

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	04.04.2018	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center">Service Appeal No. 66/2018</p> <p align="center">Date of Institution ... 16.01.2018 Date of Decision ... 04.04.2018</p> <p>Muhammad Miskeen, Head Clerk, (BPS-16) Hazara Irrigation Division, Abbottabad.</p> <p align="right"><i>APPELLANT</i></p> <p>1. The Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Peshawar. 2. The Chief Engineer (SOUTH) Irrigation Department, Khyber Pakhtunkhwa Peshawar. 3. Muhammad Hamayun Head Clerk, Swabi Irrigation Division No.2 Swabi.</p> <p align="right"><i>RESPONDENTS</i></p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD HAMID MUGHAL, MEMBER: -</u></p> <p>Learned Counsel for the appellant present. Learned Deputy District Attorney on behalf of official respondents present. Learned Counsel for private respondent No. 3 present.</p> <p>2. The appellant has filed the present appeal u/s 4 of Khyber Pakhtunkwa Service Tribunal Act, 1974 against the order dated 13.12.2017 whereby transfer/posting order dated 02.11.2017 regarding transfer of appellant from</p>

Hamid

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

3. Learned counsel for the appellant argued that the appellant was stationed at Swabi Irrigation Division since year 2014 while respondent No.5 was stationed at Hazara Irrigation Division Abbottabad since year 2014; that vide order dated 02.11.2017 the appellant was transferred to Hazara Irrigation Division Abbottabad while respondent No.3 was transferred to Swabi Irrigation Division No.2 Swabi, however just after one month of the issuance of transfer order, the respondent department cancelled the same vide impugned order dated 13.12.2017 on the basis of political influence and in violation of transfer/posting policy. Learned counsel for the appellant vehemently stressed that the impugned order is liable to be set aside.

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

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

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

6. Arguments heard. File perused.

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

8. Learned DDA remained unable to demonstrate any

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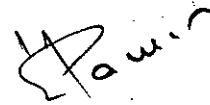
valid reason or exigencies of service due to which the transfer order dated 02.11.2017 was cancelled just after one month of its issuance.

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

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



(AHMAD HASSAN)
MEMBER



(MUHAMMAD HAMID MUGHAL)
MEMBER

27.03.2018

Appellant with counsel and Mr. Kabirullah, Khattak, Additional AG alongwith Mr. Faiz-ul-Haq, Assistant for official respondents No. 1 & 2 and private respondent No. 3 in person present. Learned counsel for the appellant submitted rejoinder. Private respondent No. 3 seeks adjournment on the ground that his counsel is not available today. Last opportunity for arguments granted. Adjourned. To come up for arguments on 03.04.2018 before D.B. Status-quo be maintained till the date fixed.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

03.04.2018

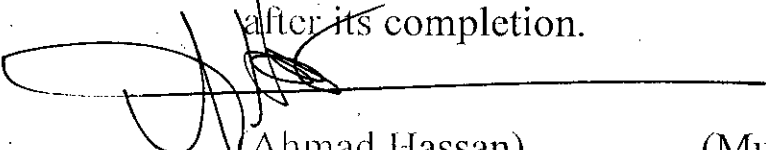
Learned counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney for respondents present. Arguments of Learned counsel for the appellant and learned DDA heard. In the meanwhile junior to counsel for respondent No.3 appeared and seeks adjournment on the ground that learned counsel for respondent No.3 is busy before Hon'ble Peshawar High Court Peshawar. Adjourn. To come up for the arguments on behalf of respondent No.3 and for arguments if any on 04.04.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

04.04.2018

Learned counsel for the appellant and Learned Deputy District Attorney for official respondents present. Learned counsel for private respondent also present. Vide separate judgment of today of this Tribunal placed on file, the present service appeal is accepted and the impugned order dated 13.12.2017 is set aside, resultantly the transfer order dated 02.11.2017 is restored. Parties are left to bear their own costs. File be consigned to the record room after its completion.



(Ahmad Hassan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

Service Appeal No. 66/2018


01.03.2018

Appellant with counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Faiz-ul-Haq, Superintendent for official respondents No. 1 & 2 present. Mr. Naveed Akhtar, Advocate for private respondent No. 3 also present and submitted Wakalatnama alongwith written reply. Written reply on behalf of official respondents No. 1 & 2 not submitted. Representative of the department requested for adjournment. Learned counsel for the appellant also submitted application for release of salary of the appellant. Copy of the same also given to representative of official respondents No. 1 & 2 as well as counsel for private respondent No. 3. Adjourned. To come up for written reply/comments on behalf of official respondents No. 1 & 2 on main appeal as well as on stay application on 12.03.2018 before S.B. Status-quo be maintained till the date fixed.


(Muhammad Amin Khan Kundi)
Member

12.03.2018

Counsel for the appellant present. Mr. Riaz Paindakhel, Assistant AG alongwith Mr. Faiz-ul-Haq, Superintendent for official respondents No. 1 & 2 and private respondent No. 3 also present. Written reply submitted on behalf of official respondent No. 1 & 2. Written reply already submitted on behalf of private respondent No. 3. To come up for rejoinder and arguments on 27.03.2018 before D.B. Status-quo be maintained till the date fixed.


(Muhammad Amin Khan Kundi)
Member

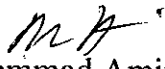
Appeal No. 66/2018
M. Miskeen vs Govt

15.02.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving as Head Clerk in Irrigation Department and was transferred from Swabi to Hazara Division Abbottabad vide order dated 02.11.2017. It was further contended that the said transfer order was cancelled vide order dated 13.12.2017 just after one month and 10 days. It was further contended that the appellant filed departmental appeal within time but the same was also rejected hence, the present service appeal. It was further contended that the impugned order dated 13.12.2017 regarding the cancellation of the transfer order of the appellant was issued/passed by the competent authority in violation of transfer posting policy as the normal tenure as per transfer posting policy is two years but the appellant transfer order was cancelled just after one month on the basis of political influence therefore, the impugned order is illegal and liable to be set-aside. It was further contended that the appellant has not relinquished the charge so far and is still performing at Hazara Division Abbottabad.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 01.03.2018 before S.B. In the meanwhile status-quo be maintained till the date fixed. Notice of stay application be also issued to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee




(Muhammad Amin Khan Kundi)
Member

Form-A

FORM OF ORDERSHEET

Court of _____

Case No. 66 / 2018

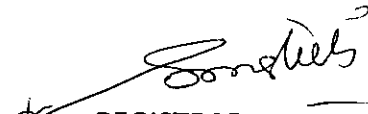
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19/1/2018	<p>The appeal of Mr. Muhammad Miskeen resubmitted today by Syed Noman Ali Bokhari Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	13/02/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/02/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Muhammad Miskeen Head Clerk Hazara Irrigation Department received today i.e. on 16.01.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of proper rejection order of departmental appeal is not attached with the appeal which may be placed on it.
- 2- Copy of posting transfer policy and letter dated 27.02.2013 mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 127 /S.T,

Dt. 17/01 /2018


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Noman Ali Bukhari Adv. Pesh.

Sir, The appellant submitte Affidavit that the note attached with appeal belongs to him as Director of Departmental appeal of the appellant. all Objections were known, file re-submitted.

N. S. Bukhari

17-1-18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 66 /2018

Muhammad Miskeen

V/S

Irrigation Department

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2.	Stay Application along-with Affidavit		05-06
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4.	Copy of Charge report	- B -	09
5.	Copy cancelation order	- C -	10
6.	Copy of departmental appeal	- D -	11
7.	Copy of rejection order	E	12
8.	Copy of RTI application	F	13
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10.	Copy of posting transfer policy	-H-	16-23
11.	Copy of circular	-I-	24
12.	Vakala Nama	-----	25

APPELLANT

THROUGH:

(Signature)
(SYED NOMAN ALI BUKHARI)

(Signature)
&
(UZMA SYED)

ADVOCATES, PESHAWAR

Date: 16/1/2018

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 66 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 48

Dated 16-1-2018

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

(APPELLANT)

VERSUS

1. The Secretary to Govt: of KP Irrigation Deptt., Peshawar.
2. The Chief Engineer (SOUTH) Irrigation Deptt., KP, Peshawar.
3. Muhammad Hamayun Head Clerk, Swabi Irrigation Division No.2 Swabi.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13.12.2017 WHEREBY THE APPELLANT TRANSFER ORDER 2.11.2017 HAS BEEN CANCELLED, JUST AFTER ABOUT 1 MONTH PREMATURELY AND UTTER VIOLATION OF POSTING TRANSFER POLICY, AND AGAINST REJECTION ORDER DATED 08.1.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 13.12.2017 and 08.1.2018, MAY BE SET ASIDE BEING, PASSED PREMATURELY AND VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to
Registrar
16/1/18

Re-submitted
to day 19/1/18.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant now a days working as Head Clerk/Assistant in Hazara Irrigation Division, Abbottabad. The appellant performing his duties with ALL Zeal and Zest at different station as per orders of authority.
2. That the appellant was performing his duties at Swabi Irrigation Division No.2 Swabi from 14.04.2014 till transfer order dated 02-11-2017 whereby, the appellant was transfer to Hazara Irrigation Division, Abbottabad at the place of Muhammad Hamayun respondent No.3 and respondent no.3 was transfer in place of appellant i.e. Swabi Irrigation Division No.2 Swabi which is also evident from letter dated 01-01-2018. **(Copy of transfer order and letter is attached as annexure- A).**
3. That the appellant submitted his arrival/charge report on 07.11.2017 in the compliance of order dated 02.11.2017 and quite astonishingly just after 43 days the transferred order dated 2.11.2017 has been cancelled vide order dated 13.12.2017 in violation of posting transfer Policy and principle of Locus Poenentiae. **(Copy of Charge report and cancelation order is attached as annexure-B & C).**
4. That the appellant feeling aggrieved from the impugned order dated 13.12.2017 filed departmental appeal which was also rejected vide note dated 09.1.2018 of secretary irrigation for no good grounds but the copy of order of information was not handing over to the appellant, the appellant also filed Application for the requisition of the same but in vain same under RTI Act but in vain only to stop/deprive appellant from claiming his legal right through Tribunal.. **(Copy of departmental appeal, rejection order and RTI application is attached as Annexure-D, E & F).**
5. That the appellant has no other remedy but to come this august Tribunal on the basis of following grounds amongst others.

