


11.02.2019

Appellant absent. Learned counsel for the appellant present. Muhammad Arif Superintendent representative of respondent No.2 present. Private respondent No.3 absent. Case called but no one appeared on behalf of private respondent No.3, hence private respondent No.3 is placed ex-parte. Adjourn. To come up for rejoinder/final hearing on 25.02.2019 before D.B.

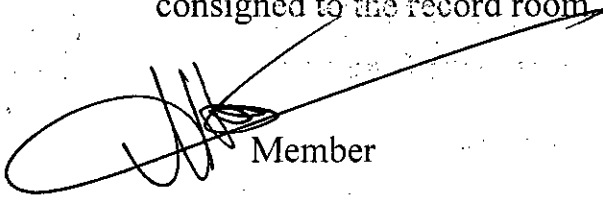
  
Member

25.02.2019

Nemo for appellant. Addl. AG alongwith Javed Khan, Assistant for the respondents present.

It is already 3.30 PM and the case has been called more than one. Despite, no one is in attendance on behalf of the appellant.

Dismissed for non-prosecution. File be consigned to the record room.

  
Member

  
Chairman

Announced

25-02-2019

ACM

**Service Appeal No. 154/2018**

**10.12.2018**

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG on behalf of official respondents No. 1 & 2 present. Written reply on behalf of official respondents No. 1 & 2 already submitted. None present on behalf of private respondent No. 3 nor written reply submitted therefore, fresh notice be issued to him for attendance and filing of written reply. Adjourned. To come up for written reply/comments on behalf of private respondent No. 3 on 17.01.2019 before S.B.

*MA*

**Muhammad Amin Khan Kundi  
Member**

**17.1.2019**

Counsel for the appellant and Addl. AG for the respondents present.

Learned counsel for the appellant requests for adjournment of instant matter in order to seek fresh instructions from the appellant. Adjourned to 31.01.2019 before S.B.

*[Signature]*

Chairman

**31.01.2019**

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Javed Iqbal, Senior Auditor for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 11.02.2019 before S.B.

*MA*

**(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER**


13.07.2018

Counsel for the appellant Mr. Taimur Ali Khan, Advocate present. Sardar Shaukat Hayat, Addl. Advocate General on behalf of the respondents present. Written reply/comments not submitted. Last chance is given to submit the same on or before 27.08.2018 before S.B.

  
Chairman

27.08.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Attaullah, Assistant Secretary for official respondents No. 1 & 2 present and submitted written reply. None present on behalf of private respondent No. 3 therefore, notice be issued private respondents No. 3 for attendance and filing of written reply by way of another last chance. To come up for written reply/comments on behalf of private respondent No. 3 on 24.10.2018 before S.B.

  
(Ahmad Hassan)  
Member

23-10-18

*Due To Retirement of Honorable  
Chairman The Tribunal is non  
functional therefore the case is  
adjourned To come up for the  
same on 10-12-2018*

*Reader*

19.04.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that he was working as Naib Tehsildar BPS-14 in the Board of Revenue. Vide impugned order dated 16.11.2017, the appellant was transferred prematurely from the post of Sub-registrar-1 Peshawar to Malakand Division for further posting. He had hardly completed five months at the place of his previous posting. That previously vide notification dated 04.05.2017 transfer was made by the respondents was premature. Feeling aggrieved he filed departmental appeal on 27.11.2017, which was rejected on 11.01.2018, hence, the instant service appeal. Premature transfer is violation of posting/transfer policy. Learned counsel for the appellant has also submitted separate application for suspension of impugned transfer order.

Points urged need consideration. Admit subject to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 07.06.2018 before S.B. Notice of suspension application be also issued to the respondents for the date fixed.

Appellant Deposited  
Security & Process Fee

(AHMAD HASSAN)  
MEMBER

07.06.2018

Clerk of the counsel for appellant and Addl. AG along with Mr. Atta Ullah, Assistant Secretary for respondents present. Written reply, not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 13.07.2018 before S.B.

