

**BEFORE THE SERVICES TRIBUNAL, KPK PESHAWAR**

Services Appeal No. 7887 / 2021

**Sajjad Hussain ..... Appellant**

**VERSUS**

**Govt of KPk & Others ..... Respondents**

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Through

**RESPONDENT NO. 05**

**(RUHOL AMIN)**

Advocate Peshawar.

Phone/Whatsapp No.0312-9224444,

Office.. TF-2, Deans Trade Centre, Peshawar Saddar.

Dated:- 05-01-2022

*Put up to the court with relevant appeal.*

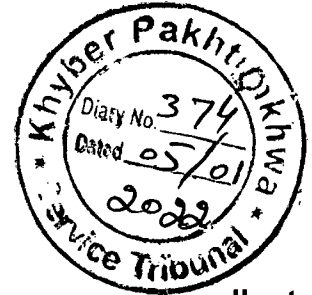
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*6/1/2022*

**BEFORE THE SERVICES TRIBUNAL, KPK PESHAWAR**

①

Services Appeal No. 7887 / 2021



Sajjad Hussain ..... Appellant

**VERSUS**

Govt of KPK & Others ..... Respondents

**WRITTEN REPLY ON BEHALF OF RESPONDENT NO. 05**

**Respectfully Sheweth :-**

**Preliminary Objections**

1. That the appeal has not been based on facts.
2. That the appellant has got no cause of action and locus standi to file the appeal.
3. That the appeal is not maintainable in the present form.
4. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
5. That the appellant is estopped by his own conduct to file the appeal.
6. That the appeal is barred by law and limitation.
7. That the appellant has not come to this Honourable Tribunal with clean hands.
8. That the appeal is pre-mature.

**FACTS**

1. That Para No. 01 needs no reply.
2. That Para No. 02 does not relate to replying respondent. However the facts stated need support/proof.
3. That Para No. 03 does not relate to replying respondent.
4. That Para No. 04 does not relate to replying respondent. However, being a government servant, the appellant is liable to be posted where ever needed and deemed appropriate by the department. Moreover, it was transfer within the same Division/District which takes place in routine as and when needed. This makes no difference nor cause any loss to an employee
5. That as stated above the appellant is supposed to serve where ever needed. The posting / transfer policy is never an absolute rule.
6. That the appellant was not appointed for any duty in the elections. The allegation has been made just to create sensation and confusion. Moreover, the election process has since come to an end, therefore, the notification is of no help to the appellant. However, the replying respondent has had no role in passing the impugned order.
7. That Para No. 07 denied for want of knowledge. However if true, the statutory period for deciding the departmental appeal has not yet passed.
8. That as stated above, by now the notification of election commission has become infructuous and is of no help to the appellant.
9. That the appellant has no cause of action to file the instant appeal.

**GROUND**

1. This is a departmental issue and the Department can better answer. However, all the notifications mentioned by the appellant are, on the face thereof, in accordance with law and

rules and no fundamental right of the appellant has been violated. Moreover, the replying respondent has had no role in passing the impugned order while reversal thereof has to affect the replying respondent who has already taken over charge at his place of new posting.

2. Incorrect. During the stated period, the appellant was transferred just from Marden Division to Charsadda Division. The others were transfers from one sub-division to another of the same Division which take place in routine in the department on the basis of day-to-day needs, making no difference nor causing any loss to an official. Moreover, as stated above, the posting / transfer policy is just a policy, never an absolute rule and subservient to public interest, being a government servant, the appellant cannot claim any tenure on a particular post.
3. Relates to official respondents. However, transfer / posting being an administrative matter, it is for the department to assess and determine who may be posted at a particular time at a post and it cannot be bound by any hard and fast rules so as to refrain from posting an official where ever needed.
4. Although it is for the official respondents to reply however, as stated above the department is empowered to post out an official any time in the interest of public service as has been done in the instant case.
5. Although it is for the official respondents to reply however, the allegation made in this para are denied for want of proof. Nothing has been brought to substantiate the allegations.
6. Denied. The allegations need proof. Moreover, The judgment of the August Supreme Court of Pakistan referred to is distinguishable from the facts of the present case.
7. Denied for want of record. There can be many reasons including conduct and efficiency of an official which may have contributed to his repeated transfers. However, it can be appropriately answered by the official respondents. The replying respondent has himself been facing frequent transfers but being a government servant, has always obeyed the same.

