
 10. Controller, Government Printing Press Peshawar with the request to publish the above notification in the official Gazette and supply 50 copies thereof to the undersigned for record.

DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKH
REVENUE & ESTATE DEPARTMENT

بخدمت جناب کمشنر ملاکنڈ ڈویژن صاحب بمقام سید و شریف سوات

درخواست برآمد منسوخی No 10938

11-08-2020 بابت تشکیل احمد تحصیل اکاونٹنٹ DC آفس ملاکنڈ

Secretary
A.C.R.

commr

27/8/2020

موءد بانہ گزارش ہے۔
جناب عالی۔
28-8-2020

یہ کہ من سائل تشکیل احمد تحصیل اکاونٹنٹ ڈپٹی کمشنر آفس ملاکنڈ سکرٹریٹ بٹ جیلہ میں اپنا فرایض منصبی مورخہ 08-07-2020 سے سرانجام دے رہا ہوں۔

یہ کہ بعد ازاں ضلع ملاکنڈ کے چند Private افراد نے من سائل کے خلاف کمشنر صاحب ملاکنڈ ڈویژن سوات کو تحریر درخواست گزاری تھی۔ جس میں درخواست دہندہ گان کا موقف تھا۔ کہ سائل کی تعیناتی ضلع ملاکنڈ میں غیر قانونی کی گئی ہے۔ اور درخواست دہندہ گان نے پٹواری ٹریننگ کر کے اسکے حق تلفی کی گئی ہے۔؟

جناب عالی۔ اس حوالے سے من سائل حسب ذیل عرض رساں ہوں۔

- (1) یہ کہ درخواست دہندہ گان تا حال private candidate ہے اور مذکورہ ڈیپارٹمنٹ کے ملازم نہیں ہیں۔ اور نہ درخواست دہندہ گان نے درخواست کے ساتھ پٹواری کے کاغذات اور درخواست گزاران کے دستخط ہائے ثبت ہے اسلئے درخواست گزاران کا من سائل کے خلاف اس نسبت درخواست کرنے کا کوئی قانونی حق حاصل نہ ہے۔
- (2) یہ کہ من سائل پٹواری کیڈر سے نہیں ہوں۔ اور من سائل کا اپنا علیحدہ کیڈر ہے۔ جس کا پٹواری اور قانون گو کیڈر سے کوئی تعلق نہ ہے۔ بلکہ سائل نے کیڈر کے پرائمری پوسٹ 71-BPS Naib Tehsil Accountant سے اپنے ڈسٹرک لوڈیر میں تحصیل اکاونٹنٹ کے پوسٹ پر one step سے پروموٹ ہوا ہوں۔ جس کے بعد من سائل نے اپنے سرورس کی مزید بہتری اور حفاظت کے خاطر دونوں اضلاع کے ڈپٹی کمشنران صاحبان سے NOCs حاصل کر کے بذریعہ کمشنر صاحب ملاکنڈ ڈویژن کے order کے مطابق ضلع ملاکنڈ میں Transfer / Posting adjustment ہوئی ہے۔

- (3) یہ کہ درخواست دہندہ گان نے اپنے درخواست میں جس notification مورخہ 29-06-2020 کا ذکر کیا ہے۔ اسی نوٹیفکیشن میں ضلع ملاکنڈ شامل نہ ہے۔ اور نہ مذکورہ Notification میں ضلع ملاکنڈ کے تحصیل اکاونٹنٹ کی پوسٹ Abolish کی گئی ہے۔ لہذا درخواست دہندہ گان نے غلط بیانی کر کے انجناب کو Misguide کیا ہے۔ اور post / Creat کے لیے مذکورہ بالا نوٹیفکیشن پہلے سے جاری ہو چکا ہے۔ کیونکہ مذکورہ پوسٹ کا کیڈر NTA پہلے سے ضلع ملاکنڈ میں موجود ہی نہیں ہے۔

R/K
put up with
pps meam.

28/8/2020

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(4) یہ کہ ضلع ملاکنڈ میں پہلے سے 12 عدد پستور sancion post موجود ہیں۔ جس میں سماں آچھ آسامیاں خالی ہیں۔ جس پر مذکورہ درخواست دہندہ گان، مذکورہ پستوری پوسٹوں پر مرد جب قانون کے مطابق تخریبی ہوگیس کے بدیں جب من سائل کی تعیناتی کا درخواست گزاران کے حق تلخی سے کوئی تعلق نہ ہے۔

(5) یہ کہ درخواست دہندہ کا درخواست صرف جھوٹ، بدتی اور تعصب پر مبنی ہے اور صرف من سائل بے جا تنگ کرنے اور سائل کے سروں کو نقصان پہنچانے کے درپے ہیں۔

جناب عالی : بحالات بالا چونکہ درخواست دہندہ گان کا درخواست پر یکطرفہ کارروائی عمل میں لا کر سائل کی موجودہ posting / adjustment تحصیل اکاؤنٹ ضلع ملکینڈ میں ڈپٹی کمشنر صاحب نے withdrawn کی ہے لہذا آپ صاحبان سے گزارش ہے کہ درخواست دہندہ گان کے درخواست کو بلا مزید قانونی کارروائی خارج فرما کر من سائل کا: Canceled withdrawn order No. 10938 /1/2/Estb فرمادیں۔

مورخہ 26-8-2000

آلغری

فکیل احمد تحصیل اکاؤنٹ بی پی ایس-8 ڈپٹی کمشنر آفس ملاکنڈ ضلع ملاکنڈ



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

Service Appeal No. 1018 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1155