Member


23.02.2018

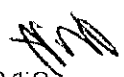
Counsel for the appellant present and seeks adjournment.  
Adjourned. To come up for preliminary hearing on 09.03.2018  
before D.B.

  
(Ahmad Hassan)  
Member(E)

09.03.2018

Learned counsel for the appellant present. During the  
course of preliminary arguments learned DDA who was also  
present in connection with other case, brought into the  
notice of this Tribunal that the impugned posting/transfer  
order vis a vis appellant is no more in field, whereupon  
learned counsel for the appellant seeks adjournment to  
contact the appellant. Adjourned. To come up for  
preliminary hearing on 05.04.2018 before S.B

  
(Muhammad Hamid Mughal)  
Member




  
05.04.2018

Appellant absent. Learned counsel for  
the appellant absent. Adjourn. To come up for  
preliminary hearing on 19.04.2018 before S.B

  
Member

**Form-A**  
**FORM OF ORDERSHEET**

Court of \_\_\_\_\_  
Case No. 154/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31/1/2018	<p>The appeal of Mr. Gul Shahzad resubmitted today by Mr. Muhammad Asif Yousafzai 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-	06/02/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/02/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	12.02.2018	<p>Clerk of the counsel for appellant present and requested for adjournment on the ground that learned counsel for the appellant is not in attendance today due to strike of the Bar. Adjourned. To come up for preliminary hearing on 23.02.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member (J)</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 154 /2018

Gul Shahzad

V/S

Revenue Deptt:

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S.NO.	Documents	Annexure	Page No.
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3.	Copy of order dated (18.1.2016)	A	6
4.	Copy of Ex-Pakistan leave	B	7
5.	Copy of order dated (4.5.2017)	C	8
6.	Copy of order dated (29.5.2017)	D	9
7.	Copy of order dated (16.11.2017)	E	10
8.	Copy of departmental appeal	F	11-13
9.	Copy of rejection order	G	14
10.	Copy of posting/transfer policy	H	15-21
11.	Copy of circular dated 27.2.2013	I	22-22A
12.	Vakalat nama	-----	23

APPELLANT

THROUGH:

*M. Asif Yousafzai*  
M.ASIF YOUSAFZAI

(ADVOCATE SUPREME COURT),

*Taimur Ali Khan*  
TAIMUR ALI KHAN

(ADVOCATE HIGH COURT)

&

*S. Noman Ali Bukhri*  
S. NOMAN ALI BUKHRI

(ADVOCATE PESHAWAR).

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 154 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 162

Dated 31-1-2018

Mr. Gul Shahzad,  
Naib Tehsildar (BPS-14) Sub Registrar- I Peshawar

(Appellant)

**VERSUS**

1. The Chief Secretary KPK, Civil Secretariat Peshawar.
2. The Senior Member Board of Revenue KPK, Peshawar.
3. Mr. Faqir Hussain, Naib Tehsildar, Land Acquisition Charsadda.

(Respondents)

*Ex parte  
vide order sheet  
dated 11/2/19*

-----  
APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 11.01.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AGAINST THE PREMATURE TRANSFER ORDER DATED 16.11.2017 FOR NO GOOD GROUND.

**PRAYER:**

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDERS DATED 11.01.2018 AND 16.11.2017 MAY BE SET ASIDE BEING PREMATURE PASSED IN THE VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT BEING 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-day

