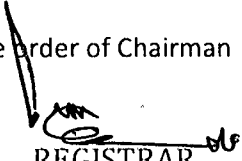


Form- A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 1319 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/09/2022	<p>The appeal of Mr. Tehseen Ullah presented today by Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

APPEAL NO. 1349 /2022

**TEHSEEN ULLAH      V/S      SMBR & OTHERS**

**INDEX**

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2.	Stay application		5
3.	Copy of the order dated 06-06-2022	A	6
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**APPELLANT**

Through:

  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

**Before the Khyber Pakhtunkhwa Service Tribunal Peshawar**

Service Appeal No. 1368 /2022

Mr. Tehseen Ullah, Tehsildar,  
Presently posted as Tehsildar Tangi, District Charsadda.

..... Appellant

Vs

1. Senior Member Board of Revenue Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
2. Commissioner Peshawar Division Peshawar.
3. Deputy Commissioner Charsadda & Khyber.
4. Ajmal Khan Tehsildar under transfer as Tehsildar Tangi Charsadda.

..... Respondents

**Service Appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned Transfer Order dated 09/09/2022 Where by the appellant has been prematurely and on political basis Transferred from the post of Tehsildar Tangai District Charsadda with direction to report to the office of Respondent No. 2 by the Commissioner Peshawar (Respondent No. 2) and Respondent No. 4 was posted as Tehsildar Tangi District Charsadda without any lawful authority, and impugned final order dated 15-09-2022 whereby departmental appeal of the appellant was filled by Respondent No. 1 through a non speaking order in utter violation of Law, Rules and Transfer/Posting policy of the Provincial Government.**

**Prayers:**

**On acceptance of this Service Appeal, the impugned premature, illegal Transfer posting Order dated 09/09/2022 and final order dated 15-09-2022 may graciously be set aside and the appellant may kindly be retain on his previous place of posting i.e Tehsildar Tangai District Charsadda**

**Respectfully shewith:**

The appellant submits as under:

1. That the appellant was initially appointed as Patwari and due to his devotion and performance, the appellant was promoted as Girdawar and then Naib Tehsildar however since his appointment the appellant performed his duty with great zeal, zest, honesty and to the entire satisfaction of respondents.
2. That though the appellant was a Girdawar however due to his honesty and performance the appellant was entrusted the duties of Naib

Tehsildar firstly in settlement at Abbottabad and thereafter was posted as Naib Tehsildar on revenue side.

3. That after regular promotion as Naib Tehsildar, the appellant was posted as Tehsildar (BS-16) against the vacant post of Tehsildar Tangai district Charsada vide order dated 06-06-2022. **(Copy of the order dated 06-06-2022 is annex-A)**
4. That The appellant was surprised to see that he was Prematurely Transferred vide impugned order dated 09/09/2022 and a blue eyed Mr Ajmal Khan (Brother of Mr. Riaz Khan Minister for C&W Department) was posted on his post as Tehsildar Tangai district Charsada which is violation of the transfer posting policy of the provincial Government. **(Copy of the impugned order dated 09-09-2022 is annex-B)**
5. That it is worth to mention that respondent No. 4 was promoted as Tehsildar on acting charge basis (ACB) and was posted at the disposal of Commissioner Malakand Division vide order dated 06-09-2022 however, being a blue eyed chap a corrigendum dated 06-09-2022 was issued whereby respondent No. 4 was placed at the disposal of Commissioner Peshawar Division instead of Commissioner Malakand Division which shows that being brother of Worthy Minister for C&W Department all the orders are political motivated and not issued in the public interest. **(Copy of the orders are annex C & D)**
6. That appellant feeling aggrieved from the impugned order dated 09-09-2022 filled a departmental appeal before respondent No 1 however the same was rejected /filled in a cursory manner vide a non-speaking order dated 15-09-2022. **(Copy of the departmental appeal and order dated 15-09-2022 are annex-E & F)**
7. That the appellant has no other adequate remedy against the impugned order dated 09/09/2022 and final order dated 15-09-2022 hence filing the instant Service Appeal on the following grounds ;

**GROUND:**

- A. That the impugned orders dated 09/09/2022 and 15-09-2022 are against the law, rules Principles of Natural justice hence void ab initio not sustainable under the law.

- B. That as per Transfer Posting Policy of Provincial Government normal tenure on a post for a civil servant is 2 years however the appellant has been made a rolling stone by transferring prematurely vide order date 09/09/2022 in utter violation of the ibid policy.
- C. That as per judgments of superior courts, the authority given to any official shall be exercised as a Public Trust and in accordance with law and rules however the impugned order is an example of colourful exercise of powers in violation of law and Rules.
- D. That the appellant is entitled to be treated equally in accordance with transfer posting policy however the appellant has been discriminated by transferring him prematurely which is violation of Article 4 and 25 of the constitution of Pakistan 1973.
- E. As per reported judgment of Supreme Court of Pakistan **2018 SCMR 1411(b)**, Section 10 of the Baluchistan Civil Servant Act 1974 did not prescribe a minimum period during which a civil servant must serve at his post, it did not mean that the government without assigning any reason could move a civil servant from the place he was posted to after a month or subject the civil servant to repeated postings in a short period of time because that would amount to punishing him such postings also adversely affected the public interest and resulted in the wastage of scarce resources and constituted bad governance.
- F. That the impugned orders are political motivated has been issued for facilitating brother of a Minister which is sufficient to prove that the impugned orders are not issued in public interest hence the impugned orders are liable to be set-aside on the sole ground.
- G. That by issuing the impugned pre-mature, political motivated orders the respondents violated dictum of the Apex Court in case of Anita Turab.
- H. That the appellant seeks permission of this honourable Tribunal to adduce other grounds during final hearing of the appeal.


