

27.03.2019


Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney
alongwith Mr. Muhammad Arif, Superintendent for the respondents present.
Learned counsel for the appellant seeks adjournment. Adjourned. To come
up for arguments on 09.04.2019 before D.B.



(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

09.04.2019

Appellant absent. Learned counsel for the appellant
absent. Mr. Zia Ullah learned Deputy District Attorney
alongwith Mr. Arif Superintendent for the respondents
present. Case called for several time but no one appeared
on behalf of the appellant. Consequently the present
service appeal is hereby dismissed in default. No order as
to costs, File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Haraid Mughal)
Member

ANNOUNCED
09.04.2019

Service Appeal No. 1317/2018

29.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Arif, Superintendent for respondents present and submitted written reply on behalf of respondents No. 1 & 2. Representative of the department namely Muhammad Arif, Superintendent rely on the written reply submitted by respondents No. 1 & 2 on behalf of respondent No. 3. The appeal is assigned to D.B-I for rejoinder and arguments for 31.01.2019.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

31.1.2019

Counsel for the appellant Mr. Ziaullah, DDA alongwith Muhammad Arif, Superintendent for the respondents present.

Learned counsel for the appellant requests for adjournment due to his indisposition. Adjourned to 06.02.2019 before the D.B.


Member


Chairman

06.02.2019

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. M. Arif, Supdt for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike of the Bar. Granted. To come up for arguments on 27.03.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

22.11.2018


Counsel for the appellant present.

Learned counsel for the appellant, at the very outset, referred to the order of this Tribunal dated 01.10.2018 passed in service appeal No. 1185/2018 and stated that the grievance of the present appellant was similar to the appellant in the referred matter.

The appellant was serving in the Revenue Department as Tehsildar (CCB) Mirali and was repatriated to his parent office in discrimination to similarly placed other employees through order dated 17.08.2018.

8/12-11-2018
In the circumstances, as the appeals of other persons aggrieved from the very impugned order, have been admitted to full hearing the instant appeal also merits same treatment. It is, therefore, admitted for regular hearing subject to deposit of security and process fee by the appellant within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 21.12.2018 before S.B.

Appellant Deposited
Security Process Fee

Chairman 

21.12.2018

Learned counsel for the appellant present. Muhammmad Arif Superintendent representative of the respondent department present. Written reply not submitted. Representative of the respondents seeks time to furnish written reply. Granted. To come up for written reply on 29.01.2019 before S.B

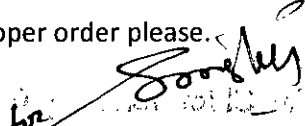
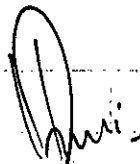

Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1317/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/10/2018	<p>The appeal of Mr. Feroz Khan presented today by Mr. Rizwanullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22-11-2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	17-11-2018	

● **BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 1317 /2018

1. Feroz Khan Political Tehsildar Spinwam North Waziristan Tribal District.

APPELLANT

VERSUS

1. The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar.

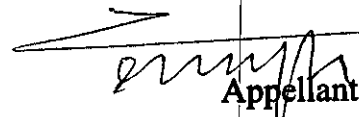
RESPONDENTS

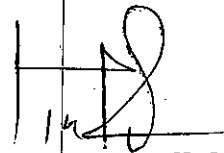
I N D E X

S.No	Particulars	Annexure	Pages #
1	Service Appeal & Affidavit	-	1-7
2	Copy of Notification dated 21/09/2017	A	8
3	Copy of Notification dated 20/12/2017	B	9
4	Copy of office order dated 21/02/2018	C	10
5	Copy of Notification regarding repatriation dated 17/08/2018	D	11
6	Copy of departmental appeal dated 18-08-2018	E	12-14
7	Copy of rejection order dated 28-09-2018	F	15
8	Wakalatnama	-	-

Through

Dated: 14-10-2018


Appellant



Rizwanullah
Advocate High Court, Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1317 /2018

Diary No. 1539

Dated 17-10-2018

1. Feroz Khan Political Tehsildar Spinwam North Waziristan Agency Tribal District.

APPELLANT

VERSUS

1. The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar.
2. The Senior Member Board of Revenue & Estate Department, Government of Khyber Pakhtunkhwa, Peshawar.
3. The Commissioner Bannu, Division, Bannu.

RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED NOTIFICATION DATED
17-08-2018 PASSED BY THE SENIOR
MEMBER BOARD OF REVENUE &
ESTATE DEPARTMENT (RESPONDENT
NO.2) WHEREBY THE APPELLANT
WAS REPATRIATED TO HIS
PARENT DEPARTMENT AS ASSISTANT
IN UTTER VIOLATION OF LAW
AGAINST WHICH THE APPELLANT
FILED DEPARTMENTAL APPEAL
WITH THE RESPONDENT NO.1 ON
18-08-2018 BUT THE SAME WAS
REJECTED ON 28-09-2018.**

Filed today
Registrar
17/10/18

Prayer in Appeal

By accepting this appeal, the impugned notifications/order dated 17-08-2018 & 28-09-2018 may very graciously be set aside and the appellant may kindly be restored against the post of Political Tehsildar Spinwam.

Any other relief deemed appropriate in the circumstances of the case, not specifically asked for, may also be granted to the appellant.

Respectfully Sheweth,

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

1. That the appellant was serving as Assistant in the office of Political Agent North Waziristan Agency. The appellant being the most senior employee in his grade and cadre and therefore the Competent Authority (respondent No.2) was pleased to post him as Tehsildar, Torghar on current charge basis vide notification dated 21/09/2017. He assumed the charge of new assignment accordingly.

(Copy of notification is appended as Annex-A)

2. That the appellant worked there for a period of three months and his services were placed at the disposal of Commissioner, Bannu Division, Bannu vide notification dated 20/12/2017. He was then posted as Political Tehsildar Spinwam North Waziristan Agency against the vacant post vide office order dated 21/02/2018.

(Copy of notification and office order are appended as Annex-B & C)

3. That the appellant was performing his duty with great zeal, zest and devotion but strangely he was repatriated to his parent

department in capacity as Assistant (BPS-16) without any valid justification vide notification dated 17-08-2018.

(Copy of notification is appended as Annex-D)

4. That the appellant felt aggrieved by the said notification, filed a departmental appeal with respondent No.1 on 18-08-2018. But the same was rejected on 28-09-2018.

(Copies of departmental appeal and rejection order are appended as Annex-E & F)

5. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds within the statutory period of law.

GROUND OF APPEAL

- A. That respondents have not treated appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973**. Therefore, the impugned notifications/order are not sustainable in the eye of law.
- B. That the Competent Authority was under statutory obligation to have retained the appellant at Torghar till completion of his tenure as per Posting and Transfer Policy of Government of Khyber Pakhtunkhwa as well as law laid down by august Supreme Court of Pakistan in case reported in **PLD-2013-SC-195 (citation-h)**. The relevant citation is reproduced herein for facility of reference:

PLD-2013-SC-195(citation-h)
Civil Servants Act (LXXI of 1973)

---Ss. 4 & 10---Constitution of Pakistan, Art. 184(3)---Tenure, posting and transfer of civil servants---Principles--- When the ordinary tenure for a posting had been specified in the law or rules made thereunder, such tenure must be respected and could not be varied, except for compelling reasons, which should be recorded in writing and were judicially reviewable---Transfers of civil servants by political figures which were capricious and were based on considerations not in the public interest were not legally sustainable.

Therefore, the impugned notifications/order in respect of repatriation of the appellant are not sustainable in the eye of law.

- C. That the Competent Authority (respondent No.2) was under statutory obligation to have provided opportunity of personal hearing before passing the impugned notification but he failed to do so and blatantly violated the law laid down by august Supreme Court of Pakistan reported in PLD-2008-SC-412 (citation-a). The relevant citation is reproduced herein for facility of reference:

(a) Administration of justice--

---Natural justice, principles of---Opportunity of hearing---Scope---Order adverse to interest of a person cannot be passed without providing him an opportunity of hearing---Departure from such rule may render such order illegal.

Thus, the impugned notifications/order are liable to be set aside on this count alone.