Registrar

31/1/18



**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant is working in Revenue Department as Naib Tehsildar (PbS-14) and performing his duty with the entire satisfaction of his superiors and no complaint has been filed against the appellant.
2. That the appellant while serving in the said capacity transferred from the post of Naib Tehsildar Land Acquisition Charsadda to the post of Naib Tehsildar Abbottabad vide order dated 18.01.2016 and since then performing his duty with great zeal and devotion. **(Copy of order dated 18.01.2016 is attached as Annexure-A)**
3. That the appellant was on Ex-Pakistan w.e f 19.04.2017 to 9.5.2017, when he was transferred vide order dated 04.05.2017 to report Board of Revenue without completing normal tenure at Abbottabad. **(Copy of Ex-Pakistan leave and order dated 04.05.2017 are attached as Annexure- B&C)**
4. That the appellant was posted as Sub-Registrar-I vide order dated 29.05.2017 and performed his study as Sub-Registrar-I with zeal and devotion and there was no complaint regarding his performance as Sub-Registrar-I Peshawar. **(Copy of order dated 29.05.2017 is attached as annexure-D)**
5. That just after about 5 months, the appellant was again prematurely transferred from the post of sub-Registrar-I Peshawar and his services placed at the disposal of Commissioner Malakand for further Posting vide order dated 16.11.2017 in utter violation of posting transfer policy. **(copy of order dated 16.11.2017 is attached as Annexure-E)**
6. That against the impugned transfer order, the appellant filed departmental appeal on 27.11.2017 which was rejected on 11.01.2018 for no ground. **(Copies of departmental appeal and rejection order is are attached as Annexure- F&G)**
7. That the appellant has no other remedy but come this august Tribunal on the basis of following grounds amongst others.

**GROUND:**

- A) That the impugned order dated 11.01.2018 and 16.11.2017 are against the law, facts, norms of justice, being prematurely, violation of posting/transfer policy and Govt: circular dated 27.12.2013, therefore not tenable and liable to be set aside.

- B) The transfer of the appellant is in total violation of Govt: posting transfer policy and circular based on the Anita Turab case dated 27.02.2013. Thus the impugned order is liable to be set-aside on this score alone. **(Copies of policy and circular are attached as Annexure- H&I)**
- C) The impugned transfer order is also premature as the appellant has transferred just after about 5 months which is clear violation of posting transfer policy.
- D) That the impugned transfer order is not based on public interest nor any exigencies but just to accommodate the blue eyed person.
- E) That the appellant has made a rolling stone by the respondents by transferring him 3 times just in 7 months, which means that the appellant was not allowed to perform his duty to best of his ability and capability at any station.
- F) That no summary has been obtained from the competent authority before passing the impugned order of transfer of the appellant which is violation instruction 4 of the posting transfer policy.
- G) That the appellant has not been treated according to law and rules and has been prematurely transferred in clear violation of posting transfer policy.
- H) 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 may be accepted as prayed for.

  
APPELLANT

Gul Shahzad

THROUGH:

  
M. ASIF YOUSAFZAI

(ADVOCATE SUPREME COURT),

  
TAIMUR ALI KHAN  
(ADVOCATE HIGH COURT)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2018

Gul Shahzad

V/S

Revenue Deptt:

**APPLICATION FOR SUSPENDING THE OPERATION OF  
ORDER DATED 16.11.2017 TO THE EXTENT OF THE  
APPELLANT TILL THE DISPOSAL OF MAIN APPEAL.**

**RESPECTFULLY SHEWETH.**

1. That the appellant has filed an appeal along with this application in which no date is fixed so far.
2. That impugned transfer order has passed being prematurely and in violation of posting transfer policy.
3. That no summary has been obtained from the competent authority before passing the impugned order of transfer of the appellant which is violation instruction 4 of the posting transfer policy.
4. That the grounds of main appeal may also be considered as integral part of this application.
5. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.

It is therefore most humbly prayed that the operation of the order dated 16.11.2017 may be suspended to the extent of the appellant till the decision of main appeal.

APPELLANT

THROUGH:



**M.ASIF YOUSAFZAI**  
**(ADVOCATE SUPREME COURT)**

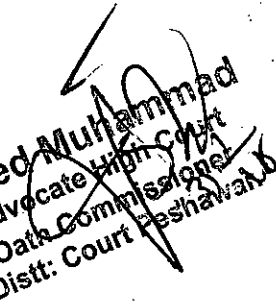


**TAIMUR ALI KHAN**  
**(ADVOCATE HIGH COURT)**

**AFFIDAVIT**

It is affirmed that the contents of the application is correct to best of my knowledge and nothing has been concealed from this august Tribunal

**Javed Muhammad**  
**Advocate High Court**  
**Oath Commissioner**  
**Distt. Court Peshawar**



**DEPONENT**

A (6)