Dated 18/11/2021

Syed Zakir Jan Son of Barakat Jan
Tehsil Accountant (BPS-07)
Deputy Commissioner Office, District Malakand
R/o Mian Banda, Tehsil Timergara, District Dir Lower

.....Appellant

VERSUS

1. The Commissioner,
Malakand Division, Saidu Sharif Swat
2. The Deputy Commissioner,
District Malakand

.....Respondents

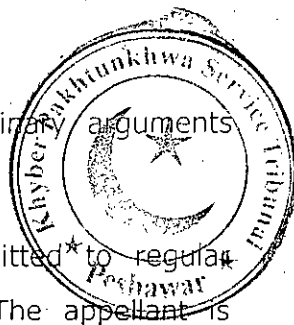
SERVICE APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED ORDER
DATED 11.08.2020. WHEREBY THE
POSTING/ADJUSTMENT OF APPELLANT AS
TEHSIL ACCOUNTANT (BPS-08) AGAINST
THE VACANT POST IN THE OFFICE OF
DEPUTY COMMISSIONER, MALAKAND
WAS WITHDRAWN, THE IMPUGNED ORDER
DATED 13.11.2020 WHEREBY THE ORDER
DATED 06.07.2020 WAS WITHDRAWN

Filed to-day
18/11/2021
Registrar

Certified to be true copy
EXAMINED
Khyber Pakhtunkhwa
Service Tribunal

22.01.2021

Appellant with counsel present. Preliminary arguments heard. File perused.



Points raised need consideration. Admitted* to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 08.02.2021 before S.B.

Appellant Deposited Security & Process Fee

Annexed with the memo of appeal is an application for interim relief. Notice of the said application be issued to the respondents. In the meanwhile, the operation of impugned order shall remain suspended, if not acted upon earlier.

(Rozina Rehman)
Member (J)

Date of Presentation of Application 25/3/21

Number of Words 800

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Date of Completion of Copy 25/3/21

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Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

1995SCMR950

[Supreme Court of Pakistan]

Present: Ajmal Mian, Zia Mahmood Mirza and Muhammad Munir Khan, JJ

ANWAR MUHAMMAD ---Appellant

versus

GENERAL MANAGER, PAKISTAN RAILWAYS, LAHORE and another---Respondents

Civil Appeal No. 415 of 1992, decided on 30th November, 1994.

(On appeal from the judgment dated 1-9-1991 of the Federal Service Tribunal, Islamabad, passed in Appeal No. 96(L)/1991).

(a) Constitution of Pakistan (1973)---

----Art. 212(3)---Adverse remarks---Departmental appeal against adverse remarks although was not dismissed on point of limitation, yet appeal before Service Tribunal was dismissed on point of limitation---Validity---Leave to appeal was granted to consider whether Service Tribunal was justified to dismiss appeal on ground of limitation when Competent Authority did not dismiss the same on said ground but dismissed the same on merits.

A Guide to Performance Evaluation, para. 3.39 ref.

✓(b) Civil service-

---- Constitution of Pakistan (1973), Art. 212---Departmental Authority had not dismissed departmental appeal on ground of limitation but on merits---No objection having been raised before Departmental Authority relating to limitation, Authority would be deemed to have condoned the delay---Service Tribunal should, thus, have decided the same on merits and not on limitation---Case was remanded to Service Tribunal for decision afresh on merits.

S.M. Masood, Advocate Supreme Court and Sh. Masood Akhtar, Advocate-on-Record for Appellant.

Ch. Fazle Hussain, Advocate Supreme Court and Ch. Muhammad Aslam, Advocate-on-Record for Respondents.

Date of hearing: 30th November, 1994.

JUDGMENT

AJMAL MIAN, J.---This is an appeal with the leave of this Court against the judgment dated 1-9-1991 passed by the Federal Service Tribunal, Islamabad, hereinafter referred to as the Tribunal, in Appeal No. 96(L) of 1991, filed by the appellant against the order dated 9-4-1991 of respondent No.2, dismissing his representation treated as an appeal against the adverse remarks recorded in his A.C.R. for the period ending on 31-12-1983 under column (2)(F) 'Ability to work under stress and strain', "Below average", dismissing the same on the ground that the appellant's above representation/appeal was hopelessly time-barred. Leave to appeal was granted to consider the question, whether the Tribunal was justified to dismiss the above appeal on the ground of limitation when the competent authority did not dismiss the same on the above ground but dismissed it on merits.

2019 S C MR 1004

[Supreme Court of Pakistan]

Present: Sh. Azmat Saeed, Faisal Arab and Ijaz ul Ahsan, JJ

MUHAMMAD ASHRAF and others---Petitioners

Versus

U.B.L. and others---Respondents

Civil Petitions Nos. 2701-L, 2994-L and 3032-L of 2016, decided on 9th April, 2019.

(On appeal from judgment dated 6.6.2016, passed by the Lahore High Court, Lahore, in E.F.As. Nos. 880 and 896 of 2015)

(a) Limitation---

---Where an order or judgment was challenged through separate proceedings be it appeals or petitions, some of which were within time, while the others had been filed beyond the period of limitation, all such appeals or petitions ought to be decided on merit especially when an order in one appeal or petition (within time) would apply to the other appeal or petition, which may be barred by limitation.

(b) Civil Procedure Code (V of 1908)---

---O. XXI, Rr. 89 & 90---Auction of judgment debtor's properties, confirmation of---Executing Court, duty of---Scope---Even in the absence of an objection petition, the Executing Court was not required to automatically confirm an auction mechanically and without application of mind by not even considering the law applicable.