- D.** That when the Appellant was posted as Tehsildar Torghar and Spinwam North Waziristan Agency, none of employee has challenged the said notifications before any legal forum and as such the same has attained finality in the eye of law. Therefore, the impugned notifications/order are bad in law.
- E.** That the respondent No.2 and 3 while posting the appellant as Tehsildar Torghar and Spinwam North Waziristan Agency, candidly admitted that he was the most senior, deserved and eligible employee for the said post, thereafter, the Senior Member Board of Revenue (respondent No.2) was not justified to repatriate him without any lawful authority. Thus, the impugned notifications/order are not tenable under the law.
- F.** That the Competent Authority (respondent No.2) was legally bound to have considered the case of appellant in its true perspective and also in accordance with law and to see whether the performance of the appellant was up to the mark or otherwise. But he took no pain to do so and overlooked this important aspect of the case without any cogent and valid reasons and repatriated him illegally. Hence, the impugned notifications/order are against the spirit of administration of justice.
- G.** That the Appellate Authority (respondent No.1) was under statutory obligation to have applied his independent mind to the merit of the case by taking notice about the illegality and lapses committed by the Competent Authority (respondent No.2) as numerated in earlier paras. But he failed to do so and rejected the departmental appeal without any cogent reasons. Mere mentioning that **“your departmental appeal dated 18-08-2018 has been examined and rejected by the Appellate**

Authority” will not fulfill the requirement of speaking order as envisaged in Section 24-A of the General Clauses Act, 1897 as well as law laid down by august Supreme Court of Pakistan reported in 2011-SCMR-1 (citation-b). The relevant citation of the judgment is reproduced herein for facility of reference:

2011-SCMR-1 (citation-b)
(b) General Clauses Act (X of 1897)

**----S.-24-A---Speaking order-
Public functionaries are bound
to decide cases of their
subordinates after application
of mind with cogent reasons
within reasonable time.**

But despite thereof, the Appellate Authority (respondent No.1) has failed to do so and blatantly violated the above dictum of august Supreme Court of Pakistan. Therefore, the impugned notifications/order are not warranted under the law.

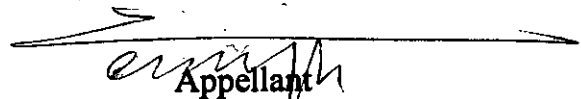
- H.** That the appellant was posted as Tehsildar in accordance with law and this notification has also been acted upon. Moreover, the appellant has served the respondent department in capacity as Tehsildar for sufficient long period and as such it had taken legal effect and created valuable rights in his favour. Thus, the said notifications/order are bad in law.
- I.** That the impugned notifications are suffering from legal infirmities and as such caused grave miscarriage of justice to the appellant.
- J.** That the impugned notifications are against law, facts of the case and norms of natural justice. Therefore, the same are not tenable under the law.
- K.** That the respondent No. 1 & 2 passed the impugned notifications in mechanical manner and the same are perfunctory as well as non-speaking and also against the basic

principle of administration of justice. Thus, the same are not warranted under the law.

- L. That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.

In view of the above narrated facts and grounds, the impugned notifications/order dated 17-08-2018 & 28-09-2018 may very graciously be set aside and the appellant may kindly be restored against the post of Political Tehsildar Spinwam.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.


Appellant

Through

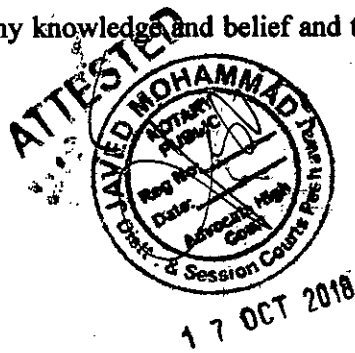
Dated: 14/10/2018


RIZWANULLAH
M.A. LL.B

Advocate High Court, Peshawar.

AFFIDAVIT

I, Feroz Khan Political Tehsildar Spinwam North Waziristan Agency Tribal District., do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.




DEPONENT



Annex - A

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 21 /09/2017

NOTIFICATION

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

S.No	Name of Tehsildar	From	To
1.	Mr. Sahibzada	Tehsildar Tor Ghar	Tehsildar Daggar, Vice No.2
2.	Mr. Habib Ahmad Jan	Tehsildar Daggar	Tehsildar Takht-e- Nasrati Vice No.4
3.	Mr. Feröz Khan	Assistant, office of the Political Agent NW Agency.	Tehsildar (CCB) Tor Ghar Vice No.1
4.	Mr. Qiyanoos Khan	Tehsildar (CCB) Takht-e-Nasrati	Report to Board of Revenue.