140

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 18 /01/2016

ORDER

No.Estt:V/PF/Saleem/\_\_\_\_\_ The Competent Authority is pleased to order the following posting /transfer amongst Naib Tehsildars with immediate effect and in public interest: -

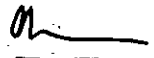
S.No	Name of Naib Tehsildar	From	To
1.	Mr. Waqar Ahmad, Naib Tehsildar	Naib Tehsildar Land Acquisition Mansehra	Inspector Stamps, Abbottabad (Current Charge Basis) against the vacant post.
2.	Mr. Gul Shehzad, Naib Tehsildar	Naib Tehsildar Land Acquisition Charsadda	Naib Tehsildar, Abbottabad

By Order of  
Senior Member

No.Estt:V/PF/ Saleem / 1776-82

Copy forwarded to the:-

1. Commissioners, Peshawar and Hazara Divisions.
2. Deputy Commissioners of the respective Districts.
3. District Accounts Officers of the respective Districts.
4. Officials concerned.
5. Office Order file.
6. Personal file.

  
Secretary - I

**ATTESTED**



B 7

11

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

Peshawar dated 19/04/2017

ORDER

No. Estt: V/Gul Shehzad/ New/ \_\_\_\_\_ Sanction is hereby accorded to the grant of 20 days Ex-Pakistan Leave (subject to title) in favour of Mr. Gul Shehzad Naib Tehsildar Abbottabad w.e.f 19.04.2017 to 9.05.2017 (Both days inclusive) for performance of Umrah.

Further Provincial Government has no objection to his proceeding abroad in connection with performance of Umrah.

By order of  
Senior Member

No. Estt: V/Gul Shehzad/ New/ 8212-17

Copy forwarded to the:-

1. Commissioner Hazara Division Abbottabad with reference to his letter No. CHD/Estt/9/4/2432-34: dated 13.04.2017. with the request to make arrangement by posting of suitable official to look after the work of Naib Tehsildar Abbottabad during leave period of Gul Shehzad Naib Tehsildar.
2. Deputy Commissioner, Abbottabad.
3. District Accounts Officer, Abbottabad.
4. Official concerned.
5. Personal file.

  
Assistant Secretary (Estt.)

**ATTESTED**  




GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

Dated Peshawar dated the 04 May, 2017

**NOTIFICATION:**

No. Estt:V/PF/M.Shoaib/\_\_\_\_\_ The following posting/transfer amongst the  
Tehsildar/Naib Tehsildars is hereby ordered with immediate effect in public interest.

Name of Tehsildar/ Naib Tehsildar	From	To
Mr. Javed Inam, Assistant.	Assistant, Office of the Commissioner Mardan.	Tehsildar Kalkot (CCB) Dir Upper against the vacant post.
Mr. Muhammad Shoaib	Naib Tehsildar Hangu.	Tehsildar Swabi(CCB)
Mr. Gul Ghazi Khan	Tehsildar Swabi	Tehsildar Dargai against the vacant post.
Mr. Gul Shahzad	Naib Tehsildar Abbottabad.	Report to Board Revenue.
Mr. Shaukat Iqbal,	Naib Tehsildar Prova, DIKhan.	Tehsildar/Recovery Officer PESCO Circle Bannu. (CCB)
Mr. Ajmal Shah	Kanungo, office of the Deputy Commissioner, Charsadda.	Naib Tehsildar Prova(CCB), DIKhan.
Mr. Muhammad Saleem	Settlement Naib Tehsildar, Mansehra.	Naib Tehsildar Abbottabad.
Mr. Muhammad Younas, Naib Tehsildar.	Awaiting posting in Board of Revenue	Services placed at the disposal of FATA Secretariat.

By Order of  
Senior Member

No. Estt:V/PF/M.Shoaib/ 9173-94

Copy forwarded to the:-

1. Additional Chief Secretary FATA, FATA Secretariat, Peshawar.
2. Commissioners of the respective Divisions.
3. Deputy Commissioners of the respective districts.
4. Superintending Engineer WAPDA, Circle Bannu.
5. Section Officer (Law & Order), FATA Secretariat, Peshawar/
6. District Accounts Officers of the respective districts.
7. Private Secretary to Senior Member, Board of Revenue.
8. Officials concerned.