8. Incorrect for reasons in above paras.


9. Same as para 6 & 8 of the facts.

10. Incorrect. However, the impugned order having already been implemented, its setting aside would disturb the replying respondent without any fault on his part.

It is, therefore, most humbly prayed that on acceptance of this reply the appeal filed by the appellant may please be dismissed with costs in the interest of justice.

  
RESPONDENT NO. 05

Through

  
(RUHUL AMIN)  
Advocate

Dated:- 05-01-2022

BEFORE THE SERVICES TRIBUNAL, KPK PESHAWAR

Services Appeal No. 7887 / 2021

Sajjad Hussain ..... Appellant

VERSUS

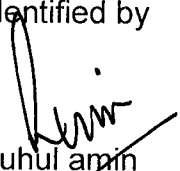
Govt of KPK & Others ..... Respondents


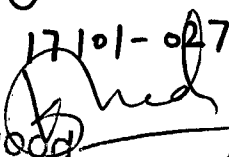
WRITTEN REPLY ON BEHALF OF RESPONDENT NO. 05

AFFIDAVIT

I, Shakiel Ahmad, SDA, Public Health Engineering Department, Sub-Division, Charsadda, do hereby state on Oath that this written reply has been drafted on my information and instructions and I am fully conversent with facts of this reply and the contents hereof are true and correct to the best of my knowledge and belief and nothing has been withheld from this august court.

Identified by

  
Ruhul amin  
Advocate, Peshawar

  
DEPONENT  
17101-0277507-3  
  
Khalid Mahmood  
Oath Commissioner  
Peshawar High Court  
5-1-21

6

**BEFORE THE SERVICES TRIBUNAL, KPK PESHAWAR**

Services Appeal No. 7887 / 2021

**Sajjad Hussain ..... Appellant**

**VERSUS**

**Govt of KPK & Others ..... Respondents**

Reply to the application for suspension  
of impugned order on behalf of Respondent  
No.5.

Preliminary Objections.

1. The application is not maintainable.
2. The application is pre-mature.
3. The application is based on concealment of facts.
4. The appellant has not come to the Court with clean hands.

ON FACTS.

1. Needs no reply.
2. Matter of record. However, the appeal is pre-mature and the allegation of premature transfer is denied.
3. The impugned order having already been implemented, cannot be suspended. (Copies of charging relinquishment, assumption and relieving reports are enclosed.
4. That none of the ingredient stands fulfilled. Transfer of a Government servant is an incidence of service which makes no irreparable loss to him. Moreover, the appeal is pre-mature and for reasons stated in reply to the appeal, the appellant has got no prima facie case. Similarly, the order already having been implemented, suspension thereof will cause inconvenience to the replying respondent and the department and not to the appellant.
5. Incorrect. Allegations made in this para have already been replied in reply to the appeal which may be read as part of this reply .

It is, therefore, prayed that the application of the appellant may be dismissed and the order of suspension of impugned order may be recalled. Any other remedy deemed appropriate by this Honourable Court may also be granted.

Through

RESPONDENT NO. 05

(RUHUL AMIN)  
Advocate

Dated:- 05-01-2022

**AFFIDAVIT**

I, Shakeel Ahmad, SDA, Public Health Engineering Department, Sub-Division, Charsadda, do hereby state on Oath that this written reply has been drafted on my information and instructions and I am fully conversant with facts of this reply and the contents hereof are true and correct to the best of my knowledge and belief and nothing has been withheld from this august court.