By Order of
Senior Member

No.Estt:/PF/Sahibzada/ 19838-43

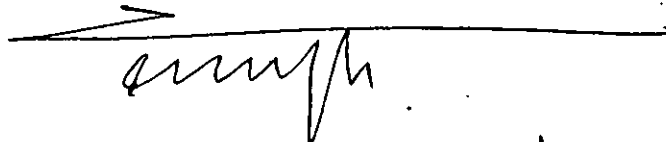
Copy forwarded to the:-

Copy forwarded to the:-

1. Commissioners of the respective Divisions.
2. Political Agent, North Waziristan Agency.
3. Deputy Commissioner of the respective Districts.
4. District Account Officer/Agency Account Officer of the respective Districts/Agency.
5. Official concerned.
6. Bill Assistant, Board of Revenue.
7. Office Order file.


Assistant Secretary (Estt.)

Attested


APPellant

Annex-B

9

NOTIFICATION

No. Estt./Wheed Ahmad/_____ The competent authority is pleased to order the following posting/transfer amongst Tehsildars with immediate effect and in public interest:-

S.No	Name of official.	From	To
1.	Mr. Waneed Ahmad, Tehsildar.	Awaiting posting in Board of Revenue.	Services placed at the disposal of Commissioner Hazara Division.
2.	Mr. Zardad Khan	Tehsildar (CCB) Kandia	Tehsildar/Recovery Officer (CCB) PESCO Abbottabad against the vacant post.
3.	Mr. Feroz Khan	Tehsildar (CCB), Torghar	Services placed at the disposal of Commissioner Bannu Division.
4.	Mr. Mushtaq Ahmad	Assistant. office of the Deputy Commissioner, Swabi.	Tehsildar (CCB) Kandia vice No.2

No. Estt./Waheed Ahmad/ 30188-99

By Order of
Senior Member.

Copy forwarded to the:-

1. Commissioners of the respective Divisions.
3. Deputy Commissioners of the respective districts.
4. Superintending Engineer, PESCO Circle Abbottabad.
5. District Accounts Officer of the respective districts.
6. Officials concerned.
6. Personal Files.

~~Assistant Secretary (Estt.)~~

Attested

emph

APPellant



Government of Khyber Pakhtunkhwa
OFFICE OF
COMMISSIONER
BANNU DIVISION

Annex-C

10

P.O. Box: 12, Postal Code 28100, Bannu
Phone: 0928- 9276224 & 9276044
Fax: 0928- 9276041 & 9276223
E-mail: acrb.bannu@p.gov.pk

680-89/AGI/F90

Date: 2/02/18

OFFICE ORDER:-

Following posting/transfers amongst the Tehsildars of this Division are hereby ordered in the public interest with immediate effect.

Sr. No.	Name of Tehsildar	From	To
1.	Mr. Ghaffar Khan, Tehsildar (BPS-16)	Political Tehsildar, FR Bannu	Tehsildar, Serai Naurang
2.	Mr. Ghulam Abbas, Tehsildar (BPS-16)	Tehsildar, Naurang	Political Tehsildar, Dossali NWA
3.	Mr. Saraf Ali Khan, Tehsildar (BPS-16)	Political Tehsildar, Dossali NWA	Political Tehsildar, FR Bannu
4. ✓	Mr. Feroz Khan, Tehsildar (BPS-16) on CCB	Waiting for posting	Political Tehsildar, Spinwadi, NWA against the vacant post.

Sd/-

Commissioner
Bannu Division

Even no & date:-

Copy forwarded to the:-

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Additional Chief Secretary, FATA, Peshawar.
3. Deputy Commissioner, Bannu.
4. Deputy Commissioner, Lakki Marwat.
5. Political Agent, North Waziristan Agency, Miranshah.
6. District Accounts Officer, Bannu.
7. District Accounts Officer, Lakki Marwat.
8. Agency Account Officer, NWA Miranshah.
9. PS to Commissioner, Bannu Division.
10. All concerned Tehsildars for compliance.

Alleshu

Amph
Appellant

St

Secretary to Commissioner
Bannu Division

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

(11)

Peshawar dated the 17/08/2018.