**ATTESTED**

*(Signature)*

D 9

18

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

Dated Peshawar dated the 29 May, 2017.

**NOTIFICATION:**

No. Estt: V/G. Shahzad/\_\_\_\_\_ The following posting /transfer amongst  
Tehsildar, Naib Tehsildar and Sub Registrars is hereby ordered with immediate effect in public  
interest:-

S.No	Name of official.	From	To
1.	Mr. Muhammad Zaman.	Assistant, Deputy Commissioner's office Bannu.	Tehsildar - Dargai (CCB) against the vacant post.
2.	Mr. Adil Waseem	Naib Tehsildar, Land Acquisition, Charsasadda.	Naib Tehsildar Qasba Circle, Peshawar.
3.	Mr. Sultan Haider	Naib Tehsildar Qasba Circle, Peshawar.	Naib Tehsildar Land Acquisition, Charsadda.
4.	Mr. Muhammad Iqbal	Sub Registrar-I Peshawar	Sub Registrar Haripur against the vacant post.
5.	Mr. Gul Shahzad	Naib Tehsildar, awaiting posting in the Board of Revenue	Sub Registrar-I Peshawar vice No.4.

By Order of  
Senior Member

No. Estt: V/G. Shahzad/ 11235-55

Copy forwarded to the:-

1. Commissioners of the respective Divisions.
2. Deputy Commissioners of the respective districts.
3. Director Land Records Khyber Pakhtunkhwa.
4. District Accounts Officers of the respective districts.
5. Officials concerned.
6. Personal Files.

  
Assistant Secretary (Estt:)

**ATTESTED**  






GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT.

Dated Peshawar the 16 November, 2017.

**ORDER**

No. Estt:V/G.Shahzad/\_\_\_\_\_ The following posting/transfer amongst Naib Tehsildar and Sub-Registrar is hereby ordered with immediate effect in public interest:-


S.No	Name of official.	From	To
1.	Mr. Gul Shahzad	Sub-Registrar-I	Services placed at the disposal of Commissioner, Malakanand for further posting in the Division.
2.	Mr. Faqir Hussain	Naib Tehsildar, Land Acquisition Charsadda	Sub-Registrar-I, Peshwar vice No.1
3.	Mr. Mushtaq Ahmad	Under transfer to Sub-Registrar Buner.	Sub-Registrar(CCB) Haripur.
4.	Mr. Mujahid Ali, Naib Tehsildar.	Awaiting posting in Board of Revenue.	Services placed at the disposal of Commissioner, Peshwar Division for further posting in the division.

No. Estt: I/Sahibzadal 28677-82

By Order of  
Senior Member

Copy forwarded to the:-

1. Commissioners of the respective Divisions.
2. Director Land Records, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commissioners of the respective districts.
4. District Accounts Officer of the respective districts.
5. Officials concerned.
6. Personal Files.

  
Assistant Secretary (Estt.)

**ATTESTED**



F (11)

To

The Honorable *Chief Secretary*  
Khyber Pakhtunkhwa Peshawar.

Subject:

**DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 16.11.2017, WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM SUB- REGISTRAR I PESHAWAR AND PLACED HIS SERVICES AT THE DISPOSAL OF COMMISSIONER MALAKAND FOR FURTHER POSTING IN THE DIVISION.**

Prayer in appeal.

**ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL THE ORDER DATED 16.11.2017, MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE ALLOWED TO CONTINUE HIS DUTIES TO THE POST OF SUB-REGISTRAR I PESHAWAR.**

Respectfully Submitted,

The appellant very humbly submit the following few lines for your kind and sympathetic consideration:

1. That I was initially appointed in the revenue department, Ever since my appointment, I had performed my duties as assigned with zeal and devotion and there was no complaint whatsoever regarding my performance.
2. That while serving in the said capacity, I was transferred from the post of Niab Tehsildar Land Acquisition Charsadda and posted as Niab Tehsildar, Abbottabad vide order dated 18.01.2016. (Copy of the order is attached as annexure A)
3. That without completing my tenure as Niab Tehsildar, Abbottabad I was again transferred vide order dated 04.05.2017 to report Board of Revenue even at that time the undersigned was on ex- Pakistan Leave.(Copy of the order dated 04.05.2017 is attached as annexure B)

**ATTESTED**

*A*

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4. That the undersigned was posted as Sub Registrar I Peshawar vide order dated 29.05.2017. ( Copy of the order dated 29.05.2017 is attached as annexure C)
5. That the undersigned while performing his duties with zeal and devotion and there was no complaint whatsoever regarding my performance and upon the political approach/ interference I was again prematurely transferred vide order dated 16.11.2017, the undersigned has hardly served for 6 and half months as Sub Registrar I Peshawar, and has not completed my normal tenure, the order impugned is illegal and against the law. (Copy of the order dated 16.11.2017 is attached as annexure D)
6. That the prematurely transferred order is illegal unlawful against law and facts hence liable to be set aside inter alia on the following grounds :

**GROUNDS OF DEPARTMENTAL APPEAL.**

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B. That the undersigned while performing his duties with zeal and devotion and there was no complaint whatsoever regarding my performance, was prematurely transferred vide order dated 16.11.2017, the undersigned has hardly served for 6 & half months as Sub Registrar I Peshawar, and has not completed my normal tenure, the order impugned is illegal and against the law laid down by the apex court, in its case reported in PLD 1995 Supreme Court Page No. 530.
- C. That the transfer order is illegal and unlawful, moreover the same is in violation of posting and transfer policy of the Provincial Govt.
- D. That during the posting of the Undersigned as Sub Registrar I Peshawar, his performance remained commendable and there was no complaint whatsoever regarding my performance.
- E. That in fact there exist no exigencies of service nor the order of transfer can be termed as in the public interest, rather it was

**ATTESTED**



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issued in violation of law and transfer / posting policy of the Provincial Govt.

- F. That the transfer order of the appellant is in outcome of political pressure which smacked malafide and such order issued on the recommendation of the political Minister respectively show that the impugned order is the outcome of political pressure. The issue was held in 2012 PLC (CS) 648.
- G. That the impugned transfer order is illegal, unlawful, politically motivated without lawful authority and passed without jurisdiction, not in the prescribed period, in violation of transfer and posting policy.
- H. That the transfer order issued without caring for law, had in a quick succession issued a number of orders against the public interest or exigency of service.
- I. That the Undersigned seeks the permission to the rely on additional ground at the hearing of this appeal.

*It is, therefore, humbly prayed that on acceptance of this departmental appeal the order dated 16.11.2017, may please be set aside and the appellant may be allowed to continue his duties to the post of Sub- Registrar I Peshawar.*

Yours Obediently

Gul Shahzad

Ex- Sub- Registrar I Peshawar

Dated:

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Estt: V/ PF/Gul Shehzad/F.2/Pesh/ 1820  
Peshawar dated the 11/01/2018


To

Mr. Gul Shehzad ,  
Ex – Sub – Registrar – I  
Now waiting for posting in the  
office of Commissioner Hazara Division.

Through:- Commissioner Hazara Division.

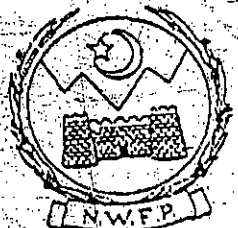
SUBJECT: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED  
16.11.2017 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED  
FROM SUB – REGISTRAR – I PESHAWAR AND PLACED HIS  
SERVICES AT THE DISPOSAL OF COMMISSIONER MALAKAND  
FOR FURTHER POSTING IN THE DIVISION.

Your department appeal dated 27.11.2017 has been examined and rejected  
by the Appellate Authority.

  
Assistant Secretary (Estt)

**ATTESTED**  


14 (15)



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 posing/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) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- vi) 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 area 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 District of their domicile except District Coordination Officers (D.C.Os) 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 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rule.

2 Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

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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.