GROUND:

- A) That the impugned order dated 13-12-2017 and 09.1.2018 is against the law, facts, norms of justice, premature, politically motivated, violation of Govt: circulars, therefore not tenable and liable to be set aside.

- B) That the appellant's tenure at Hazara Irrigation Division, Abbottabad was only 43 days, Therefore, the order dated 13-12-2017 is premature and against the transfer policy.
- C) That the appellant was transferred on 24.05.2017 to Hazara Irrigation Division, Abbottabad at the place of Muhammad Hamayun respondent No.3 and respondent no.3 was transfer in place of appellant i.e. Swabi Irrigation Division No.2 Swabi but the transferred order was withdrawn on 20.06.2017 just after one month against the law, rules and on the basis of political influence, which is evident from the order. Which also clearly shows that when once again order was cancelled on 13.12.2017 and not giving arrival report of the respondent no.3 at Swabi station, the department malafide cancelled the order dated 2.11.2017 due to political influence instead of taking action against the respondent no.3 for not taking charge at Swabi. **Copy of orders is attached as Annexure-G**
- D) That the tenure of the appellant at Swabi station and respondent no.3 at Abbottabad station has been already completed according to transferred posting Policy, so the order dated 2.11.2017 is according to law and rules and cancelation of order 13.12.2107 without showing any cogent reasons and without giving personal hearing is against the law rules, posting transfer policy and principal of locus poenentiae. **Copy of posting transfer policy is attached as Annexure-H.**
- E) That according to posting transfer policy, normal tenure for posting is 2 years, but the appellant transferred order was cancelled just after 43 days, which is total violation of Govt: posting transfer policy. Thus the impugned order is liable to be set-aside on this score alone.
- F) That the transfer of the appellant is also violation of circular based on the Anita Turab case dated 27.2.2013 in which it was clearly mentioned that when the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable, but in the case of the appellant the tenure was not respected and was posted/ transferred just after 43 days without completing his normal tenure at ~~Abbottabad~~ ~~(PATA)~~ and without giving compelling reason for such transfer of the

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appellant by the authority. (Copy of circular dated 27.2.2013 is attached as Annexure-I)

- G) That no reasons have been mentioned in the order dated 13-12-2016 which is the violation of Clause-24-A of the General Clauses Act 1897.
- H) That the cancelation order dated 13.12.2017 without any reason is also in violation of Government Posting/Transfer Policy. Thus, the withdrawn order is not sustainable in the eye of law.
- I) That once order passed and acted upon then that order could not be cancelled or withdrawn under the principles of Locus Poenentiae.
- J) That the impugned order is not based on public interest nor any exigencies but rather to adjusted blue eyed person.
- K) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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


APPELLANT

Muhammad Miskeen

THROUGH:


(SYED NOMAN ALI BUKHARI)


(UZMA SYED)

ADVOCATES, PESHAWAR

Date: 16/1/2018

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

Appeal No. _____/2018

Muhammad Miskeen

V/S

Irrigation Department

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**APPLICATION FOR SUSPENDING
THE OPERATION OF ORDER DATED
13.12.2017 TILL THE DISPOSAL OF
MAIN APPEAL.**

RESPECTFULLY SHEWETH:


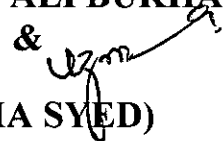
1. That the appellant has filed an Appeal along-with application in which no date has been fixed so far.
2. That the appellant has good prema facie case and all the ingredients of stay is in favour of appellant.
3. That the grounds of main appeal may also be considered as integral part of this application.
4. That the impugned order has passed on favouritism and nepotism and has been passed in-violation of Posting, Transfer Policy.
5. That the appellant has not completed his tenure and the order dated 13.12.2017 is without any reasons.

6. That if the order dated 13.12.2017 is not suspended and charge will take from the appellant. It badly effect the right of appellant.

It is, therefore, most humbly prayed that the order dated 13.12.2017 may be suspended till the disposal of main appeal. Any other remedy, which this august tribunal deems fit that may also be awarded in favour of appellant.


APPELLANT
Muhammad miskeen

THROUGH:


(SYED NOMAN ALI BUKHARI)
& 
(UZMA SYED)
ADVOCATES, PESHAWAR

Date: ___ / ___ / 2018

AFFIDAVIT:

It is affirmed and declared that the contents of this Application are true and correct to the best of my knowledge and belief.




DEPONENT

RECEIVED





OFFICE OF THE CHIEF ENGINEER (SOUTH)
IRRIGATION DEPARTMENT, KHYBER PAKHTUNKHWA,
PESHAWAR.

Phone No. 091-9212116 Fax No. 091-9212652 Email: chiefoffice@yahoo.com

(c)

No. 5550 IB/A-5/254-E

Dated Peshawar the 02 /11/2017

OFFICE ORDER

The following postings/transfers amongst the Head Clerks of Irrigation Department Khyber Pakhtunkhwa is hereby ordered with immediate effect in the public interest.

S.NO.	NAME	FROM	TO	REMARKS
1.	Mohammad Miskeen Khan Head Clerk	Swabi Irrigation Division No.2 Swabi	Hazara Irrigation Division Abbottabad	Vice No.2
2	Mohammad Hamayoun Head Clerk	Hazara Irrigation Division Abbottabad	Swabi Irrigation Division No.2 Swabi	Vice No.1

CHIEF ENGINEER (SOUTH)

C.C

- 1) Secretary to Government of Khyber Pakhtunkhwa Irrigation Department.
- 2) Chief Engineer (North) Irrigation Department Peshawar
- 3) Superintending Engineer Swabi Irrigation Circle Swabi
- 4) Executive Engineer Swabi Irrigation Division No.2
- 5) Executive Engineer Hazara Irrigation Division Abbottabad.
- 6) District Accounts Officer Swabi ~~Abbottabad~~
- 7) Official concerned.

ADMINISTRATIVE OFFICER
(PHONE NO: 9212118)

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ATTESTED



Irrigation - 54340-8

OFFICE OF THE CHIEF ENGINEER (SOUTH)
GOVT. OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT PESHAWAR

Ph: 091-9212116 Fax No. 091-9212652 E-Mail: chiefoffice@yahoo.com

No. 31 /IB/A

Dated Peshawar the 01 / 01 / 2018

To
Secretary Irrigation
Peshawar
Date: 02/01/18

The Secretary to Govt. of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar.

Subject: - **DEPARTMENTAL APPEAL AGAINST OFFICE ORDER NO. 6354/A-5 DATED 13-12-2017 ISSUED BY THE CHIEF ENGINEER (SOUTH) IRRIGATION**

Reference: Your letter No. SO(E)/IRR/5-2/70/Vol-XVII, dated 22-12-2017.

With refer to your letter under reference, it is submitted that the following posting/transfer amongst the Head Clerk of Irrigation Department was ordered vide this office No. 5550/IB/A/254-E, dated 02-11-2017 (Annex-I).

S. No	Name	From	To	Remarks
1.	Muhammad Miskeen	Swabi Irr: Division No. II Swabi	Hazara Irrigation Division Abbottabad	Vice No. 2
2.	Muhammad Hamayun	Hazara Irrigation Division Abbottabad	Swabi Irr: Division No. II Swabi	Vice No.1

At the time of posting/transfer, stay of both the Head Clerks as reported vide Superintending Engineer, Swabi Irrigation Circle Swabi letter No. 1855/2-E, dated 22-12-2017 (Annex-II) was as under:

1. Stay of Muhammad Miskeen Head Clerk in Swabi Division-II From 14-4-2014 in OPS and from 7-11-2016 till date on regular basis.
2. Stay of Muhammad Hamayun H/Clerk in Hazara Irr:Division Abbottabad. From 02-12-2014 till date.

It has further been reported by the Superintending Engineer, Swabi Irrigation Circle Swabi vide his letter referred above that Muhammad Miskeen Head Clerk in compliance of the posting/transfer order dated 02-11-2017 reported arrival in Hazara Irrigation Division Abbottabad on 07-11-2017 but Muhammad Hamayun, Head Clerk has not assumed duty in Swabi Division No. II Swabi.

It is further to add that the posting / transfer order was subsequently cancelled vide this office No. 6354/IB/A/A-5/254-E, dated 13-12-2017 (Annex-III).

Submitted for favour of further disposal please.

Secretary Irrigation
AS

2/1/2018


CHIEF ENGINEER

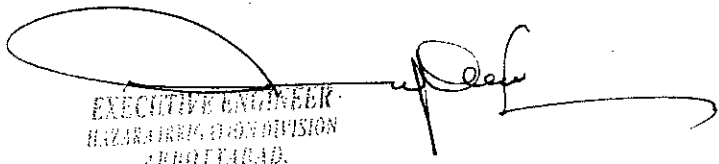
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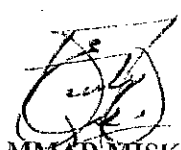
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CHARGE ASSUMPTION REPORT

In compliance with the Chief Engineer (South), Irrigation Department Khyber Pakhtunkhwa Peshawar office order No.5550/1B/A-5/254-E, dated 2/11/2017 I, Mr. Muhammad Miskeen Head Clerk assumed the charge of the post of Head Clerk, Hazara Irrigation Division, Abbottabad on 7/11/2017 F.N.

Attested


EXECUTIVE ENGINEER
HAZARA IRRIGATION DIVISION
ABBOTTABAD.

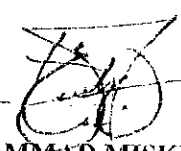


MUHAMMAD MISKEEN,
Head Clerk
Hazara Irr: Divn: Abbottabad.

No. 1046 /PF,
C.C.

Dated Abbottabad the 07/11/2017.

1. Chief Engineer (South/ North) Irrigation Department Peshawar for information please.
2. Superintending Engineer Swabi Irrigation Circle Swabi for information please.
3. Executive Engineer Swabi Irrigation Division-II Swabi for information please.
4. District Accounts officer Abbottabad/ Swabi for information and necessary action.
5. DAO (local).