Annex-D

Sey

NOTIFICATION

No. USI/P.1 Consequent upon completion of settlement Revenue training of newly promoted regular Tehsildar/Naib Tehsildar, the Competent Authority is pleased to repatriate the services of the following Assistants/Senior Scale Stenographer and Junior Scale Stenographer temporarily posted on Current Charge Basis as stop gap arrangement as Tehsildars/Naib Tehsildars, to their parent offices with immediate effect.

17.8.18

S#	Name & Designation	Present posting	Remarks
1	Mr. Hasnain Ahmad, Assistant	Tehsildar (CCB) Puran	Repatriated to his parent office
2	Mr. Ahmad Ali Assistant	Tehsildar (CCB) Gagra	Repatriated to his parent office
3	Mr. Atiqur Rehman, Assistant	Tehsildar (CCB) Drosh	Repatriated to his parent office
4	Mr. Tariq Ahmad, Assistant	Tehsildar (CCB) Booni	Repatriated to his parent office
5	Mr. Muhammad Younas, Assistant	Tehsildar (CCB) Timergara	Repatriated to his parent office
6	Mr. Arifullah, Assistant	Tehsildar (CCB) Samarbagh	Repatriated to his parent office
7	Mr. Muhammad Ilyas, Assistant	Tehsildar (CCB) Loi Mamund	Repatriated to his parent office
8	Mr. Saraf Ali, Assistant	Tehsildar (CCB) I-R Bannu	Repatriated to his parent office
9	Mr. Tariq Aziz, Assistant	Naib Tehsildar (CCB) Miranshah	Repatriated to his parent office
10	Mr. Sarazeb, Assistant	Tehsildar (CCB) Shawal	Repatriated to his parent office
11	Mr. Kifayatullah, SSS	Tehsildar (CCB) Tank	Repatriated to his parent office
12	Mr. Zardad Khan, Assistant	Tehsildar (CCB) WAPDA Abbottabad	Repatriated to his parent office
13	Mr. Khalid Azmat, Assistant	Tehsildar Takht-e-Nasrati	Repatriated to his parent office
14	Mr. Faizullah Senior Scale Stenographer	Tehsildar (CCB) Thal	Repatriated to his parent office
15	Mr. Feroz Khan, Assistant	Tehsildar (CCB) Mirali	Repatriated to his parent office
16	Mr. Malak Zahid, Assistant	Tehsildar (CCB) Bannu	Repatriated to his parent office
17	Mr. Nabiullah, Junior Scale Stenographer	Canal N.T (CCB) Peshawar	Repatriated to his parent office

By order of
Senior Member

No. USI/P.1/30393-430

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. All Divisional Commissioners in Khyber Pakhtunkhwa.
3. Deputy Commissioners of the respective districts.
4. District Accounts Officers of the respective districts
5. Officials concerned.
6. Office order file.

Alleshu

Appellant

Annex - E

12

To

The Worthy Chief Secretary
Khyber Pakhtunkhwa, Peshawar.

PS/C.S Khyber Pakhtunkhwa
Diary No. 8325 (uk)
Date 31-8-18

Subject: **DEPARTMENT APPEAL AGAINST THE IMPUGNED NOTIFICATION ESTT: 1/P/30393-430, DATED 17.08.2018 WHERE BY THE APPEALANT HAS ILLIGLY BEEN REPATRIATED TO THE PARENT DEPARTMENT**

Respected Sir,

1. That the appellant is performing his duties as Tehsildar on current charge basis as Political Tehsildar Spinwam North Waziristan Tribal District vide Commissioner Bannu Division order No. 680-83/AG1/F/90 dated 21.2018.
2. That the appellant is being subjected is persistent acts of discrimination on continuous basis and turned to be into shuttle cock as without observing the normal tenure of posting and transfer, the appellant is transferred and posted again and again.
3. That this was the case of appellant who had been initially transferred and posted vide order No. Estt: 1/PC/Sahibzada,19838-43, dated 21.09.2017 on the recommendation of political agent and Commissioner Bannu Division and lastly to the present place of posting vide order No. 680-83/AG1/F/90 dated 21.02.2018. (Copies of the transfer and posting order are annexed).
4. That this was the background that yet, another herein impugned notification No. Estt: 1/P,1/30393-430, Dated 17.08.2018 was illegally issued whereby the appellant was repatriated to his present department in an illegal discriminatory, void and unwarranted manner. (Copies of the impugned office order is annexed).
5. That before passing on the grounds of the instant appeal, it is pertinent to mention that the appellant holding the substantive pay scale of Assistant BPS-16 but having the ability and potential, otherwise eligible as well, have been transferred and posted as Tehsildar on CCB wherein his rights are protected and governed by rule 9 of the Transfer Promotional and Appointment Rules 1989.