Identified by

Ruhul Amin  
Advocate, Peshawar

DEPONENT

Khalid Mahmood  
Oath Commissioner  
Peshawar High Court

51-17701-0277507-3



**BEFORE THE SERVICES TRIBUNAL, KPK PESHAWAR**

Services Appeal No. 7887 / 2021

**Sajjad Hussain ..... Appellant**

**VERSUS**

**Govt of KPK & Others ..... Respondents**

Application for withdrawal of order dated 21.12.2021  
Passed in the above titled appeal whereby the  
operation of the impugned order has been  
suspended.

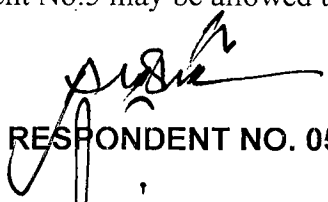

Respectfully Submitted.

1. That the above titled appeal has been filed before this Honourable Tribunal which is fixed for 17.1.2022.
2. That vide order dated 21.12.2021 while admitting the appeal, the operation of the impugned order has been suspended.
3. That the appellant had not brought the real facts to the notice of this Honourable Tribunal at the time of preliminary hearing.
4. That the impugned order had already been implemented vide charge relinquishment, assumption and relieving reports copies whereof are annexures-(i),(ii),(iii) and (iv).
5. That for reasons stated in reply to the appeal which may kindly be read as part of this application, the appellant has got no prima facie case and on the face of it the appeal is liable to dismissal.
6. That transfer being an ordinary incidence of service, no irreparable loss is likely to be caused to the appellant.

- 7. That the impugned order having already been implemented, its reversal will cause great inconvenience to all the respondents.
- 8. That similarly balance of convenience lies in favour of the respondents and not the appellant.

It is, therefore, prayed that the order dated 21.12.2021 whereby the operation of the impugned order has been suspended, may please be withdrawn and till decision of the appeal, the replying respondent No.5 may be allowed to continue his duties at his place of new posting.

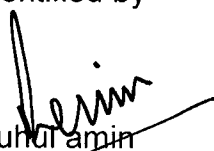
Through


  
 RESPONDENT NO. 05  
  
 (RUHUL AMIN)  
 Advocate

Dated:- 05-01-2022

**AFFIDAVIT**

I, Shakeel Ahmad, SDA, Public Health Engineering Department, Sub-Division, Charsadda, do hereby state on Oath that this this application has been drafted on my information and instructions and I am fully conversant with its facts and the contents hereof are true and correct to the best of my knowledge and belief and nothing has been withheld from this august court.

Identified by  
  
 Ruhul Amin  
 Advocate, Peshawar

  
 DEPONENT  
 7101-0277507-3  
  
 Khalid Mahmood  
 Oath Commissioner  
 Peshawar High Court  
 51-22

Annex=(1)

10

To,

Chief Engineer (EAST) PEHD  
Khyber Pakhtunkhwa Peshawar


Subject: - **CHARGE RELINQUISH REPORT**

Respected Sir,

In compliance with Chief Engineer (Center) Public Health Engineering  
Department Khyber Pakhtunkhwa Peshawar Office Order No: 05/CE-9/PHE, Dated  
02-12-2021, I beg to submit my Charge relinqlsh on 02-12-2021 (A.N).

Thanks,

Yours Obediently,

  
SHAKEEL AHMAD  
Senior Clerk  
Chief Engineer (East) PHED

  
**ATTESTED**

To,

Sub Divisional Officer  
PHE Sub Division Charsadda

Subject: - ARRIVAL REPORT

Respected Sir,

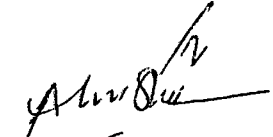
In compliance of Chief Engineer (Center) Public Health Engineering  
Department Khyber Pakhtunkhwa Peshawar Vide Office Order No: 05/CE-9/PHE,  
Dated 02-12-2021. I beg to submit my arrival report on 03-12-2021 (F.N).

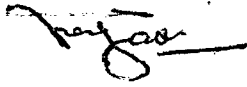
Thanks,

Yours Obediently,

Take over in

charge from Sd/Jad Hussain  
SDA.