National Bank of Pakistan and 117 others v. SAF Textile Mills Ltd. and another PLD 2014 SC 283 ref.

(c) Civil Procedure Code (V of 1908)---

---O. XXI, R. 90---Auction of judgment debtor's properties---Legal flaws---Admittedly ten (10) separate properties were directed to be auctioned at the different sites at the same time, which was a physical impossibility, even if the properties were located within a one mile radius---Auction proceedings, thus, were not held at the sites in violation of the terms of the proclamation---Similarly, there were no bid sheets available on the record, the same having not been prepared by the Court auctioneer---Record did not clearly establish that 25% of the auction price of each of the properties were deposited on the fall of the hammer, therefore, it could not be safely held that the properties were auctioned in accordance with the law, nor could it be held that such auction, with obvious legal flaws, could have been confirmed by the Court even if the objection petition was not maintainable---Supreme Court set-aside the auctions along with ancillary actions and directed that the sale price received by the Bank shall be refunded to the auction purchaser along with mark up at the rate of 5% per annum; and that the possession of the properties shall be taken over by the Banking Court from the auction purchaser and the properties shall be put to auction again in accordance with law.

Shahid Ikram Siddiqui, Advocate Supreme Court for Petitioners (in C.P. 2701-L of 2016).

Fakhar-uz-Zaman Akhtar Tarar, Advocate Supreme Court and Shahid Ikram Siddiqui, Advocate Supreme Court for Petitioners (in C.Ps. Nos. 2994-L and 3032-L of 2016).

Habib Ahmed Bhatti, Advocate Supreme Court for Respondent No. 1 (in all C.Ps.).

Fakhar-uz-Zaman Akhtar Tarar, Advocate Supreme Court for Respondent No.2 (in C.P. No. 2701-L of 2016).

Muhammad Ramzan Ch., Senior Advocate Supreme Court for Respondents Nos. 2 to 7 (in

C.Ps. Nos. 2994-L and 3032-L of 2016).

Date of hearing: 9th April, 2019.

JUDGMENT

SH. AZMAT SAEED, J.---Through this judgment, it is proposed to decide titled Civil Petitions for Leave to Appeal, which are directed against a common judgment dated 06.06.2016, passed by a learned Division Bench of the Lahore High Court, Lahore, whereby Execution First Appeals Nos. 880 and 896 of 2015, have been dismissed.

2. The brief facts necessary for adjudication of the lis at hand are that the Respondent Bank filed a Suit for Recovery, which was decreed and such judgment and decree admittedly attained finality. The execution proceedings commenced and during the course whereof, the properties of the judgment-debtors were directed to be auctioned. The present Petitioners are the judgment-debtors or successors-in-interest thereof.

3. Apparently, 10 properties were directed to be put on auction. Such auction was purportedly held. Whereafter, Objection Petitions were filed by the judgment-debtors, which were dismissed. Subsequently, the appellate jurisdiction of the learned Lahore High Court was invoked by filing Execution First Appeals Nos.880 and 896 of 2015, which were dismissed vide impugned judgment dated 06.06.2016.

4. Out of the three instant Civil Petitions before us, one Civil Petition bearing No.3032-L of 2016 is barred by limitation and accompanied by an application for condonation of delay i.e. Civil Misc. Application No.3057 of 2016, while the other two Civil Petitions bearing Nos.2701-L and 2994-L of 2016 are within time. It is settled law that where an order or judgment is challenged through separate proceedings be it appeals or petitions, some of which are within time, while the others have been filed beyond the period of limitation, all such appeals or petitions ought to be decided on merit especially when an orders in one appeal or petition (within time) would apply to the other appeal or petition, which may be barred by limitation. Consequently, it is appropriate to decide all three Civil Petitions on merits.

5. The learned counsel for the Petitioners contends that the auctions in question were held in violation of the law and neither could be sustained nor could the objection petitions be dismissed for non-deposit of 20% of the decretal amount as the Objection Petitions have been filed not only under Order XXI, Rule 90, C.P.C. but also in terms of section 19, subsection (7) of the Financial Institutions (Recovery of Finances) Ordinance, 2001. It is added that in terms of the Schedule, 10 properties were to be auctioned at the sites at the same time by the same Court auctioneer, which was a physical impossibility thereby denuding the claim of the decree-holder Bank that any legal auction of all credibility took place. It is added that there are no bid sheets or other documents suggesting or confirming that the auction had taken place. The entire proceedings were fictitious and a sham. Learned counsel adds that the Court auctioneer continued to hold auction proceedings even after the auction price of some of the properties exceeded the decretal amount. Furthermore, the terms and conditions of the auction are violated in as much as 25% of the amount offered was not deposited on the fall of the hammer.

6. The learned counsel for the Respondent Bank as well as the auction purchasers controverted the contentions raised on behalf of the Petitioners by contending that since the mandatory provisions under Order XXI, Rule 90, C.P.C. requiring deposit of 20% of the decretal amount was not complied with, hence the Objection Petitions were correctly dismissed and no exception could be taken thereto and contentions of the Petitioners cannot be even considered as well as adjudicated upon. It is further contended that all 10 properties were enclosed approximately within a radius of one mile and, therefore, could be safely auctioned together at one place. It is also added that the terms and conditions were fixed by the Court and in the absence of challenge had attained finality, therefore, no grievance in this behalf, could be raised.