MUHAMMAD MISKEEN,
Head Clerk.
Hazara Irr: Divn: Abbottabad.

ATTESTED



OFFICE OF THE CHIEF ENGINEER
IRRIGATION DEPARTMENT, KHYBER PAKHTUNKHWA
PESHAWAR.

Phone No. 091-9212116 Fax No. 091-9212652 Email: chiefoffice@yahoo.com

No 6354 /IB/A-5/

Dated Peshawar the 13 /12/2017

OFFICE ORDER

The transfer order in respect of M/S Muhammad Miskeen Khan Head Clerk BS-16 and Muhammad Hamayoun Head Clerk BS-16 issued vide this office No.5550/IB/A-5/254-E dated 02-11-2017 is hereby cancelled.

CHIEF ENGINEER

C.C

- 1) Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Department Peshawar.
- 2) Chief Engineer (North) Irrigation Department Peshawar
- 3) Superintending Engineer Swabi Irrigation Circle Swabi.
- 4) Executive Engineer Swabi Irrigation Division No.2
- 5) Executive Engineer Hazara Irrigation Division Abbottabad.
- 6) District Accounts Officers Swabi/Abbottabad
- 7) Officials concerned.


CHIEF ENGINEER

14/12	6266
SECRETARY	SECRETARY
A.O.	T.O.
A.A.O.	C.C.

ATTESTED

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(M)

The Secretary to Govt. of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar.

Subject: - DEPARTMENTAL APPEAL AGAINST OFFICE ORDER NO. 6354/IB/A-5 DATED 13.12.2017 ISSUED BY THE CHIEF ENGINEER (SOUTH) IRRIGATION


Dear Sir,

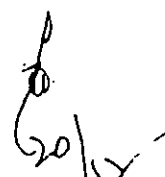
Most respectfully it is submitted that I am serving in Irrigation Department and presently performing my duties as Head Clerk (BPS-16) Hazara Irrigation Division, Abbotabad. That I am previously performing my duties as Head Clerk, Swabi Irrigation Division-II, Swabi and transferred to Hazara Irrigation Division, Abbotabad vide order No. 5550/IB/A-5/254-E dated 02.11.2017 issued by the Chief Engineer (South) Irrigation. But just after about one and half month my transfer order was cancelled. It is worth mentioning that I have completed my normal tenure and spent 3 and half years in Swabi Irrigation Division-II, Swabi. The subject cancellation order is against the govt. policy. After a lapse of one and half month my transfer order was cancelled which is against the Provincial Govt. Posting/Transfer policy.

In view of the above facts, it is therefore humbly prayed that Office order No. 6354/IB/A-5 dated 13.12.2017 may graciously be ordered to withdrawn with the direction to restore the Office Order No. 5550/IB/A-5/254-E dated 02.11.2017 in accordance with the Provincial Govt. Posting/Transfer policy, please.

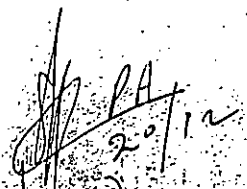
Dated 20.12.2017.

Yours faithfully


(Muhammad Miskeen Khan),
Head Clerk/Assistant (BPS-16)
Hazara Irrigation Division, Abbotabad.


Secretary Irrigation

AS


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P. 2/c
20/12

ATTESTED

posting/transfer policy or as directed pl

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2/13/11

AS
6. What is the issue now?
When transfer orders have been cancelled?
S/11

SO(E)
7. Since the transfer orders
have been withdrawn by the
CP(S), no action is required.
Submitted for information
please.
2/11/2018

Secretary

AS

SO(E)

2/11/18

Haji

2/11/18

ATTESTED

F (3)

To

The Deputy Secretary (Technical)
Public Information Officer
Right to Information Act, 2013

Subject

APPLICATION FOR SUPPLY OF INFORMATION UNDER RTI ACT, 2013.

Dear Sir,

With due respect it is submitted that I was transferred from Irrigation Division-II to Hazara Irrigation Division Abbottabad by the Chief Engineer (South) on 02.11.2017. Later on my transfer order was cancelled and I was again transferred to Swabi Irrigation Division on 13.12.2017 i.e. after one month and twelve days.

Being Competent Authority, I filed appeal to the Secretary Irrigation for cancellation of my transfer order as the same is against the posting/transfer policy of the Provincial Govt, which was sent to the Chief Engineer (South) Irrigation for further necessary action.

The Chief Engineer (South) again re-submitted my departmental appeal alongwith views/comments to the Secretary Irrigation for disposal. My appeal was processed in the office of the Secretary Irrigation but I have not been informed the fate of my appeal yet.

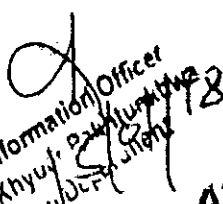
Keeping in view the above it is requested that I may kindly be informed about the fate of my appeal and furthermore copies of the green note of all pages may kindly be provided under the RTI Act, 2013, please.

Dated 15.01.2018


(Muhammad Miskeen)
Head Clerk

Hazara Irrigation Division Abbottabad
Cell No 0321-9842192

D. NO. 75
Pl. provide the necessary documents/information in light of RTI Act 2013.


Public Information Officer
Govt. of Khyber Pakhtunkhwa
Irrigation Dept. Abbottabad

ATTESTED



**OFFICE OF THE SUPERINTENDING ENGINEER
SWABI IRRIGATION CIRCLE SWABI**

Phone No: 0938-224204

No: 7620-26 /2-E

Dated Swabi the 24 /052017

OFFICE ORDER

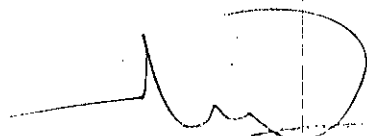
The following adjustment amongst the Head Clerks/Assistants is hereby ordered with immediate effect in the best public interest.

S #	Name of Official	From	To	Remarks
1	Muhammad Miskeen	Swabi Irrigation Division No.II Swabi	Hazara Irrigation Division Abbottabad	Vice No.2
2	Muhammad Hamayun	Hazara Irrigation Division Abbottabad	Swabi Irrigation Division No.II Swabi	Vice No.1

Superintending Engineer
Swabi Irrigation Circle Swabi.

Copy to the:-

1. PS to Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Deptt. Peshawar.
2. Chief Engineer (North) Irrigation Department Khyber Pakhtunkhwa, Peshawar.
3. Chief Engineer (South) Irrigation Department Khyber Pakhtunkhwa, Peshawar.
4. Executive Engineer ~~Hazara~~ Irrigation Division ~~Abbottabad~~.
5. Executive Engineer, Swabi Irrigation Division No.II Swabi .
6. District Accounts Officer, Swabi/Abbottabad
7. Officials concerned.


Superintending Engineer
Swabi Irrigation Circle Swabi.

OFFICE OF THE SUPERINTENDING ENGINEER
Swabi Irrigation Circle Swabi

Mian - 275 / 2572

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C.E

S.E(H.O) ✓

A.O ✓

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OFFICE OF THE SUPERINTENDING ENGINEER
SWABI IRRIGATION CIRCLE SWABI
Phone & Fax # 0938-224204

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No. 8077-84 /2-E,

Dated Swabi the 20/06/2017.

OFFICE ORDER

The transfer order issued vide this office letter No.7620-26/2-E dated 24-05-2017 is hereby withdrawn in the best public interest.

O/c. Superintending Engineer,
Swabi Irrigation Circle Swabi
A.S.

Copy to the:-

1. PS to Senior Minister for Irrigation Khyber Pakhtunkhwa.
2. PS to Secretary to Govt. of Khyber Pakhtunkhwa Irr. Department Peshawar.
3. Chief Engineer (North) Irr. Department Khyber Pakhtunkhwa, Peshawar.
4. Chief Engineer (South) Irr. Department Khyber Pakhtunkhwa, Peshawar.
5. Executive Engineer, Swabi Irrigation Division No.II Swabi.
6. Executive Engineer, Hazara Irrigation Division Abbottabad.
7. *Officials concerned.*

Superintending Engineer,
Swabi Irrigation Circle Swabi

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

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

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and 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 authority relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 21-09-2008. Consequently authorities competent under the NWFP Government Rules of Business and District Government Rules of Business 2001, Posting/Transfer Policy and other rules being in force, allowed to make posting/transfer subject to observance of the policy.
² Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2003.

ATTESTED

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- 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:	

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

ATTESTED

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

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

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

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

- i) Pre-mature 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

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3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

.....

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.
(Authority: Letter No: SOR-VI/E&AD/1-1/2003 dated 24-6-2003).

.....

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

SPECIMEN NOTIFICATION.

GOVERNMENT OF NWFP
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshawar, _____

NOTIFICATION

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

CHIEF SECRETARY
GOVERNMENT OF NWFP

Endst. No. and date even.

Copy forwarded

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ATTESTED

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5.

(NAME)
SECTION OFFICER
Administrative Department

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

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

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

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.

{Authority: Letter No: SOR-VI (E&AD) 1-1/2008/Vol-VI, dated 3-6-2008}.

.....
According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.
{Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28th Oct, 2005.}

.....
The Chief Minister NWFP has directed that:-

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

ATTESTED

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

{Authority: Urdu circular No: SOR-VI/E&AD/1-4/2003, dated 86-2004.
Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2005.}

It has been decided with the approval of the competent authority that:-

- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
- ii) NWFP Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

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

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

{Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007}.

PLACEMENT POLICY.

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

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

¹ Placement Policy has been made part of the posting/transfer policy vide Urdu circular No.SOR-VI(E&AD)1-4/06, dt 9-2-2007

ted till 10 Jan, 2009

22

Posting - Transfer Policy - updated till 10 Jan, 2009

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

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

ATTESTED

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(iii) **Illegal Orders:** Civil Servants owe their first and foremost allegiance to the law and the constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.

(iv) **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

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

Yours faithfully,

Wajam

(NAJ-MUS-SAHAR)

SECTION OFFICER (REG-VI)

Encl: as above.