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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.



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 2-1-6-2003).

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

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

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5.

(NAME)  
SECTION OFFICER  
Administrative Department

*(Authority: Letter No. SO (E-1) 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 28<sup>th</sup> 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;

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- v) In case of direct submission of a ..... 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 8-6-2004.  
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:-
- Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
  - 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.

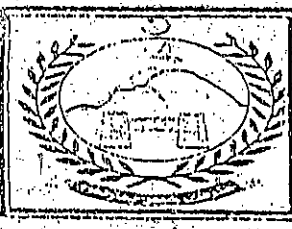
{Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007}.

### 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:-

- All placements would be made on the basis of merit and keeping in view the needs of the organization.
- 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.
- In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and than the Federal Government.
- The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the

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



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)  
NO. SOR.VI (E&AD) 1-4/2005/Vol-II  
Dated Peshawar, 27<sup>th</sup> February, 2013

To  
*[Handwritten signature]*

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 SUG 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.

*[Handwritten notes: II, 4/3]*

- (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.

*[Handwritten signature]*

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*[Handwritten signature]*

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ATTES

(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,

*najam*  
(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.

*najam*  
SECTION OFFICER (REG-VI)

**ATTESTED**

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**VAKALAT NAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Gul Shahzad (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Revenue Deptt (Respondent)  
(Defendant)

I/We, Gul Shahzad

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court 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

Gul  
(CLIENT)

ACCEPTED

M. Asif  
**M. ASIF YOUSAFZAI**  
Advocate Supreme Court  
Peshawar.

Taimur Ali Khan

**Taimur Ali Khan**  
Advocate High Court

Syed Nauman Ali Bukhari

**Syed Nauman Ali Bukhari**  
Advocate

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No: 154/2018.

Gul Shehzad.....Appellant

**VERSUS**

The Government of Khyber Pakhtunkhwa through Chief Secretary and others. ....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 & 2 ARE AS UNDER  
RESPECTFULLY SHEWETH.**

**PRELIMINARY OBJECTIONS.**

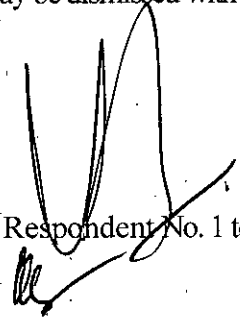
1. That the appellant has got no cause of action or locus standi.
2. That the appeal is bad for mis- joinder and non- joinder of necessary parties.
3. That appellant is estopped by his own conduct to institute the instant appeal.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the Honble tribunal has no jurisdiction to adjudicate the matter.
6. That the appeal become infructuous as the appellant has been transferred further to Abbottabad as Naib Tehsildar on 20.02.2018 and the appellant has assumed charge there however the appellant malafidely concealed this fact.

**ON FACTS**

1. Pertains to record.
2. Pertains to record.
3. Incorrect. Posting / transfer is part of service and can any time be made by the Competent Authority.
4. Incorrect. The appellant was transferred on administrative grounds.
5. Correct to the extent of transfer order however the appellant concealed the fact that he was further transferred to Abbottabad vide order dated 20.02.2018 and in compliance the appellant assumed the charge. Hence the impugned order is no more in field. Copy of the order is at (Annexure – A).
6. Correct to the extent that the departmental appeal of the appellant was filed by the Competent Authority.
7. Appeal of the appellant is not maintainable for the reasons mentioned above.

- A. Incorrect. Order dated 11.01.2018 and 16.11.2017 are according to law / rules.
- B. Incorrect. Case of Anita Turab is not applicable in the instant case. The order is in accordance with law and rules.
- C. As in para – 3 of the facts. Posting / transfer is part of service and can any time be made by the Competent Authority.
- D. Incorrect. Posting / transfer order was made in the Public interest.
- E. Incorrect. The impugned order is in public interest.
- F. Incorrect. The impugned order has been issued after fulfillment of all the codal formalities.
- G. Incorrect. The appellant has been treated in accordance with law / rules.
- H. The respondents will also seek permission to adduce additional grounds at the time of arguments.