7. Heard. Available record perused.

8. The mainstay of the contentions of the learned counsel for the Respondent Bank and the auction purchaser is the alleged non-deposit of 20% of the decretal amount in terms of Order XXI, Rule 90, C.P.C. Such is also the primary basis of the impugned judgment dated 06.06.2016 of the learned High Court. Without dwelling further on this aspect of the matter, we are constrained to observe that there can be no escape from the fact that even in the absence of an Objection Petition, learned Executing Court is not required to automatically confirm an auction mechanically and without application of mind by not even, considering the law applicable. Such is the law laid down by this Court in the case reported as National Bank of Pakistan and 117 others v. SAF Textile Mills Ltd. and another (PLD 2014 SC 283).

9. In the instant case, there is no denying of the fact that 10 separate properties were directed to be auctioned at the "sites" at the same time. As per the case of the Respondent Bank, the said properties are allegedly within one mile radius (this is disputed by the Petitioners). Be that as it may, it is a physical impossibility that an auction of 8 properties as alleged could be held at the same time at 8 different places even if the said properties were approximately within a radius of a mile. It appears that the auction was not held at a site in violation of the terms of the proclamation. Similarly, we have noticed that there are no bid sheets available on the record, the same having not been prepared by the Court auctioneer. It is also not clear that 25% of the auction price of each of the said properties were deposited on the fall of the hammer. There is some reference of the subsequent deposit through encashment of cheques. In the aforesaid circumstances, it cannot be safely held that the properties were auctioned in accordance with the law, nor can it be held that such auction, with obvious legal flaws, could have been confirmed by the Court even if the Objection. Petition was not maintainable. It appears that the learned Courts below abdicated their jurisdiction and responsibility, in this behalf.

10. In view of the above, the titled. Civil Petitions are converted into appeals and allowed. The impugned judgment dated 06.06.2016 of the learned Lahore High Court as well as the judgment of the learned Execution Court dated 14.05.2015 are set aside. The auctions are set aside along with all ancillary actions. The sale price received by the Respondent Bank shall be refunded to the auction purchaser along with mark up at the rate of 5% per annum. The possession of the properties shall be taken over by the learned Banking Court from the auction purchaser and the properties shall be put to auction again and this time hopefully in accordance with the law.

MWA/M-18/SC
allowe

Petition

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No.3670/2021

Shakeel Ahmed

..... (Petitioner)

VERSUS

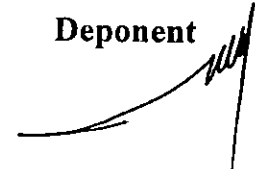
Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar & others

..... (Respondents)

INDEX

S.No	Description of Documents	Annexure	Page Number
1.	Comments		01-02
2.	Affidavit		03
3.	Application for suspension		04
4.	Addresses of parties		05
5.	Authority		06
6.	Office Order dated 28-07-2020	A	07
7.	Office Order dated 11-08-2020	B	08
8.	Office Order dated 13-11-2020	C	09
9.	Office Order dated 06-07-2020 & Order dated 31-12-2020 and Service Rules	D	10-15
10.	Application in respect of Shakeel Ahmed	E	16-17

Deponent



Finance Officer
Office of DC Malakand
CNIC: 16101-3137862-7

BEFORE THE HONRABLE SERVICE TRIBUNAL PESHAWAR,

(SERVICE APPEAL NO.3670/2021)

Shakeel Ahmad -----VS----- (1) The Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
(2) The Commissioner, Malakand Division.
(3) The Deputy Commissioner, Malakand.

Subject: - APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT,1974 AGAINST THE IMPUGNED ORDERS DATED 11.08.2020 & 13.11.2020 WHEREBY THE ORDER DATED 06.07.2020 AND ADJUSTMENT/POSTING ORDER DATED 28.07.2020 OF THE APPELLANT HAVE PRE- MATURELY BEEN WITHDRAWN AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 31.12.2020 WHEREBY REVISION PETITION OF 'THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth!

Preliminary Objections:

1. *That the petitioner has no locus standi / cause of action to file the instant service appeal against the respondents.*
2. *That the instant service appeal is not maintainable in its present form.*
3. *That the instant service appeal is based on malafide and with ulterior motive.*
4. *That the petitioner has concealed real facts from this Hon'ble Tribunal.*
5. *That the appellant has not come with clean hands to file the instant service appeal.*
6. *That the instant appeal is barred by law & badly time barred.*
7. *That the appeal is bad for mis-joinder & non-joinder of necessary and proper parties.*


Reply on FACTS: -

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Pertains to record.
5. Pertains to record.
6. Admitted to the extent that the appellant's adjustment/ posting order dated 28/07/2020 (ANNEXURE 'A) against the district cadre post of TRA was withdrawn through order dated 11/08/2020 (ANNEXURE 'B) as did not cover under the rules. Further, the rest of para is incorrect and baseless.
7. Pertains to record.
8. Admitted as the said order dated 13/11/2020 (ANNEXURE 'C) was issued by the Commissioner, Malakand Division thereby withdrawing its preceded order dated 06/07/2020 and regarding adjustment of appellant against the district cadre post of TRA as being not covered by the rules. (ANNEXURE 'D)
9. Pertains to record. Respondent No.2 dismissed the departmental appeal of the appellant dated 26/08/2020 (ANNEXURE 'E)
10. Incorrect.