Attest

[Signature]
Appellant

Grounds

- A. That persistent orders of transfer and posting any Civil Servant is always hazardous and injurious to the potential and capabilities of the such civil servant / Government servant and has always been depreciated and discouraged by the Superior Courts, being always held as violation to fundamental rights and not solely to the service rights.
- B. That the impugned transfer and posting order are highly discriminatory ones and at the same time the repatriating the appellant to his parent department without any rem and reason and without observing the law on subject while all the blue eyed ones were posted and transferred to their favorites places of posting and were in field is highly discriminatory and void and amount to falling of the bolt from the blue upon the appellant.
- C. That without going into minute details in would be suffice to mention here that persons who are holding same positions of responsibility on current charge basis to other field offices instead of repatriating all the officials working on CCB to the parent department and thus only the appellant was subject to unfettered discrimination and even only on this score the impugned office order is void and illegal.
- D. That the normal tenure of transfer and posting can be allowed to be left in rare and exceptional cases and that to in a defined public interest. But here the appellant has repeatedly been transferred and repatriated for no reasons, which is certainly not good omen.
- E. That posting and transferring any Civil Servant / Government on current charge basis is a defined mechanism of service law and procedure is detailed in ESta Code while the accrued rights, accrued thereupon, are fully protected under the same code whose details are provided under rule 9 of Transfer, Promotion and Appointment Rules 1989, But here that situation is volte-face and the appellant is repatriated to parent department without any justification and the same tantamount to violation of only service law.
- F. That no one can condemned unheard, nor any one can be condemned for no wrong.
- G. That from every angle and perspective the impugned transfer and posting orders are illegal, discriminations, void, unwarranted, vexatious, unlawful and is liable to be cancelled and set aside.

Attested

[Signature] Appellant

It is, therefore, most humbly requested that on acceptance of the instant departmental appeal, the impugned order notification No. Estt: 1/P/1/30393-430, Dated 17.08.2018 of the office of Senior Member of Revenue may graciously be cancelled and if the same is not feasible in the circumstances then the same impugned notification and office order may graciously be notified to the extent of the appellant and his name be struck off/deleted from the list of transferred Tehsildars and be left at his place of serving/posting and even if the same is not feasible then the appellant be posted and transferred in the same capacity of Tehsildar on current charge bases likewise other of the impugned transfer and posting order.;

Dated 18.08.2018

Appellant

Feroz Khan, 18.8.2018
Hajj Feroz Khan
Political Tehsildar
Spimwam North Waziristan
Tribal District.

Attest

Feroz Khan
Appellant



Annex - F (15)
GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No. Estt: I/PF/Feroz Khan/ 33511
Peshawar dated the 28/09/2018

To

Mr. Feroz Khan,
Assistant Office of Deputy Commissioner,
North Waziristan (Tribal).

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
NOTIFICATION ESTT: I/PT/30393-430 DATED 17.08.2018
WHEREBY THE APPELLANT HAS BEEN REPATRIATED TO
PARENT DEPARTMENT.

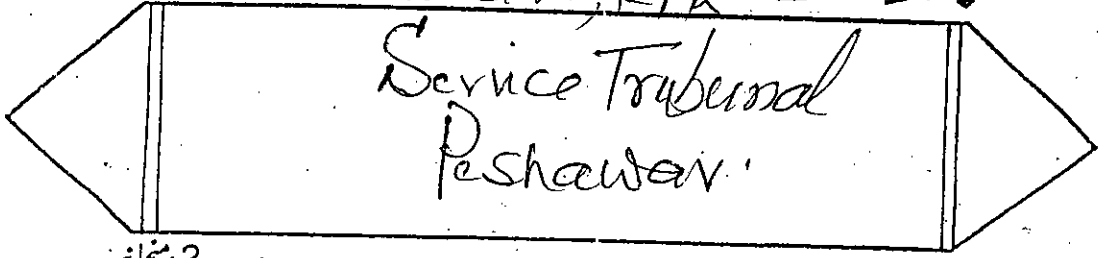
Your departmental appeal dated 18.08.2018 has been examined and
rejected by the appellate authority.