In view of the above, the appeal of the appellant having no legal grounds may be dismissed with costs.

  
Respondent No. 1 to 2





OFFICE OF THE  
COMMISSIONER HAZARA DIVISION  
ABBOTTABAD

No. CHD / EST / 17/4 - 34 A  
Dated: 20/02/2018

ORDER

On the recommendations of scrutiny committee in its meeting held on 16/02/2018, the Competent Authority has been pleased to order the following postings/transfers amongst the Naib Tehsildars in the interest of public service with immediate effect.

S.No	Name	From	To
1.	Mr. Farrukh Jadoon, Naib Tehsildar	Services Placed at the Disposal of Commissioner Hazara Division vide Board of Revenue Notification No. 9168-75 Dated 06/02/2018	Posted as Naib Tehsildar Land Acquisition Mansehra.
2.	Mr. Arshad Iqbal, Naib Tehsildar	Naib Tehsildar Settlement Mansehra	Services Surrendered to the Board of Revenue Khyber Pakhtunkhwa.
3.	Mr. SherZada, Kanoongo Battagram	-	Posted as Naib Tehsildar Battagram in his Own Pay & Scale.
4.	Mr. Saif ur Rehman, Kanoongo Kohistan Upper	-	Posted as Naib Tehsildar Dassu in his Own Pay & Scale.
5.	Mr. Yaduallh Khan Khattak, Naib Tehsildar	Naib Tehsildar Takht Bhai Services placed at the disposal of Commissioner Hazara Division	Posted as Naib Tehsildar DHPP Dassu Kohistan
6.	Mr. Hazarat Yousaf, Naib Tehsildar	Naib Tehsildar Land Acquisition Mansehra Services placed at the disposal of Commissioner Hazara Division	Posted as Naib Tehsildar DHPP Dassu Kohistan
7.	Mr. Asghar Khan, Naib Tehsildar	Naib Tehsildar Besham Services placed at the disposal of Commissioner Hazara Division	Posted as Naib Tehsildar DHPP Dassu Kohistan
8.	Mr. Ibrar Saeed	Tehsildar Abbottabad	Joining PMS course
9.	Mr. Muhammad Saleem	Naib Tehsildar Abbottabad	Tehsildar Abbottabad Vice No. 8 In his own pay & scale
10.	Mr. Gul Shahzad	Waiting for posting	Naib Tehsildar Abbottabad Vice No. 9
11.	Mr. Syed Sabir Hussain Shah	Kanoongo Mansehra	Naib Tehsildar Mansehra in his own pay & scale

By Order  
Commissioner Hazara Division

Endst: No. & Dated Even

Copy forwarded to:-

1. Secretary Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner, Haripur.
3. Deputy Commissioner, Mansehra w/r to his Letter No. 110 Dated 06/02/2018.
4. Deputy Commissioner, Battagram w/r to his Letter No.125/AE Dated 13/02/2018.
5. Deputy Commissioner, Kohistan Upper w/r to his Letter No.27/Estt:/356 Dated 12/01/2018.
6. Settlement Officer, Mansehra.
7. District Accounts Officer Abbottabad.
8. District Accounts officer, Mansehra.
9. PS to Commissioner Hazara Division, Abbottabad.
10. Tehsildars/Naib Tehsildars concerned.

Assistant to Commissioner (Rev/GA)  
Hazara Division, Abbottabad

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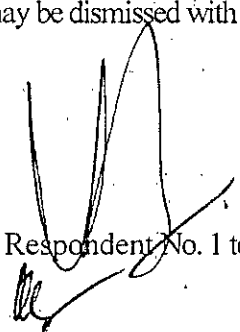
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In view of the above, the appeal of the appellant having no legal grounds may be dismissed with costs.

  
Respondent No. 1 to 2



OFFICE OF THE  
COMMISSIONER HAZARA DIVISION  
ABBOTTABAD

No. CHD/Estt/17/4-34  
Dated: 20/02/2018

A

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By Order  
Commissioner Hazara Division

Endst: No. & Dated Even

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Assistant to Commissioner (Rev/GA)  
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