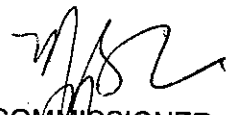
GROUNDS: -

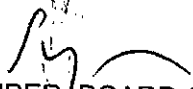
- a) Incorrect as the said order has been issued in accordance with the rules & regulation.
- b) The post of Tehsil Revenue Accountant is purely a District Cadre post and transfer/posting of outside District official against the same position is not covered under the rules. Hence, the official from one district cannot be adjusted in another district and therefore, order was withdrawn. Accordingly, the question of staying posted against the same post, on the District Cadre strength, for two years is not justifiable as being having no legal footings and against the rules and regulations.
- c) The said transfer/adjustment order was withdrawn in accordance with the rules and not under any kind of political pressure. The relevant recruitment rules of 2008 vide Para No.7 are quit indicative that Tehsil Revenue Accountant will be promoted on the basis of seniority cum-fitness from amongst the Naib Tehsil Revenue Accountants having three years' service as such.
- d) Incorrect. As an official of one District cannot be transferred to district cadre post of another district.
- e) Impugned orders were passed in public interest according to law and rules.
- f) Incorrect.
- g) Incorrect.
- h) That the respondents also seek permission to agitate further grounds at the time of arguments.

It is, therefore, humbly prayed that on acceptance of instant Para-wise Comments, the instant service appeal may kindly be dismissed with cost.


 COMMISSIONER,
 MALAKAND DIVISION,
 AT SAIDU SHARIF, SWAT.
 (RESPONDENT NO.2)

Commissioner Malakand Division.


 DEPUTY COMMISSIONER,
 MALAKAND.
 (RESPONDENT NO.3)
 Deputy Commissioner,
 Malakand


 SENIOR MEMBER BOARD OF REVENUE,
 KHYBER PAKHTUNKHWA,
 PESHAWAR.
 (RESPONDENT NO.1)

Senior Member
 Board of Revenue
 Khyber Pakhtunkhwa

BEFORE THE HONRABLE SERVICE TRIBUNAL PESHAWAR,

3

SERVICE APPEAL NO.3670/2021

**Shakeel Ahmad-----VS -----(1) The Senior Member, Board of Revenue,
Khyber Pakhtunkhwa, Peshawar.**

(2) The Commissioner, Malakand Division;

(3) The Deputy Commissioner, Malakand.

**Subject: - APPLICATION FOR SUSPENSION OF OPERATION OF THE
IMPUGNED ORDERS DATED 11.08.2020, 13.11.2020 & 31.12. 2020 TILL
THE DISPOSAL OF ABOVE-MENTIONED APPEAL.**


Respectfully Sheweth: -

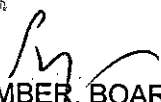
1. Para no 1 of application needs no reply.
2. In correct as the said orders have been issued as per law and without an iota of immaturity or any kind of violation.
3. In correct.
4. In correct, as the said orders have been issued in accordance with law and relevant rules & regulation.

It is, therefore, humbly prayed that on acceptance of above-arrayed Para-wise Comments, the instant application may kindly be dismissed with cost as the suspension of orders dated 11.08.2020, 13.11.2020 and 31.12.2020 is according to rules/policy. The transfer/posting/adjustment of out district in the said cadre would be clear violation of Rules & Regulation.


COMMISSIONER,
MALAKAND DIVISION,
AT SAIDU SHARIF, SWAT.

(RESPONDENT NO.1)
Commissioner Malakand Division.


DEPUTY COMMISSIONER,
MALAKAND.
Deputy Commissioner,
Malakand
(RESPONDENT NO.3)


SENIOR MEMBER, BOARD OF REVENUE,
KHYBER PAKHTUNKHWA,
PESHAWAR.
(RESPONDENT NO.1)

**Senior Member
Board of Revenue
Khyber Pakhtunkhwa**

(4)

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No.3670/2021

Shakeel Ahmed

..... (Petitioner)

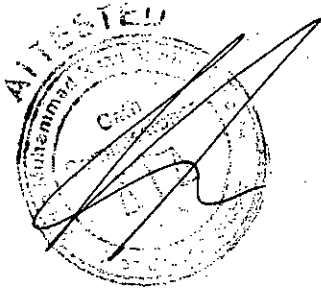
VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar & others

..... (Respondents)

AFFIDAVIT

I, Muhammad Ibrahim, Finance Officer (BPS-17) DC Office Malakand do hereby solemnly affirm and declare on oath that the contents of the accompanying Comments on behalf of the Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court please.



18 JUN 2021

Deponent

**Finance Office
Office of DC Malakand
CNIC: 16101-3137862-7**

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

5

Service Appeal No.3670/2021

Shakeel Ahmed

..... (Petitioner)

VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar & others

..... (Respondents)

Addresses of Parties

Shakeel Ahmed, Tehsil Accountant (BPS-08)

Office of District Kanungo,, District Malakand

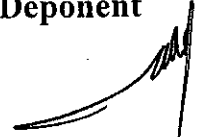
..... (Petitioner)

VERSUS

1. The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
2. The Commissioner Malakand Division, Saidu Sharif Swat.
3. The Deputy Commissioner Malakand

..... Respondents

Deponent



**Finance Office
Office of DC Malakand
CNIC: 16101-3137862-7**

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

6

Service Appeal No.3670/2021

Shakeel Ahmed

..... (Petitioner)

VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar & others

..... (Respondents)

AUTHORITY:

Mr. Muhammad Ibrahim, Finance Officer DC Office Malakand is hereby authorized to attend the Service Tribunal, Khyber Pakhtunkhwa Peshawar and submit Comments regarding subject case on behalf of the Respondents.

**Commissioner
Malakand Division,
Saidu Sharif Swat
(Respondent No.02)**

Commissioner Malakand Division.