A copy is forwarded to:-

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

Wajam

SECTION OFFICER (REG-VI)


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	<p style="text-align: center;"> GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING) NO. SOR.VI (E&AD)1-4/2005/Vol-II Dated Peshawar, 27th February, 2013 </p>
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To *Secy*

Establishment Department
 Government of Khyber Pakhtunkhwa
 Peshawar
 Dated 28-2-2013

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

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

Sir,

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

- (i) **Appointments, Removals and Promotions:** Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) **Tenure, Posting and Transfer:** When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

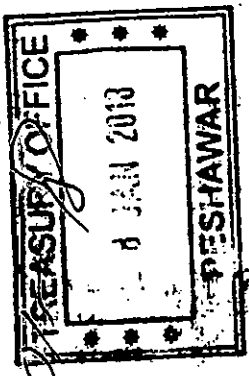
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15-
M. J. Khan
13
13 JAN, 2018

DAWOOD KHAN

STAMP VENDOR

LICENCE NO 113/ADC(F) IC DATED 26-09-17

PESHAWAR TREASURY PESHAWAR.

VAKALAT NAMA

Appeal NO. 66 /2018

IN THE COURT OF K.P.O. Service, Tribunal, Peshawar

Muhamad Miskeen (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Irrigation Dept. (Respondent)
(Defendant)

I/We, Muhamad Miskeen

Do hereby appoint and constitute **Syed Noman Ali Bukhari 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 costs.

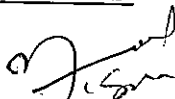
I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20



(CLIENT)

ACCEPTED


SYED NOMAN ALI BUKHARI
Advocate, Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 381 /ST

Dated 22 /02/2018

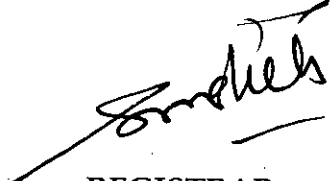
To

The Chief Engineer (South) Irrigation Department,
Government of Khyber Pakhtunkhwa,
Peshawar.



Subject: ORDER IN SERVICE APPEAL NO. 66/2018, MR.MUHAMMAD MISKEEN.

I am directed to forward herewith a certified copy of order dated 15/02/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

OK

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ایڈوکیٹ: نوید رضوی	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
بار کونسل ایسوسی ایشن نمبر:		
رابطہ نمبر:		

بعدالت جناب: سروس ٹریبونل خیبر پختونخواہ پشاور

Respondent No. 3	مخانب:	دعویٰ:
محمد سنکس بنام حکومت و غیرہ		علت نمبر:
		مورخہ:
		جرم:
		تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام پشاور کیلئے نوید رضوی ایڈووکیٹ جس کے حکم اور کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زرین پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: _____
 Accepted and Accepted
 العبد العاشر

مقام پشاور کے لیے منظور ہے۔

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

In Re: *Service Appeal No 66/2018*

Muhammad Miskeen

VERSUS

Secretary to Government and others

REPLY ON BEHALF OF RESPONDENT NO 3 IS AS UNDER:-

PRELIMINARY OBJECTIONS:-

- A) That the appeal is not maintainable in its present form.
- B) That the material facts have been concealed from this Honourable Tribunal.
- C) That the Appellant has come with sullied hands and has twisted the facts.
- D) That with due respect, this Honourable Tribunal lacks the jurisdiction at this point to entertain the instant appeal being immature.

PARA WISE REPLY:-

- 1) Para No 1 is incorrect, hence denied. The Appellant now-a-days is not working at Hazara Division; rather the Respondent No 3 (Muhammad Hamayun) is performing his duty in Hazara Irrigation Division at Abbottabad, because the earlier transfer order dated 02-11-2017 has already been cancelled by the competent authority.

- 2) Para No 2 has been drafted against the facts. The Appellant officiated his duties till 07-11-2016 in BPS-9 against the current post of Head Clerk in BPS-16. The Appellant was promoted to BPS-16 on 07-11-2016 and thus was posted as such on his current position; therefore, the Appellant has been officiating on his current position since 07-11-2016 and has not yet completed his normal tenure. This para is therefore, denied as framed. (Copy of the promotion order is attached as Annex 'A').
- 3) Para No 3 is vehemently denied. Since the order of transfer was procured before completion of normal tenure, therefore, the competent authority cancelled the same.
- 4) Para No 4 is also denied. The Appellant has not annexed the final order of rejection of his departmental appeal.
- 5) The Appellant has got no grounds to argue before this Honourable Tribunal.

REPLY OF GROUNDS:-

- A) Ground A is incorrect, hence denied. The order dated 02nd November, 2017 was procured prematurely because the Appellant had not yet completed his normal tenure against his present posting and the competent authority within its powers under the law, cancelled the same vide order dated 13-12-2017.
- B) Ground B is denied. The Appellant was not handed over the charge at Hazara Irrigation Division Abbottabad.

- C) Ground C is also denied, as framed. The Appellant on 24th May, 2017 procured a transfer order, which was subsequently cancelled because the Appellant had not relinquished the charge in accordance with law and the then Executive Engineer Swabi Irrigation Division, Swabi had lodged a complaint, wherein he had also requested for an impartial inquiry into the misdeeds of the Appellant. (Copy of the letter dated 26-05-2017 is attached as Annex 'B').
- D) Ground D is incorrect, hence denied. The tenure of the Appellant at Swabi station has not yet been completed as he was promoted on 07-11-2016 and even before completion of his probation period, the transfer order dated 02-11-2017 was procured, which is rightly withdrawn by the competent authority.
- E) Ground E is denied again. The Appellant has not completed his normal tenure.
- F) Ground F is denied as well.
- G) Ground G is incorrect, hence denied.
- H) Ground H is also incorrect, hence denied. The transfer order was cancelled, because the Appellant had not yet completed his normal tenure.
- I) Ground I is incorrect, hence vehemently denied.
- J) Ground J is incorrect, hence denied. The order has been cancelled according to law in the best public interest.

K) That the answering respondent No 3 too seeks permission to adduce additional grounds at the time of hearing of the instant appeal.

It is, therefore, respectfully prayed that the appeal being devoid of merits may kindly be dismissed with costs.

Answering Respondent No 3

Through:


(NAVEED AKHTAR)

Advocate,
Supreme Court of Pakistan

Dated:-01-03-2018

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

In Re: *Service Appeal No 66/2018*

Muhammad Miskeen

VERSUS

Secretary to Government and others

**REPLY TO THE APPLICATION ON BEHALF OF RESPONDENT NO 3 IS
AS UNDER:-**


REPLY TO PARA:-

- 1) Para No 1 needs no reply.
- 2) Para No 2 is incorrect, hence denied. The Appellant has got no prima facie good case.
- 3) The instant reply may kindly be considered as part and parcel of the reply to the main appeal by Respondent No 3.
- 4) Para No 4 is incorrect, hence denied.
- 5) Para No 5 is incorrect, hence denied. The Appellant had not completed his tenure as Swabi; therefore, the transfer order dated 02-11-2017 was cancelled.
- 6) Para No 6 is also incorrect, hence denied. It is the answering respondent to shall suffer irreparable loss, if the order dated 13-12-2017 is disturbed.

It is, therefore, humbly prayed that the application may kindly be dismissed being merit less.

Answering Respondent No 3

Through:

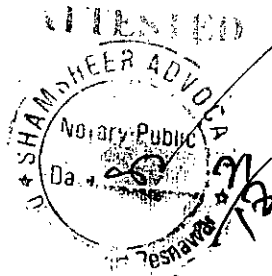

(NAVEED AKHTAR)
Advocate,
Supreme Court of Pakistan

Dated:-01-03-2018

AFFIDAVIT:-

I, Muhammad Humayun S/O Muhammad Yaqoob Khan, do hereby solemnly affirm and declare on oath that all the contents of this reply are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Tribunal.


DEPONENT



01

Annexure "A"



**OFFICE OF THE SUPERINTENDING ENGINEER
SWABI IRRIGATION CIRCLE SWABI**

No: 82-89 /2-E

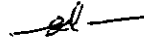
Dated Swabi the 07 /10/2016

OFFICE ORDER

Consequent upon the recommendation of the Departmental Promotion Committee, made in its meeting held on 25-10-2016, Muhammad Miskeen, Accounts Clerk (BPS-09) born on the cadre strength of Swabi Irrigation Circle Swabi is hereby promoted on regular basis to the rank of Head Clerk / Assistant (BPS-16) with immediate effect.


Upon his promotion, the official would continue to work as Head Clerk/ Assistant in Swabi Irrigation Division – II Swabi.

The official on promotion will remain on probation for a period of one year in terms of Section 6 (2) of Govt. of Khyber Pakhtunkhwa, Civil Servants Act 1973 read with Rule 15 (1) of Khyber Pakhtunkhwa Civil servants (Appointment, promotion and Transfer) Rules 1989.


Superintending Engineer
Swabi Irrigation Circle Swabi

Copy forwarded to the:-

1. Chief Engineer (North) Irrigation Department, Khyber Pakhtunkhwa, Peshawar for information, please.
2. Chief Engineer (South) Irrigation Department, Khyber Pakhtunkhwa, Peshawar for information, please.
3. Superintending Engineer, Swat Irrigation Circle Swat for information, please.
4. Executive Engineer, Hazara Irrigation Division Abbottabad for information.
5. Executive Engineer, Swabi Irrigation Division No.I Swabi for information.
6. Executive Engineer, Swabi Irrigation Division No.II Swabi for information and necessary action
7. District Accounts Officer, Swabi for information and necessary action.
8. Official concerned.


Superintending Engineer
Swabi Irrigation Circle Swabi

No.
To

421

/M.12(G)

Dated Swabi the 26/5/2017

The Superintending Engineer,
Swabi Irrigation Circle,
Swabi.

Annexure "B"

Subject:-
Reference:-

OFFICE ORDER

Your office order No. No.7620-26/2-E, dated 24.5.2017
Our verbal discussion dated 25.5.2017

It is submitted, that the transfer order of Mr. Muhammad Miskeen Divisional Head Clerk (local) have been issued vide letter under reference, and subsequently the Head Clerk have submitted the departure report today i.e on 25.5.2017 without handing over the official record to anyone in the Divisional Office Swabi.