Assistant Secretary (Estt)

Attested

Amir
Appellant

Honble Chairman, KPK بعدالت



2 منجانب

بنام Feroz Khan

VS

Chief Secretary etc.

باعث تحریر آنکے

مورخہ

مقدمہ

دعویٰ

جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام Peshawar کیلئے Rezwanaullah Adv.

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ درجہ جانا التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا جد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2018

الکعب

۱۶

المرقوم

واہ العباد

کے لئے منظور ہے۔

لیا

بمقام

علیٰ فرید خان

Attest by Kacopk

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1317/2018.

Feroz Khan Political Tehsildar (CCB) Spinwan North Waziristan Tribal District.

VERSUS

Senior Member Board of Revenue and others.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 & 2.

RESPECTFULL SHEWETH.

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the Appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is time barred.
5. That the appeal is not maintainable in its present form.

ON FACTS.


1. Incorrect. The appellant is basically Assistant of the office of defunct Political Agent North Waziristan Agency. The appellant is most junior and posted as Tehsildar (CCB) due to non availability of regular Tehsildar purely on temporary basis (Annexure-A).
2. No comments. Pertains to record.
3. Incorrect. The appellant is basically Assistant and was repatriated to his parent office with the approval of Competent Authority (Annexure-B).
4. Correct to the extent that the appellant filed Departmental Appeal which was examined and rejected by the appellate authority, (i.e Chief Secretary) (Annexure-C).
5. No comments.

GROUNDS.

- A. Incorrect. The appellant is basically Assistant and was repatriated to his parent office with approval of Competent Authority. No violation of Article 4 of the Islamic Republic of Pakistan 1973 has been committed. The said notification is according to law/rules.
- B. Incorrect. The appellant was posted as Tehsildar (CCB). The orders of Supreme Court of Pakistan in PLD-2013-SC-195 (citation-h) is not applicable in the instant case.
- C. Incorrect. The appellant is basically Assistant and was repatriated to his parent office, which needs no opportunity of personal hearing and no violation of PLD-2008-SC-412 (citation-a) has been committed.

- D. incorrect. The appellant was repatriated to his parent office by the Competent Authority on availability of regular Tehsildar.
- E. Incorrect. As in Para 1 of the facts.
- F. Incorrect. The appellant is basically Assistant of the office of defunct Political Agent North Waziristan Agency who was posted as Tehsildar (Current Charge Basis) due to non-availability of regular Tehsildars for smooth running of official business. Consequent upon the Departmental Promotion Committee meetings, the newly promoted Tehsildars were placed on Revenue/Settlement Training and upon completion of the prescribed training, they have been posted out and the appellant has been repatriated to his original post and office. Posting of an official on Current Charge Basis does not create right of out of turn promotion, however his case will be placed before the Departmental Promotion Committee for promotion as Tehsildar as and when vacancies occur in his share on his own turn after fulfillment the required conditions. The question of observance of posting tenure does not arise.
- G. Incorrect. Departmental Appeal of the appellant was rejected by Appellate Authority (i.e Chief Secretary). No violation of Section 24-A of the General Clauses Act, 1897 read with report of Supreme Court of Pakistan in 2011-SCNR-1(citation-b) have been committed.
- H. Incorrect. The appellant was posted on CCB which does not create ~~any~~ any right for regular promotion /posting. Thus notification dated 17.08.2018 is according to law.
- I. Incorrect. As in Para-H above.
- J. Incorrect. As above.
- K. Incorrect. As above.
- L. The respondent will also submit additional grounds at the time of arguments.

Keeping in view the above, the Appeal of the appellant having no legal grounds may be dismissed with costs.