**Deputy Commissioner
Malakand
(Respondent No.03)
Deputy Commissioner
Malakand**

**Senior Member Board of Revenue,
Khyber Pakhtunkhwa
Peshawar
(Respondent No.01)**

**Senior Member
Board of Revenue
Khyber Pakhtunkhwa**

7
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**OFFICE OF THE DEPUTY COMMISSIONER
MALAKAND**

F-12



OFFICE OF THE COMMISSIONER
Malakand Division

Dated the: 28/7/2020

Diary No. 7137
Date 5-8-20
File No. _____

ORDER

No. _____ /1/2/Estt: In pursuance to the Commissioner, Malakand Division' Order No.1775-80/2/19/Estt: dated 06-07-2020 the services of Mr. Shakeel Ahmad, Tehsil Accountant (BPS-08) office of the Deputy Commissioner, Dir (Lower) are hereby adjusted against the vacant post of Tehsil Accountant (BPS-07) in the office of Deputy Commissioner, Malakand.

Further, the afore-named incumbant is posted in the office of District Kanungo, Malakand with immediate effect till further orders in the interest of public at large.

**DEPUTY COMMISSIONER,
MALAKAND.**

Endt: No. 10312-22 /1/2/Estt:

Copy forwarded for information to: -

- 1) The Secretary, Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa, Peshawar.
- 2) The Deputy Commissioner, Dir Lower.
- 3) The Additional Deputy Commissioner, Malakand.
- 4) The Assistant to Commissioner, Malakand Division at Saidu Sharif Swat with reference to above.
- 5) The District Accounts Officer, Dir Lower.
- 6) The District Accounts Officer, Malakand.
- 7) The Superintendent, D.C. Office, Malakand.
- 8) The Accountant, D.C. Office, Malakand.
- 9) The District Kanungo, D.C. Office, Malakand.
- 10) The official concerned for compliance and report.
- 11) For Record.

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**DEPUTY COMMISSIONER,
MALAKAND.**

RIK
Link B file
Handwritten notes and dates at the bottom right.





**OFFICE OF THE DEPUTY COMMISSIONER
MALAKAND**

Dated: 11 / 1 / 2020

ORDER


No. 10935 /1/2/Estt: This office' order No.10311/1/2/Estt: dated 28 07.2020 regarding the posting / adjustment of Mr. Shakeel Ahmad as Tehsil Accountant (BPS-08) against the vacant post in the office of Deputy Commissioner, Malakand is hereby withdrawn immediately in the interest of general administration as well as public at large.




**DEPUTY COMMISSIONER
MALAKAND**


Endt: No. 10939-50 /1/2/Estt:

Copy for information is forwarded to: -

- 13. The Secretary, Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa, Peshawar.
- 14. The Deputy Commissioner, Dir Lower.
- 15. The Additional Deputy Commissioner, Malakand.
- 16. The Assistant to Commissioner, Malakand Division at Saidu Sharif, Swat with reference to above.
- 17. The District Accounts Officer, Dir Lower.
- 18. The District Accounts Officer, Malakand.
- 19. The Superintendent, D.C. Office, Malakand.
- 20. The Accountant, D.C. Office, Malakand.
- 21. The District Kanungo, D.C. Office, Malakand.
- 22. The official concerned for compliance and report.
- 23. The District Kanungo, Malakand at Batkhala Secretariat.
- 24. For record.

ATTESTED



**DEPUTY COMMISSIONER
MALAKAND**


secretarytocmd@gmail.com

Commissioner Malakand Division

@commissionermkd



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Dated: 13/11/2020

ORDER

No. 3756-60 2/19/Estt: This office order bearing No.1775-80/2/19/Estt:, dated 06/07/2020 vide which services of Mr. Shakheel Ahmad, Tehsil Accountant, office of the Deputy Commissioner Dir Lower were placed at the disposal of Deputy Commissioner Malakand, is hereby withdrawn with immediate effect in the best public interest.

By order
COMMISSIONER MALAKAND DIVISION

Endst: No & Date Even

Copy forwarded to:-

1. The Deputy Commissioner Malakand
2. The Deputy Commissioner Dir Lower.
3. The Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. The District Accounts Officers Malakand and Dir Lower.
5. The Officials concerned, for compliance.


ASSISTANT TO COMMISSIONER (REV/GEN)
MALAKAND DIVISION. T

ATTESTED
m

OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Dated: 06/07/2020

ORDER

No. 1775-80 2/19/Estt: The services of Mr. Shakeel Ahmad, Tehsil Accountant, office of the Deputy Commissioner Dir Lower is hereby placed at the disposal of Deputy Commissioner Malakand, for further posting in the larger public interest.


Sd/-
COMMISSIONER MALAKAND DIVISION

Endst: No & Date Even

Copy forwarded to:-

1. The Deputy Commissioner Malakand with reference to letter No.8628/1/2/Estt:, dated 23/06/2020.
2. The Deputy Commissioner Dir Lower with reference to letter No.10380/Estt:, dated 26/06/2020.
3. The Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. The District Accounts Officers Malakand and Dir Lower.
5. The Official concerned, for compliance.


ASSISTANT TO COMMISSIONER (REV/GEN)
MALAKAND DIVISION.

ATTESTED


P-45

P-60

(36)

0 (17)
20

BEFORE THE COMMISSIONER, MALAKAND DIVISION
AT SAIDU SHARIF SWAT.

Case No.170/CMD

Date of Institution: 03/12/2020

SHAKIL AHMAD TEHSIL ACCOUNTANT, DEPUTY COMMISSIONER OFFICE MALAKAND AND SYED ZAKIR JAN TEHSIL ACCOUNTANT DEPUTY COMMISSIONER OFFICE MALAKAND

APPLICATION/APEAL REGARDING REVISION/REJECTION OF ORDER NO. 3751-55/2/19/ESTT: DATED 13.11.2020 PASSED BY THE COMMISSIONER MALAKAND DIVISION.