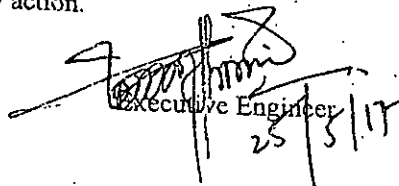
It would be not out of place to mention here, that the undersigned have took over charge of the Swabi Irrigation Division-II Swabi on May 2, 2017, the Head Clerk (local) was instructed time and again both verbal as well as in writing to keep maintained the office record i/c contract documents in proper order complete in all respect, as such the tenders of the various works for the last few months have been carried out by the then Executive Engineer and Head Clerk (under transfer), but till date, some of the contract / bidding documents are remained incomplete, particularly the Acceptance letters and contract agreement of most of the on-going works being tendered / awarded to the contractors have not been signed / un-approved by the competent authority with the reason that the concerned Head Clerk have not been processed the same contract documents / agreements to the quarter concerned for approval, within due course of time, while on the other hand contract documents, agreements, CDRs of the few on-going works are not available / missing in the Divisional Office. Moreover the tenders of the work as opened on April 26, 2017 are still not processed / signed by the Divisional Head Clerk & Committee members for the reason not known and remained pending for want of sign of the committee members.

It is therefore requested that an impartial enquiry may kindly be ordered to probe the case through scrutiny / check all the Tender documents with submission of their fact finding report and till that time, Mr. Muhammad Miskeen Head Clerk (under transfer) would be relieved from this office after completion, proper handing / taking over of all the contract documents / relevant office record to his predecessor.

Executive Engineer,
Swabi Irrigation Division-II Swabi.

Copy forwarded to:-

1. The Chief Engineer (North) Irrigation Department, Peshawar for information and necessary action please.
2. The Executive Engineer, Hazara Irrigation Division, Abbottabad for information and necessary action please.
3. D.A.O / E.C (local) for information and necessary action.
4. Mr. Muhammad Miskeen Head Clerk (under transfer) with reference to this office No.398/M.12(G), dated 22.5.2017 for information and necessary action. Your Departure report / LPC will not be processed / forwarded and you cannot be relieved from this office till submission / handed over of the complete office record under your custody during your incumbency period.
5. Mr. Muhammad Humayun Head Clerk (under transfer) Hazara Irrigation Division, Abbottabad for information and necessary action.


Executive Engineer
25/5/17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 66/2018

Muhammad Miskeen
Head Clerk

(Appellant)

VERSUS

1. Secretary to Govt of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar. (Respondents)
2. Chief Engineer (South).
Irrigation Department, Peshawar.
3. Muhammad Humayun Khan, Head Clerk
Swabi Irrigation Division No.2 Swabi

**JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS
NO.1 TO 3 IN SERVICE APPEAL NO. 66/2018**

Preliminary objections.

- 1) That posting/transfer is the internal affairs of the department and is being issued in the public interest.
- 2) That the appellant has got no locus standi.
- 3) That the appellant has not come to the Service Tribunal with clean hands.
- 4) That the appeal is bad for mis joinder and non joinder of parties.
- 5) That the appeal is not maintainable in its present form.
- 6) That the instant appeal is barred by law.

Respectfully Sheweth

1. Pertains to the record hence need no comments.
2. That under section 10 of Civil Servant Act 1973 every civil servants shall be liable to serve anywhere within or outside the province in any post under the Federal Government or any Provincial Government or Local authority, a corporation or body set up or established by any such Government.
3. The order dated: 13-12-2017 was issued in the public interest. The appellant being civil servant, is bound to serve anywhere in the department.
4. Since the transfer of the appellant was issued on 13-12-2017 in the public interest therefore the appeal of the appellant was not considered .
5. The appeal of the appellant is not maintainable on the following grounds.

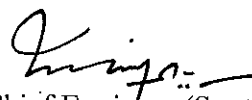
GROUNDS

- A. In correct, the appellant has been treated according to rules and in the public interest and is therefore required to be implemented.
- B. The order dated: 13-12-2017 was issued in the public interest. The appellant being civil servant, is bound to serve anywhere in the department.
- C. The transfer/posting order on 24-05-2017 and its withdrawal on 20-06-2017 were at circle level and were in the public interest.
- D. In correct, as per para "A".
- E. As per para "A".
- F. In correct. Every civil servant is liable to serve anywhere in the province/department.
- G. In correct, as per para "A"
- H. In correct, the order of the appellant was cancelled purely in the public interest.
- I. In correct, as per para "B"
- J. In correct. The appellant and respondent no. 3 have gained sufficient experience in their respective Divisions. Therefore, the order dated: 13-12-2017 was purely issued in the public interest and nothing else.
- K. The respondents also seek permission to raise additional grounds at the time of arguments.

It is very humbly prayed to dismiss the appeal of the appellant with cost and vacate the stay in the public interest.



Secretary to Government of
Khyber Pakhtunkhwa Irrigation
Department
(Respondent No.1)



Chief Engineer (South)
Irrigation Department
(Respondent No.2)

BEFORE THE PESHAWAR SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Appeal No. 66/2018

Muhammad Miskeen
Head Clerk

Appellant

VERSUS

1. Secretary to Govt of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar.
2. Chief Engineer (South).
Irrigation Department, Peshawar.
3. Muhammad Humayun Khan, Head Clerk
Swabi Irrigation Division No.2 Swabi

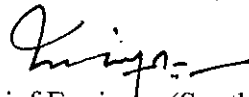
Respondents

COUNTER AFFIDAVIT

We do hereby solemnly affirm and declare that contents of the para wise comments given in Appeal No. 66/2018 filed by Muhammad Miskeen Head Clerk are correct to the best of our knowledge and nothing has been concealed from August Service Tribunal.



Secretary to Government of
Khyber Pakhtunkhwa Irrigation
Department
(Respondent No.1)



Chief Engineer (South)
Irrigation Department
(Respondent No.2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 66/2018

Muhammad Miskeen
Head Clerk

(Appellant)

VERSUS

1. Secretary to Govt of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar.
2. Chief Engineer (South).
Irrigation Department, Peshawar.
3. Muhammad Humayun Khan, Head Clerk
Swabi Irrigation Division No.2 Swabi

(Respondents)

**JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS
NO.1 TO 3 IN SERVICE APPEAL NO. 66/2018**

Preliminary objections.

- 1) That posting/transfer is the internal affairs of the department and is being issued in the public interest.
- 2) That the appellant has got no locus standi.
- 3) That the appellant has not come to the Service Tribunal with clean hands.
- 4) That the appeal is bad for mis joinder and non joinder of parties.
- 5) That the appeal is not maintainable in its present form.
- 6) That the instant appeal is barred by law.

Respectfully Sheweth

1. Pertains to the record hence need no comments.
2. That under section 10 of Civil Servant Act 1973 every civil servants shall be liable to serve anywhere within or outside the province in any post under the Federal Government or any Provincial Government or Local authority, a corporation or body set up or established by any such Government.
3. The order dated: 13-12-2017 was issued in the public interest. The appellant being civil servant, is bound to serve anywhere in the department.
4. Since the transfer of the appellant was issued on 13-12-2017 in the public interest therefore the appeal of the appellant was not considered.
5. The appeal of the appellant is not maintainable on the following grounds.

GROUND

- A. In correct, the appellant has been treated according to rules and in the public interest and is therefore required to be implemented.
- B. The order dated: 13-12-2017 was issued in the public interest. The appellant being civil servant, is bound to serve anywhere in the department.
- C. The transfer/posting order on 24-05-2017 and its withdrawal on 20-06-2017 were at circle level and were in the public interest.
- D. In correct, as per para "A".
- E. As per para "A".
- F. In correct. Every civil servant is liable to serve anywhere in the province/department.
- G. In correct, as per para "A"
- H. In correct, the order of the appellant was cancelled purely in the public interest.
- I. In correct, as per para "B"
- J. In correct. The appellant and respondent no. 3 have gained sufficient experience in their respective Divisions. Therefore, the order dated: 13-12-2017 was purely issued in the public interest and nothing else.
- K. The respondents also seek permission to raise additional grounds at the time of arguments.

It is very humbly prayed to dismiss the appeal of the appellant with cost and vacate the stay in the public interest.

Secretary to Government of
Khyber Pakhtunkhwa Irrigation
Department
(Respondent No.1)

[Signature]
Chief Engineer (South)
Irrigation Department
(Respondent No.2)

*Please vet
DA I*

[Signature]
Additional Advocate General
Khyber Pakhtunkhwa
Service Tribunal, Islamabad

*Vetted subject to correction,
attainment of all annexes,
affidavit and approval
of AAG*

*Agreed as above
approved*
[Signature]
Additional Advocate General
Khyber Pakhtunkhwa
Service Tribunal, Islamabad

BEFORE THE PESHAWAR SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Appeal No. 66/2018

Muhammad Miskeen
Head Clerk

Appellant

VERSUS

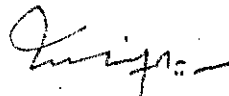
1. Secretary to Govt of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar.
2. Chief Engineer (South).
Irrigation Department, Peshawar.
3. Muhammad Humayun Khan, Head Clerk
Swabi Irrigation Division No.2 Swabi

Respondents

COUNTER AFFIDAVIT

We do hereby solemnly affirm and declare that contents of the para wise comments given in Appeal No. 66/2018 filed by Muhammad Miskeen Head Clerk are correct to the best of our knowledge and nothing has been concealed from August Service Tribunal.

Secretary to Government of
Khyber Pakhtunkhwa Irrigation
Department
(Respondent No.1)



Chief Engineer (South)
Irrigation Department
(Respondent No.2)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 792 /ST

Dated 17 /04/2018

To

The Chief Engineer (South) Irrigation Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:

ORDER/JUDGEMENT IN APPEAL NO. 66/2018, MR. MUHAMMAD MISKEEN.

I am directed to forward herewith a certified copy of Judgment/Order dated 04/04/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

OU

Sandhu
**REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.**

OFFICE OF THE EXECUTIVE ENGINEER SWABI IRRIGATION DIVISION-II SWABI
PHONE & FAX NO.0938221392 email xen2swabi@yahoo.com

No. 1690 /E-5
To

Dated Swabi the 07/12/2017
07/12/2017

The Superintending Engineer,
Swabi Irrigation Circle,
Swabi.