  
SHAKEEL AHMAD  
SDA PHE SUB DIVISION CHARSADDA





ATTESTED

**OFFICE OF THE SUB DIVISIONAL OFFICER**  
**PUBLIC HEALTH ENGG: SUB DIVISION CHARSADDA**

Annex-iii (12)

No 01/E2

Dated Charsadda the: 03/12/2021

**OFFICE ORDER**

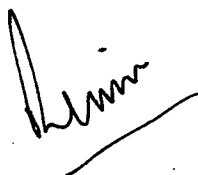
In compliance of Chief Engineer (Centre) Office Order No 05/CE-9/PHE, Dated Peshawar, the 02/12/2021 Mr Sajjad Hussain Senior Clerk /SDA of this office is hereby relived of his duty with effect of 03/12/2021 and directed to report to Chief Engineer (East) PHED. He is entitled to avail usual joining time as admissible under the rule.

  
SUB DIVISIONAL OFFICER  
PHE SUB DIVISION CHARSADDA

Copy To:-

1. Executive Engineer PHE Division Charsadda for information.
2. The official concerned.

  
SUB DIVISIONAL OFFICER  
PHE SUB DIVISION CHARSADDA

  
ATTESTED



Annex = IV (13)

**OFFICE OF THE EXECUTIVE ENGINEER**  
**PUBLIC HEALTH ENGG: DIVISION CHARSADDA.**  
Email:- [phecharsadda@gmail.com](mailto:phecharsadda@gmail.com) Phone No.091-9220493

No. E-2/101

Dated Charsadda the 06/12/2021

To,

The Superintending Engineer  
PHE Circle Peshawar

Subject: - **RELIEVING OF CHARGE AS SENIOR CLERK / SDAPHE SUB DIVISION CHARSADDA**

Reference: - *SDO PHE Sub Division Charsadda Office Order No. 01/E-2 dated 03-12-2021.*

As reported by Sub Divisional Officer Public Health Engineering Sub Division Charsadda vide his letter under reference Mr. Sajjad Hussain Senior Clerk / SDA has been relieved of his duty with effect from 03-12-2021. The report is submitted please.

Executive Engineer  
PHE Division Charsadda

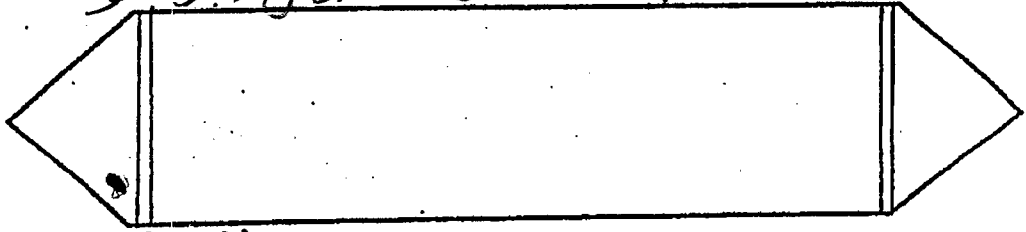
Copy forwarded to the: -

- 1- Chief Engineer (Center) PHE Department Peshawar for information please.
- 2- Sub Divisional Officer PHE Sub Division Charsadda for information with reference to his office order no quoted above.

Executive Engineer  
PHE Division Charsadda

*Amir*  
**ATTESTED**

# بعدالت جناب سرورس ٹریبونل ضلع بہاولپور



2022ء پنجاب سپاہ انتظامیہ  
بنام گورنمنٹ آف ضلع بہاولپور  
سجاد حسین

موزعہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام پیشاور \_\_\_\_\_ کیلئے روح الامین ادوکیٹ  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ ارضی 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 لانا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو ہمیشہ وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

المرقوم \_\_\_\_\_ 5 \_\_\_\_\_ ماہ جنوری 2022ء

العبد \_\_\_\_\_ واہ العبد

بمقام سرورس ٹریبونل کے لئے منظور ہے۔

Attested  
Ruhul Amin Advocate.

B.C 20-3081  
0333-9306098