ORDER
31.12.2020

N-25

This order shall dispose of the revision/mercy petition filed by the appellants Mr. Shakil Ahmad and Syed Zakir Jan Tehsil Accountants, Dir Lower against the office order No. 3751-55/2/19/Estt: dated 13.11.2020, passed by this court, whereby the appellants were repatriated to their parent office.

In the memo of appeal, the appellants have stated that they were performing their duties as Tehsil Revenue Accountants, in Dir Lower. After following proper procedure and obtaining NOCs from both the Deputy Commissioners, i.e Deputy Commissioner, Dir Lower & Malakand they were transferred to District Malakand vide this office order dated 06.07.2020. They performed their duties with honesty and dedication in District Malakand. Recently due to unknown reason their transfer order was cancelled and they were repatriated to their parental District i.e District Dir Lower vide order dated 13.11.2020, aggrieved from the said order the appellants prepared the instant appeal.

The appellants were heard in person. During the course of personal hearing the appellants failed to convince this court. Furthermore there is no provision in rules for transfer of Tehsil Revenue Accountants from one District to other District. Hence, the revision being meritless is hereby dismissed and this office order dated 13.11.2020 is maintained.

ANNOUNCED:

31.12.2020

Attested to be true Copy

Shahid Khan
Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

15-01-2021

SO
COMMISSIONER MALAKAND DIVISION

Commissioner, Malakand Division

(14)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE / REVENUE AND ESTATE DEPARTMENT.

(TEHSILDAR, NAIB TEHSILDAR / SUBORDINATE REVENUE SERVICE RULES, 2008)

NOTIFICATION

PESB/WRP, dated 23-01-2015

No. 1942/Estt:1/135/SSRC. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with the Cabinet Division Notification No. SRO. 457(1)/2001 dated 28th June, 2001 and in supersession of all previous rules issued by the Revenue and Estate Department, in consultation with the Establishment and the Finance Department, hereby lay down the method of recruitment, qualification conditions specified in column 3 to 7 of the Appendix to this Notification and applicable to posts born on the cadre strength of Revenue and Estate Department column 2 of the said appendix:-

APPENDIX

1	2	3	4	5	6	7
S.No	Nomenclature of the post	Appointing Authority	Minimum Qualification for appointment by initial recruitment or by transfer	Minimum Qualification for appointment by promotion	Age limit	Method of recruitment
1.	Tehsildar (BPS 16)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Deleted	21 - 30 years For initial recruitment	(a) Twenty percent by initial recruitment; and (b) Sixty percent by promotion, on the basis of joint selection from amongst Naib Tehsildars, District Revenue Assistants, Kanungos and Sub-Registrar with at least five years service as such. (c) Twenty percent by promotion on the basis of joint selection from amongst Assistants of the office of Board of Commissioners, Deputy Commissioners and Political Assistants with at least five years service as such.

13

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1	2	3	4	5	6	7
1 A	Reader to Senior Member / Members Board of Revenue	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
	Inspector of Stamps	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
	Naib Tehsildar (BPS 14)	Secretary (SMBR)	Graduation from any University recognized by the Higher Education Commission		years For initial recruitment	(a) twenty percent by initial recruitment, through subject Service Commission based on the result of a Com conducted by it in accordance with syllabus, and (b) twenty five percent by promotion on the basis of Ser from amongst Kanungos with at least Five Years Servi passed the Departmental Examination of Naib Tehsildar. (c) fifteen percent by promotion, on the basis of joint Ser from amongst Senior Clerks of the office of Board of Re and Deputy Commissioners Offices in the Division conce (d) Ten percent by promotion on the basis of senior amongst Junior Clerks as Political Mulharris of the offic with atleast ten years service.";
3.	District Kanungo (Saddar Kanungo) (BPS 14)	Administrative Secretary (SMBR)				By promotion on the basis of seniority-cum-fitness, from of the concerned District with at-least three years service
4.	Head Clerk Revenue (BPS - 14)					By transfer from amongst Naib Tehsildar (Deleted) (Post has been abolished)

37

13
14

	2	3	4	5	6	7
6	District Revenue Accountant (BPS-10)	Administrative Secretary (SMBR)				By promotion, on the basis of seniority-cum-fitness, from Accountant of the district with at least three years service as
7	Kanungo (BPS-11)	District Collector				By promotion, on the basis of seniority-cum-fitness, from and Naib Office Kanungos of the district concerned with three such and who have passed the Departmental examination of
7	Tehsil Accountant	District Collector				By promotion on the basis seniority-cum-fitness from among Accountants having three (03) years service as such.
8	Patwari (BPS-09)	District Collector	Intermediate or equivalent qualification, who have passed the Patwar Examination.		18 to 35	"By initial appointment from amongst the Patwar passed in the Tehsil patwar candidate register maintained by District district concerned.
9	Naib Tehsil Accountant / Naib Tehsil Office Kanungo	District Collector				By transfer from amongst the Patwaris.

M. S. S.

(15)
No 1943-81/Estt: I/135/SSRC

17

(18)

Copy forwarded for information and necessary action to the:-

- (M)
1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
 2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
 3. Secretary to Government of Khyber Pakhtunkhwa Law Department.
 4. Secretary Khyber Pakhtunkhwa Public Service Commission.
 5. Registrar Peshawar High Court.
 6. Assistant Commissioner Peshawar.
 7. All Commissioners / Political Agents in Khyber Pakhtunkhwa.
 8. All Deputy Commissioners, Khyber Pakhtunkhwa.
 9. Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
 10. Controllér, Government Printing Press Peshawar with the request to publish the above notification in the official Gazette and supply 50 thereof to the undersigned for record.


DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKH
REVENUE & ESTATE DEPARTMENT

بخدمت جناب کمشنر ملاکنڈ ڈویژن صاحب بمقام سید و شریف سوات

درخواست برآمد منسوخی No 10938

11-08-2020 بابت تشکیل احمد تحصیل اکاؤنٹ DC آفس ملاکنڈ

Secretary
A.C.R.

27/8/2020

27/8/2020

جناب عالی۔۔۔

28-8-2020

یہ کہ من سائل تشکیل احمد تحصیل اکاؤنٹ ڈپٹی کمشنر آفس ملاکنڈ سکرپٹریٹ بٹ خیلہ میں اپنا فریض منصبی مورخہ 08-07-2020 سے سرانجام دے رہا ہوں۔

یہ کہ بعد ازاں ضلع ملاکنڈ کے چند Private افراد نے من سائل کے خلاف کمشنر صاحب ملاکنڈ ڈویژن سوات کو تحریر درخواست گزاری تھی۔ جس میں درخواست دہندہ گان کا موقف تھا۔ کہ سائل کی تعیناتی ضلع ملاکنڈ میں غیر قانونی کی گئی ہے۔ اور درخواست دہندہ گان نے پٹواری ٹریننگ کر کے اسکے حق تلفی کی گئی ہے۔؟

جناب عالی۔ اس حوالے سے من سائل حسب ذیل عرض رساں ہوں۔

- (1) یہ کہ درخواست دہندہ گان تا حال private candidate ہے اور مذکورہ ڈیپارٹمنٹ کے ملازم نہیں ہیں۔ اور نہ درخواست دہندہ گان نے درخواست کے ساتھ پٹواری کے کاغذات اور درخواست گزاران کے دستخط ہائے مثبت ہے اسلئے درخواست گزاران کا من سائل کے خلاف اس نسبت درخواست کرنے کا کوئی قانونی حق حاصل نہ ہے۔
- (2) یہ کہ من سائل پٹواری کیڈر سے نہیں ہوں۔ اور من سائل کا اپنا علیحدہ کیڈر ہے۔ جس کا پٹواری اور قانون گو کیڈر سے کوئی تعلق نہ ہے۔ بلکہ سائل پنے کیڈر کے پرائمری پوسٹ 7/BPS Naib Tehsil Accountant سے اپنے ڈسٹرک لوئر درجہ میں تحصیل اکاؤنٹ کے پوسٹ پر one step سے پروموٹ ہوا ہوں۔ جس کے بعد من سائل نے اپنے سرورس کی مزید بہتری اور حفاظت کے خاطر دونوں اضلاع کے ڈپٹی کمشنران صاحبان سے NOCs حاصل کر کے بذریعہ کمشنر صاحب ملاکنڈ ڈویژن کے order کے مطابق ضلع ملاکنڈ میں Transfer / Posting adjustment ہوئی ہے۔

- (3) یہ کہ درخواست دہندہ گان نے اپنے درخواست میں جس notification مورخہ 29-06-2020 کا ذکر کیا ہے۔ اسی نوٹیفیکیشن میں ضلع ملاکنڈ شامل نہ ہے۔ اور نہ مذکورہ Notification میں ضلع ملاکنڈ کے تحصیل اکاؤنٹ کی پوسٹ Abolish کی گئی ہے۔ لہذا درخواست دہندہ گان نے غلط بیانی کر کے انجناب کو Misguide کیا ہے۔ اور post / Creat کے لیے مذکورہ بالا نوٹیفیکیشن پہلے سے جاری ہو چکا ہے۔ کیونکہ مذکورہ پوسٹ کا کیڈر NTA پہلے سے ضلع ملاکنڈ میں موجود ہی نہیں ہے۔

R/K
put up with
PPS mean

27/8/2020

(16)

(17)

(4) یہ ضلع ملاکنڈ میں پہلے سے 12 عدد پٹوار sancion post موجود ہیں۔ جس میں شمال چھ آسامیاں خالی ہیں۔ جس پر مذکورہ درخواست دہندہ گان، مذکورہ پٹواری پوسٹوں پر مردجہ قانون کے مطابق بھرتی ہو سکیں گے۔ بدیں وجہ من مسائل کی تعیناتی کا درخواست گزاران کے حق تلفی سے کوئی تعلق نہ ہے۔

(5) یہ کہ درخواست دہندہ کا درخواست صرف جھوٹ، بدعتی اور تعصب پر مبنی ہے اور صرف من مسائل بے جا تنگ کرنے اور مسائل کے سروں کو نقصان پہنچانے کے درپے ہیں۔

جناب عالی: بحالات بالا چونکہ درخواست دہندہ گان کا درخواست پر یکطرفہ کارروائی عمل میں آکر مسائل کی موجودہ posting / adjustment تحصیل اکاؤنٹ ضلع ملاکنڈ میں ڈپٹی کمشنر صاحب نے withdrawn کی ہے لہذا آپ صاحبان سے گزارش ہے کہ درخواست دہندہ گان کے درخواست کو بلا مزید قانونی کارروائی خارج فرما کر من سائل کا: Cancel arڈر withdrawn order No. 10938 /1/2/Estb فرمادیں۔

مورخہ 26-8-2008

آلغریٹ

فکلیل احمد تحصیل اکاؤنٹ بی پی ایس-8 ڈپٹی کمشنر آفس ملاکنڈ ضلع ملاکنڈ