Subject:- **OFFICE ORDER**
Reference:- Chief Engineer (South) office order No.5550/IB/A-5/254-E. dated 2.11.2017

It is submitted, that the transfer order of Mr. Muhammad Miskeen & Mr. Muhammad Humayun Divisional Head Clerks was issued vide letter under reference. Mr. Muhammad Miskeen Head Clerk has submitted the departure report on 6.11.2017 while Mr. Muhammad Humayun Head Clerk is not bothering to report his arrival in this office till date.

In the absence of Head Clerk, office routine business is suffering badly as this office is already short of official staff viz Record Keeper, Computer Operator, Revenue Clerk and Junior clerks which are most essential for the smooth running of Divisional affairs.

It is therefore requested that Mr. Muhammad Humayun Head Clerk may be dealt accordingly under the E & D Rules and as a temporary arrangement nominate Izhar Bacha Senior Clerk attached to Circle Office Swabi as an acting Head Clerk for the needful please.

Executive Engineer,
Swabi Irrigation Division-II Swabi.

Copy forwarded to:-

1. The Chief Engineer (North) Irrigation Department, Peshawar for information and necessary action please.
2. The Chief Engineer (South) Irrigation Department, Peshawar for information and necessary action please.
3. The Executive Engineer, Hazara Irrigation Division, Abbottabad for information and necessary action please.
4. D.A.O / E.C (local) for information and necessary action.
5. **Mr. Muhammad Humayun** Head Clerk (under transfer) c/o Executive Engineer, Hazara Irrigation Division, Abbottabad for information and necessary action. He is finally directed to assume his charge in this office otherwise, his name will be recommended for punitive action under E & D Rules.

Executive Engineer

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO.66/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 240

Date 01/03/2018

Muhammad Miskeen

V/S

Irrigation Department


APPLICATION FOR RELEASE OF SALARY W.E.F
01.01.2018 TILL DATED AND ONWARD.

RESPECTFULLY SHEWETH:

- Put up to the court
with relevant appeal.*
- 11/3/18*
- Reader*
1. That the appellant has filed the instant appeal alongwith with suspension application against the order dated 13.12.2017 whereby the appellants transfer order dated 02.11.2017 has been cancelled and against the rejection order dated 08.01.2018.
 2. That the instant appeal was fixed in Preliminary hearing on 15.02.2017 and Honorable Tribunal was kind enough to admit the appeal for regular hearing and also status-quo has been issued in favor of appellant. **Copy of order sheet dated 15.02.2018 is attached as Annexure -A.**
 3. That the appellant was transferred from Hazara Division 02.11.2017 from Swabi Irrigation Division the appellant in compliance order dated 02.11.2017 took charge at Hazara Irrigation Division Abbottabad on 07.11.2017 and start the receiving his salaries from Hazara Irrigation Division till the cancellation order dated 13.12.2017. **(Copy of the salary slips is attached as Annexure-B.**
 4. That the appellant didn't relieve his charge and performing his duties at Hazara Division till status-quo and onward. The appellant performing his duty regularly but stoppage of salary without any reason and justification amount to force labour which is violation of Article-13 of constitution of Pakistan as well as section 17 of Civil Servant Act, 1973.
 5. That due to stoppage of salary the financial position of the appellant unbearable.

6. That the charge of the post at Hazara Irrigation Division is still with the appellant and he performing his duties and status-quo also granted in favour of appellant. So the stoppage of salary and not releasing the salary of the appellant and illegal against the law and rules.

It is therefore, most humbly prayed, that the acceptance of this application the respondent may be directed to release the salary of the appellant w.e.f 01.01.2018 till date and onward. Any other remedy which this august tribunal deems fit and appropriate that may also be awarded in favour of appellant.



APPELLANT
Muhammad Miskeen

Through:



(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.



DEPONENT

ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar

1 MAR 2018

Government of Khyber Pakhtunkhwa
District Accounts Office Abbotabad
Monthly Salary Statement (December-2017)



Personal Information of Mr MUHAMMAD MISKEEN d/w/s of MUHAMMAD AKRAM

Personnel Number: 00001046 CNIC: 1310133939085 NTN: 0
 Date of Birth: 03.02.1963 Entry into Govt. Service: 22.02.1984 Length of Service: 33 Years, 10 Months 011 Days

Employment Category: Active Permanent

Designation: HEAD CLERK 80000281-GOVERNMENT OF KHYBER PAKH
 DDO Code: AD4189-Executive Engineer Hazara Irrigatio
 Payroll Section: 002 GPF Section: 001 Cash Center: 0
 GPF A/C No: IRR/A000709 Interest Applied: Yes **GPF Balance:** 387,019.00
 Vendor Number: 30331844 - MUHAMMAD MISKEEN
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 16 Pay Stage: 15

Wage type		Amount	Wage type		Amount
0001	Basic Pay	16,146.00	0001	Basic Pay	0.00
1090	House Rent Allowance	0.00	1000	House Rent Allowance	704.00
1210	Convey Allowance 2005	1,935.00	1210	Convey Allowance 2005	0.00
1300	Medical Allowance	581.00	1300	Medical Allowance	0.00
2148	15% Adhoc Relief All-2013	341.00	2148	15% Adhoc Relief All-2013	0.00
2199	Adhoc Relief Allow @10%	233.00	2199	Adhoc Relief Allow @10%	0.00
2211	Adhoc Relief All 2016 10%	1,308.00	2211	Adhoc Relief All 2016 10%	0.00
2224	Adhoc Relief All 2017 10%	1,615.00	2224	Adhoc Relief All 2017 10%	0.00

Deductions - General

Wage type	Amount	Wage type	Amount
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Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable: 0.00 Recovered till December-2017: 4,075.00 Exempted: 4075.00- Recoverable: 0.00

Gross Pay (Rs.): 22,863.00 Deductions: (Rs.): 0.00 Net Pay: (Rs.): 22,863.00

Payee Name: MUHAMMAD MISKEEN

Account Number: 11577-1

Bank Details: NATIONAL BANK OF PAKISTAN, 230301 MAIN BRANCH, ABBOTABAD. MAIN BRANCH, ABBOTABAD., ABBOTABAD

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:

City: ATD Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official

Temp. Address:

City: Email:

Government of Khyber Pakhtunkhwa
District Accounts Office Abbotabad
Monthly Salary Statement (November-2017)



Personal Information of Mr MUHAMMAD MISKEEN d/w/s of MUHAMMAD AKRAM

Personnel Number: 00001046 CNIC: 1310133939085 NTN: 0
 Date of Birth: 03.02.1963 Entry into Govt. Service: 22.02.1984 Length of Service: 33 Years 09 Months 010 Days

Employment Category: Active Permanent

Designation: HEAD CLERK

80000281-GOVERNMENT OF KHYBER PAKH

DDO Code: AD4189-Executive Engineer Hazara Irrigatio

Payroll Section: 002

GPF Section: 001

Cash Center: 0

GPF A/C No: IRR/A000709

Interest Applied: Yes

GPF Balance: 387,019.00

Vendor Number: 30331844 - MUHAMMAD MISKEEN

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 16

Pay Stage: 14

Wage type		Amount	Wage type		Amount
0001	Basic Pay	40,190.00	1000	House Rent Allowance	1,818.00
1210	Convey Allowance 2005	5,000.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	880.00	2199	Adhoc Relief Allow @10%	601.00
2211	Adhoc Relief All 2016 10%	3,380.00	2224	Adhoc Relief All 2017 10%	4,019.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription - Rs3340	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-1,358.00	4004	R. Benefits & Death Comp:	-1,089.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 13,580.75 Recovered till November-2017: 4,075.00 Exempted: 0.04- Recoverable: 9,505.79

Gross Pay (Rs.): 57,388.00 Deductions: (Rs.): -6,587.00 Net Pay: (Rs.): 50,801.00

Payee Name: MUHAMMAD MISKEEN

Account Number: 11577-1

Bank Details: NATIONAL BANK OF PAKISTAN, 230301 MAIN BRANCH, ABBOTABAD. MAIN BRANCH, ABBOTABAD.

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:

City: ATD

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

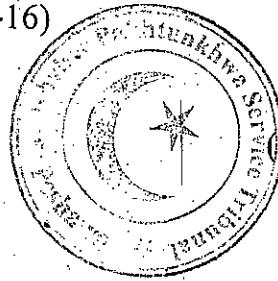
APPEAL NO. 66 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 48

Dated 16-1-2018

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



(APPELLANT)

VERSUS

1. The Secretary to Govt: of KP Irrigation Deptt., Peshawar.
2. The Chief Engineer (SOUTH) Irrigation Deptt., KP, Peshawar.
3. Muhammad Hamayun Head Clerk, Swabi Irrigation Division No.2 Swabi.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13.12.2017 WHEREBY THE APPELLANT TRANSFER ORDER 2.11.2017 HAS BEEN CANCELLED, JUST AFTER ABOUT 1 MONTH PREMATURELY AND UTTER VIOLATION OF POSTING TRANSFER POLICY, AND AGAINST REJECTION ORDER DATED 08.1.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 13.12.2017 and 08.1.2018, MAY BE SET ASIDE BEING, PASSED PREMATURELY AND VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Heard by
Registrar
16/1/18

Certified to be true copy

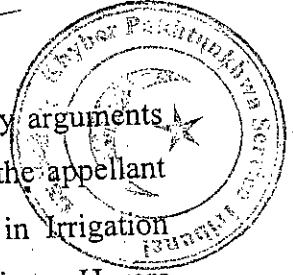
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

sub-1172

19/1/18

Appeal No. 66/2018
M. Miskeen vs Govt

15.02.2018



Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving as Head Clerk in Irrigation Department and was transferred from Swabi to Hazara Division Abbottabad vide order dated 02.11.2017. It was further contended that the said transfer order was cancelled vide order dated 17.12.2017 just after one month and 10 days. It was further contended that the appellant filed departmental appeal within time but the same was also rejected hence, the present service appeal. It was further contended that the impugned order dated 13.12.2017 regarding the cancellation of the transfer order of the appellant was issued/passed by the competent authority in violation of transfer posting policy as the normal tenure as per transfer posting policy is two years but the appellant transfer order was cancelled just after one month on the basis of political influence therefore, the impugned order is illegal and liable to be set-aside. It was further contended that the appellant has not relinquished the charge so far and is still performing at Hazara Division Abbottabad.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 01.03.2018 before S.B. In the meanwhile status-quo be maintained till the date fixed. Notice of stay application be also issued to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee

M.A.
(Muhammad Amin Khan Kundi)
Member

Certified to be true copy
Secretary, Irrigation
Department, Abbottabad

Date of Presentation 16-2-18
Number of Pages 6
Number of Exhibits 2
Number of Witnesses 8
16-2-18
16-2-18

27.03.2018

Appellant with counsel and Mr. Kabirullah, Khattak, Additional AG alongwith Mr. Faiz-ul-Haq, Assistant for official respondent present. Learned Additional AG seeks adjournment. Adjourned. To come up for reply/arguments on C.O.C application on 03.04.2018 before D.B alongwith main service appeal No. 66/2018.