Senior Member, Board of Revenue
Respondent No. 1 & 2

Amvey A

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar, dated the 27/09/2017

NOTIFICATION

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

S.No	Name of Tehsildar	From	To
1.	Mr. Sahibzada	Tehsildar Tor Ghar	Tehsildar Daggar Vice No 2
2.	Mr. Habib Ahmad Jan	Tehsildar Daggar	Tehsildar Takht-e-Nasrati Vice No 4
3.	Mr. Feroz Khan	Assistant office of the Political Agent NW Agency	Tehsildar (CCB) Tor Ghar Vice No 1
4.	Mr. Qiyanoos Khan	Tehsildar (CCB) Takht-e-Nasrati	Report to Board of Revenue

By Order of Senior Member

No. Estt: I/PF/Sahibzada/ 19838-43

Copy forwarded to the:-

Copy forwarded to the:-

1. Commissioners of the respective Divisions.
2. Political Agent, North Waziristan Agency.
3. Deputy Commissioner of the respective Districts.
4. District Account Officer/Agency Account Officer of the respective Districts/Agency.
5. Official concerned.
6. Bill Assistant, Board of Revenue.
7. Office Order file.

Assistant Secretary (E.S.I.)

Attested

amph

Appellant

B (11)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 17/08/2018. *Deey*

NOTIFICATION

No. F.S.U.P. 30393-430 Consequent upon completion of settlement Revenue
training of newly promoted regular Tehsildar/Naib Tehsildar, the Competent Authority is
directed to repatriate the services of the following Assistants/Senior Scale Stenographer and
Junior Scale Stenographer temporarily posted on Current Charge Basis as stop gap
arrangement as Tehsildars/Naib Tehsildars, to their parent offices with immediate effect. 17.8.18

S#	Name & Designation	Present posting	Remarks
1	Mr. Hasnain Ahmad, Assistant	Tehsildar (CCB) Pura	Repatriated to his parent office
2	Mr. Ahmad Ali Assistant	Tehsildar (CCB) Gagra	Repatriated to his parent office
3	Mr. Atiqur Rehman, Assistant	Tehsildar (CCB) Drosh	Repatriated to his parent office
4	Mr. Fariq Ahmad, Assistant	Tehsildar (CCB) Hooni	Repatriated to his parent office
5	Mr. Muhammad Younas, Assistant	Tehsildar (CCB) Imergara	Repatriated to his parent office
6	Mr. Arifullah, Assistant	Tehsildar (CCB) Samarbagh	Repatriated to his parent office
7	Mr. Muhammad Hyas, Assistant	Tehsildar (CCB) Loi Mamund	Repatriated to his parent office
8	Mr. Saraf Ali, Assistant	Tehsildar (CCB) I-R Bannu	Repatriated to his parent office
9	Mr. Tariq Aziz, Assistant	Naib Tehsildar (CCB) Miranshab	Repatriated to his parent office
10	Mr. Sarazeh, Assistant	Tehsildar (CCB) Shawal	Repatriated to his parent office
11	Mr. Kifayatallah, SSS	Tehsildar (CCB) Tank	Repatriated to his parent office
12	Mr. Zardad Khan, Assistant	Tehsildar (CCB) WAPDA Abbottabad	Repatriated to his parent office
13	Mr. Khalid Azmat, Assistant	Tehsildar Takht-e-Nasrati	Repatriated to his parent office
14	Mr. Faizullah Senior Scale Stenographer	Tehsildar (CCB) Thal	Repatriated to his parent office
15 ✓	Mr. Feroz Khan, Assistant	Tehsildar (CCB) Mirali	Repatriated to his parent office
16	Mr. Malak Zahid, Assistant	Tehsildar (CCB) Bannu	Repatriated to his parent office
17	Mr. Nabiullah, Junior Scale Stenographer	Canal N.T (CCB) Peshawar	Repatriated to his parent office

By order of
Senior Member

No. F.S.U.P. 30393-430

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. All Divisional Commissioners in Khyber Pakhtunkhwa.
3. Deputy Commissioners of the respective districts.
4. District Accounts Officers of the respective districts
5. Officials concerned.
6. Office order file.

Atteshd

Accountant

Accountant



Annex - E (15)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No. Estt. I/PP/Feroz Khan/33571
Peshawar dated the 28/09/2018

To

Mr. Feroz Khan
Assistant Office of Deputy Commissioner,
North Waziristan (Tribal)

SUBJECT

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
NOTIFICATION ESTT. I/PT/30393-430 DATED 17.08.2018
WHEREBY THE APPELLANT HAS BEEN REPATRIATED TO
PARENT DEPARTMENT

Your departmental appeal dated 18.08.2018 has been examined and rejected by the appellate authority.

[Signature]
Assistant Secretary (Estt)

[Signature]

[Signature]
Appellant