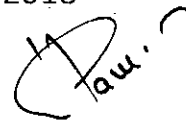
(Muhammad Amin Khan Kundi)
Member



(Muhammad Hamid Mughal)
Member

03.04.2018

Learned counsel for the petitioner present. Mr. Muhammad Jan, Learned Deputy District Attorney for respondents present. Adjournment requested. To come up for further proceeding on C.O.C application on 04.04.2018 before D.B alongwith main service appeal bearing No.66/2018



(Ahmad Hassan)
Member

(Muhammad Hamid Mughal)
Member

04.04.2018

Learned counsel for the petitioner present. Learned Deputy District Attorney present. Main service appeal of the appellant has been accepted. Consequently the present application has become infructuous, as such the same is hereby dismissed. No order as to costs. File be consigned to the record room.



(Ahmad Hassan)
Member



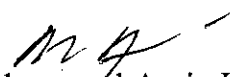



(Muhammad Hamid Mughal)
Member

FORM OF ORDER SHEET

Court of _____

C.O.C Application No. 58/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01/03/2018	<p>The C.O.C application of Mr. Muhammad Miskeen submitted today by Syed Noman Ali Bukhari Advocate, may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	01/03/18.	<p>This C.O.C application be put up before S. Bench on <u>01/03/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
01.03.2018		<p>Counsel for the applicant present. Notice be issued to the respondents for 12.03.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>
	12.03.2018	<p>Counsel for the appellant present. Mr. Riaz Paindakhel, Assistant AG alongwith Mr. Faiz-ul-Haq, Superintendent for official respondent present. Learned Assistant AG requested for adjournment. Adjourned. To come up for reply/arguments on COC application on 27.03.2018 before D.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

C.O.C Application No. 58/2018

CM No. _____/2018
In Service Appeal No.66/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 241

Date 01/03/2018

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

(APPELLANT)

VERSUS

1. The Chief Engineer, Zahid Abbas (SOUTH) Irrigation Deptt., KP,
Peshawar.

*Put up to the court with
relevant appeal.*

(RESPONDENTS)

1/3/18
Reader

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE ORDER
DATED 15.02.2018 OF THIS HONOURABLE
TRIBUNAL IN LETTER AND SPIRIT.**

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal alongwith with suspension application against the order dated 13.12.2017 whereby the appellants transfer order dated 02.11.2017 has been cancelled and against the rejection order dated 08.01.2018.
2. That the instant appeal was fixed in Preliminary hearing on 15.02.2017 and Honorable Tribunal was kind enough to admit the appeal for regular hearing and also status-quo has been issued in favor of appellant. **Copy of order sheet dated 15.02.2018 is attached as Annexure -A.**
3. That the appellant was transferred from Hazara Division 02.11.2017 from Swabi Irrigation Division the appellant in compliance order dated 02.11.2017 took charge at Hazara

Irrigation Division Abbottabad on 07.11.2017 and start the receiving his salaries from Hazara Irrigation Division till the cancellation order dated 13.12.2017. **(Copy of the salary slips is attached as Annexure-B.**

4. That the appellant didn't relieve his charge and performing his duties at Hazara Division till status-quo and onward. The appellant performing his duty regularly but stoppage of salary without any reason and justification amount to force labour which is violation of Article-13 of constitution of Pakistan as well as section 17 of Civil Servant Act, 1973.
5. That the respondent not implemented the order dated 15.02.2018 which is violation of Tribunal order dated 15.02.2018 and amount to contempt of court.
6. That the appellant file the instant execution petition on following grounds.

Grounds:

1. That respondent not implementing the order dated 15.02.2018, despite of the Honorable Court's direction is the violation of Court's order and amounts to Contempt of Court.
2. That being the Apex Court of the Province, the respondents are legally bound to obey the same in letter and spirit, but the respondents are totally failed to ^{assist} ~~restate~~ the petitioner. *at his post at Hazara Irrigation Division Abbottabad*
3. That the attitude and behaviour of the respondents amounts to Contempt of this august Court.
4. That the petitioners seek permission to advance the other grounds and proof at the time of hearing.
5. That the petitioner has having no other remedy to file this Implementation appeal.

It is, therefore, most humbly prayed that the respondents may be directed to implement the order dated 15.02.2018 of this august Tribunal in letter and spirit and allowed the appellant to work at his station Hazara irrigation division, Abbottabad and issue order to release the salaries of the appellant from 1.1.2018 to till date and onward. Any other

1-3-18

remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of appellant.



APPELLANT

Muhammad Miskeen

THROUGH:



(SYED NOMAN ALI BUKHARI)

ADVOCATE, PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the content of the execution petition is true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.



DEPONENT

ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar

21 MAR 2018

Government of Khyber Pakhtunkhwa
District Accounts Office Abbotabad
Monthly Salary Statement (November-2017)



Personal Information of Mr MUHAMMAD MISKEEN d/w/s of MUHAMMAD AKRAM

Personnel Number: 00001046 CNIC: 1310133939085 NTN: 0
 Date of Birth: 03.02.1963 Entry into Govt. Service: 22.02.1984 Length of Service: 33 Years 09 Months 010 Days

Employment Category: Active Permanent

Designation: HEAD CLERK

DDO Code: AD4189-Executive Engineer Hazara Irrigatio

80000281-GOVERNMENT OF KHYBER PAKH

Payroll Section: 002

GPF Section: 001

Cash Center: 0

GPF A/C No: IRR/A000709

Interest Applied: Yes

GPF Balance: 387,019.00

Vendor Number: 30331844 - MUHAMMAD MISKEEN

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 16

Pay Stage: 14

Wage type		Amount	Wage type		Amount
0001	Basic Pay	40,190.00	1000	House Rent Allowance	1,818.00
1210	Convey Allowance 2005	5,000.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	880.00	2199	Adhoc Relief Allow @10%	601.00
2211	Adhoc Relief All 2016 10%	3,380.00	2224	Adhoc Relief All 2017 10%	4,019.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription - Rs3340.	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-1,358.00	4004	R. Benefits & Death Comp.	-1,089.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 13,580.75 Recovered till November-2017: 4,075.00 Exempted: 0.04- Recoverable: 9,505.79

Gross Pay (Rs.): 57,388.00 Deductions: (Rs.): -6,587.00 Net Pay: (Rs.): 50,801.00

Payee Name: MUHAMMAD MISKEEN

Account Number: 11577-1

Bank Details: NATIONAL BANK OF PAKISTAN, 230301 MAIN BRANCH, ABBOTABAD. MAIN BRANCH, ABBOTABAD.. ABBOTABAD

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:

City: ATD

Temp. Address:

City:

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Email:

Government of Khyber Pakhtunkhwa
District Accounts Office Abbotabad
Monthly Salary Statement (December-2017)



Personal Information of Mr MUHAMMAD MISKEEN d/w/s of MUHAMMAD AKRAM

Personnel Number: 00001046 CNIC: 1310133939085 NTN: 0
Date of Birth: 03.02.1963 Entry into Govt. Service: 22.02.1984 Length of Service: 33 Years, 10 Months 011 Days

Employment Category: Active Permanent

Designation: HEAD CLERK 80000281-GOVERNMENT OF KHYBER PAKH
DDO Code: AD4189-Executive Engineer Hazara Irrigatio
Payroll Section: 002 GPF Section: 001 Cash Center: 0
GPF A/C No: IRR/A000709 Interest Applied: Yes GPF Balance: 387,019.00
Vendor Number: 30331844 - MUHAMMAD MISKEEN
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 16 Pay Stage: 15

Wage type	Amount	Wage type	Amount
0001 Basic Pay	16,146.00	0001 Basic Pay	0.00
1090 House Rent Allowance	0.00	1090 House Rent Allowance	704.00
1210 Convey Allowance 2005	1,935.00	1210 Convey Allowance 2005	0.00
1300 Medical Allowance	581.00	1300 Medical Allowance	0.00
2148 15% Adhoc Relief All-2013	341.00	2148 15% Adhoc Relief All-2013	0.00
2199 Adhoc Relief Allow @10%	233.00	2199 Adhoc Relief Allow @10%	0.00
2211 Adhoc Relief All 2016 10%	1,308.00	2211 Adhoc Relief All 2016 10%	0.00
2224 Adhoc Relief All 2017 10%	1,615.00	2224 Adhoc Relief All 2017 10%	0.00

Deductions - General

Wage type	Amount	Wage type	Amount

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till December-2017: 4,075.00 Exempted: 4075.00 Recoverable: 0.00

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Account Number: 11577-1

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Leaves: Opening Balance: Aailed: Eamed: Balance:

Permanent Address:

City: ATD

Domicile: NW - Khyber Pakhtunhwa

Housing Status: No Official

Temp. Address:

City:

Email:

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

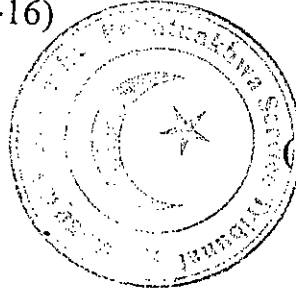
APPEAL NO. 66 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 48

Dated 16-1-2018

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



(APPELLANT)

VERSUS

1. The Secretary to Govt: of KP Irrigation Deptt:, Peshawar.
2. The Chief Engineer (SOUTH) Irrigation Deptt:, KP, Peshawar.
3. Muhammad Hamayun Head Clerk, Swabi Irrigation Division No.2 Swabi.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13.12.2017 WHEREBY THE APPELLANT TRANSFER ORDER 2.11.2017 HAS BEEN CANCELLED, JUST AFTER ABOUT 1 MONTH PREMATURELY AND UTTER VIOLATION OF POSTING TRANSFER POLICY, AND AGAINST REJECTION ORDER DATED 08.1.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 13.12.2017 and 08.1.2018, MAY BE SET ASIDE BEING, PASSED PREMATURELY AND VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

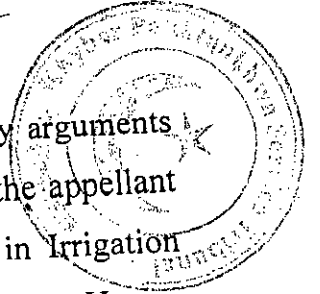
Muhammad Miskeen
16/1/18
Registrar

sub-177-1
16/1/18
day 19/1/18

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Appeal No. 66/2018
M. Miskeen vs Govt

15.02.2018



Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving as Head Clerk in Irrigation Department and was transferred from Swabi to Hazara Division Abbottabad vide order dated 02.11.2017. It was further contended that the said transfer order was cancelled vide order dated 13.12.2017 just after one month and 10 days. It was further contended that the appellant filed departmental appeal within time but the same was also rejected hence, the present service appeal. It was further contended that the impugned order dated 13.12.2017 regarding the cancellation of the transfer order of the appellant was issued/passed by the competent authority in violation of transfer posting policy as the normal tenure as per transfer posting policy is two years but the appellant transfer order was cancelled just after one month on the basis of political influence therefore, the impugned order is illegal and liable to be set-aside. It was further contended that the appellant has not relinquished the charge so far and is still performing at Hazara Division Abbottabad.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 01.03.2018 before S.B. In the meanwhile status-quo be maintained till the date fixed. Notice of stay application be also issued to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee

M.A.
(Muhammad Amin Khan Kundi)
Member

Certified to be true copy

Secretary
Hazara Division,
Abbottabad

Date of Presentation 16-2-18
Number of Pages 6
Copy of 2
Total 8
16-2-18
16-2-18

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

Service Appeal No. 66/2018

Muhammad Miskeen

VS

irrigation deptt.

.....
REJOINDER ON BEHALF OF APPELLANT To Office's Resp.
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Para-1 of the appeal is admitted correct by the respondent department as service record is already in the custody of the respondent department.
2. Incorrect and misconceived. According superior court judgment tenure and policy must be respected.
3. Incorrect. While para-3 of the appeal is admitted correct by the respondent department as mentioned in the main appeal of the appellant. Moreover, the cancellation order without any reason.
4. Incorrect. While para-4 of the appeal is correct as mentioned in the main appeal of the appellant.
5. Incorrect. The appellant has good cause of action.

GROUND:

- A) Incorrect. While para-A of the appeal is correct as mentioned in the main appeal of the appellant.
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.
- C) Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant.

- E) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant.
- H) Incorrect. While para-H of the appeal is correct as mentioned in the main appeal of the appellant.
- I) Incorrect. While para-I of the appeal is correct as mentioned in the main appeal of the appellant.
- J) Incorrect. While para-J of the appeal is correct as mentioned in the main appeal of the appellant.
- K) Legal.

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

APPELLANT

Through:



(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

DEPONENT

ATTESTED



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

Service Appeal No. 66/2018

Muhammad Miskeen

VS

irrigation deptt:

.....
REJOINDER ON BEHALF OF APPELLANT *To Official Respondent.*
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Para-1 of the appeal is admitted correct by the respondent department as service record is already in the custody of the respondent department.
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5. Incorrect. The appellant has good cause of action.

GROUND:

- A) Incorrect. While para-A of the appeal is correct as mentioned in the main appeal of the appellant..
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.
- C) Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant.

- E) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant.
- H) Incorrect. While para-H of the appeal is correct as mentioned in the main appeal of the appellant.
- I) Incorrect. While para-I of the appeal is correct as mentioned in the main appeal of the appellant.
- J) Incorrect. While para-J of the appeal is correct as mentioned in the main appeal of the appellant.
- K) Legal.

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

APPELLANT

Through:



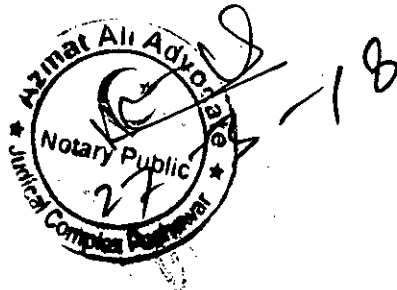
(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.


DEPONENT

ATTESTED



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

Service Appeal No. 66/2018

Muhammad Miskeen

VS

irrigation deptt:

.....

REJOINDER ON BEHALF OF APPELLANT To Official Resp.

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Para-1. of the appeal is admitted correct by the respondent department as service record is already in the custody of the respondent department.
2. Incorrect and misconceived. According superior court judgment tenure and policy must be respected.
3. Incorrect. While para-3 of the appeal is admitted correct by the respondent department as mentioned in the main appeal of the appellant. Moreover, the cancellation order without any reason.
4. Incorrect. While para-4 of the appeal is correct as mentioned in the main appeal of the appellant.
5. Incorrect. The appellant has good cause of action.

GROUND:


- A) Incorrect. While para-A of the appeal is correct as mentioned in the main appeal of the appellant..
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.
- C) Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant.

- E) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant.
- H) Incorrect. While para-H of the appeal is correct as mentioned in the main appeal of the appellant.
- I) Incorrect. While para-I of the appeal is correct as mentioned in the main appeal of the appellant.
- J) Incorrect. While para-J of the appeal is correct as mentioned in the main appeal of the appellant.
- K) Legal.

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

APPELLANT

Through:



(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.


DEPONENT

ATTESTED



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

Service Appeal No. 66/2018

Muhammad Miskeen

VS

irrigation deptt:

.....

REJOINDER ON BEHALF OF APPELLANT To ~~Private~~ Respondent.

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(A-D) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Incorrect. While para-1 of the appeal is correct as mentioned in the main appeal of the appellant.
2. Incorrect and misconceived. According superior court judgment tenure and policy must be respected. Moreover, the appellant has completed his normal tenure, which is also evident from the letter dated 23.1.2018. **copy of letter is attached as annexure-R.**
3. Incorrect. While para-3 of the appeal is admitted correct by the respondent department as mentioned in the main appeal of the appellant. Moreover, the cancellation order without any reason.
4. Incorrect. While para-4 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover the respondent department clearly written that the department not considered the appeal. Furthermore, its relates to respondent deptt. Not related with private respondent.
5. Incorrect. The appellant has good cause of action.

GROUND:

- A) Incorrect. While para-A of the appeal is correct as mentioned in the main appeal of the appellant..
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- J) Incorrect. While para-J of the appeal is correct as mentioned in the main appeal of the appellant.
- K) Legal.

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

APPELLANT

Through:



(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

ATTESTED

DEPONENT





GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

No. SO (E)/Irr:/5-2/70/Vol - XVII *** Dated Peshawar the 23.01.2018

To

The Chief Engineer (South),
Irrigation Department.

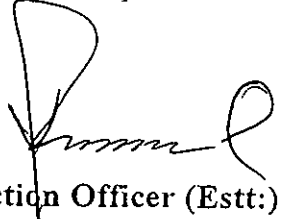
Subject: - DEPARTMENTAL APPEAL AGAINST OFFICE, ORDER NO: 6354/a-5
DATED 13-12-2017 ISSUED BY THE CHIEF ENGINEER (SOUTH)
IRRIGATION.

I am directed to refer to your letter No. 31/IB/A dated 01.01.2018 on the subject noted above and to state that reasons for cancellation of transfer order of Mr. Muhammad Miskeen Khan Head Clerk and Muhammad Hamayun Head Clerk issued vide your office order No. 5550/IB/A-5/254-E dated 02.11.2017 may please be indicated.

The perusal of record reveals that both the Head Clerks had completed their normal tenures in their respective divisions.

Copy to:

PS to Secretary Irrigation, Khyber Pakhtunkhwa.


Section Officer (Estt.)


Section Officer (Estt.)

0314 5014146

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

Service Appeal No. 66/2018

Muhammad Miskeen

VS

irrigation deptt:

.....
REJOINDER ON BEHALF OF APPELLANT To *Private Respondent*
.....

RESPECTFULLY SHEWETH:

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DEPONENT

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Handwritten signature and initials, possibly '3-28'.



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

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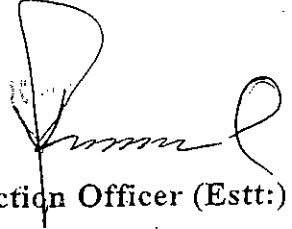
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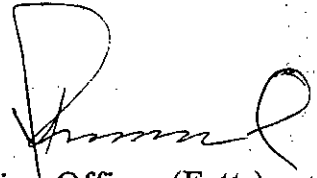
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Service Appeal No. 66/2018

Muhammad Miskeen

VS

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

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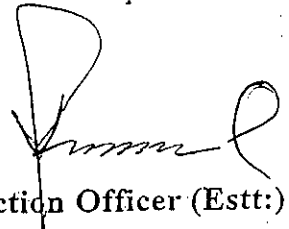
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Service Appeal No. 66/2018

Muhammad Miskeen

VS

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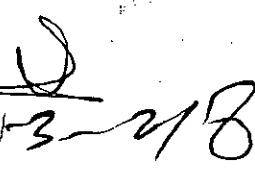
AFFIDAVIT

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DEPONENT

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

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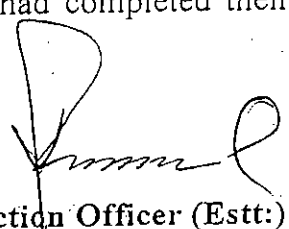
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