It is therefore requested that the appeal may kindly be accepted as prayed for in the heading of the instant appeal.

-4-

APPELLANT

  
TEHSEEN ULLAH

Through

  
Noor Muhammad Khattak  
Advocate Supreme Court of  
Pakistan.

**CERTIFICATE:**

No such like appeal is pending or filed between the parties on the subject matter before this Honorable Tribunal.

  
ADVOCATE

**AFFIDAVIT**

I, Tehseen Ullah, Tehsildar, Presently posted as Tehsildar Tangi, District Charsadda do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.

  
DEPONENT

-5-

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

C.M NO. \_\_\_\_\_/2022  
IN  
APPEAL No. \_\_\_\_\_/2022

**TEHSEEN ULLAH                      VS                      SMBR & OTHERS**

**APPLICATION FOR SUSPENSION OF OPERATION OF**  
**THE IMPUGNED NOTIFICATION DATED 9.9.2022 TO**  
**THE EXTENT OF THE APPLICANT AND PRIVATE**  
**RESPONDENT NO. 4 TILL THE DISPOSAL OF THE MAIN**  
**APPEAL**

**R/SHEWETH:**

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned notification dated 9.9.2022 whereby the appellant has been transferred prematurely and in utter violation of the policy.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned notification dated 9.9.2022 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned notification dated 9.9.2022 to the extent of appellant and private respondent No. 4 may very kindly be suspended till the disposal of the above mentioned service appeal.

Dated: 15.9.2022

**APPLICANT**

  
**TEHSEEN ULLAH**

**THROUGH:**  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE SUPREME COURT**



Commissioner Peshawar Division

-6-

No: 6/7/EA/2022/I/  
Dated: 06/06/2022

**OFFICE ORDER**

Mr. Tehseen Ullah (Naib Tehsildar), presently posted as Naib Tehsildar Bazar Zakhakhel District Khyber is hereby transferred and posted as Tehsildar Tangi (OPS) District Charsadda, effective from 06/06/2022 in the best public interest with immediate effect.

Se  
Commissioner  
Peshawar Division

No: 6/7/EA/2022/I/7227-32

Copy forwarded to:

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa
2. Accountant General, Khyber Pakhtunkhwa
3. Deputy Commissioner Charsadda & Khyber
4. PS. to Commissioner Peshawar Division
5. Official concerned for compliance

Commissioner Peshawar Division



**BETTER COPY**

**OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR**

No. 6/7/EA/2022/I/

Dated: 06.06.2022

**OFFICE ORDER**

Mr. Tehseen Ullah (Naib Tehsildar) presently posted as Naib Tehsildar Bazar Zakhakhel District Khyber is hereby transferred and posted as Tehsildar Tangi (OPS) District Charsadda against the Vacant Post in the best Public interest with immediate effect.

-Sd-

**COMMISSIONER  
PESHAWAR DIVISION PESHAWAR**

No. 6/7/EA/2022/I/ Dated: 06.06.2022/ 7227-32



OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR

"B"

- 7 -

No: 6/7/EA/2022/II/  
Dated 09/09/2022

**OFFICE ORDER**

The following posting / transfer of Tehsildar / Naib Tehsildar in Peshawar Division are hereby ordered with immediate effect in the best public interest:-

S.#	Name of Officials	From	To
1.	Mr. Ajmal Khan Tehsildar	Under Transfer	Tehsildar Tangi
2.	Mr. Tehseen Ullah Naib Tehsildar	Tehsildar Tangi (OPS)	Report to this office

Sd/-

COMMISSIONER  
PESHAWAR DIVISION PESHAWAR

No: 6/7/EA/2022/II/

Copy forwarded to:

1. Senior Member Board of Revenue Khyber Pakhtunkhwa
2. Accountant General Khyber Pakhtunkhwa
3. The Deputy Commissioners Charsadda.
4. PS to Commissioner Peshawar Division.
5. Officials concerned for compliance.

ASSISTANT COMMISSIONER (Rev/GA)  
PESHAWAR DIVISION PESHAWAR

**BETTER COPY**

**OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR**

No. 6/7/EA/2022/I/

Dated: 09.09.2022

**OFFICE ORDER**

The following posting/transfer of Tehsildar/ Naib Tehsildar in Peshawar Division are hereby ordered with immediate effect in the best public interest.

<b>S#</b>	<b>Name of Officials</b>	<b>From</b>	<b>To</b>
1	Mr Ajmal Khan Tehsildar	Under Transfer	Tehsil;dar Tangi
2	Mr. tahseen ullah naib tehsildar	Tehsildar tangi (OPS)	report to this office

-Sd-

**COMMISSIONER  
PESHAWAR DIVISION PESHAWAR**

**NO.6/7/EA/2022/II/**



GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT. -8-

091-9213989

Dated Peshawar the 6 /09/2022

091-9214208

NOTIFICATION.

No. Estt:I/DPC/Tehsildar/2021/ 23561-68 Consequent upon the recommendation of Departmental Promotion Committee meeting dated 17.06.2022, the Competent Authority is pleased to order the appointment of Mr. Ajmal Khan Naib Tehsildar BS-14 to the post of Tehsildar (ACB BS-16) on Acting Charge Basis with immediate effect.

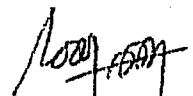
On promotion, his services are hereby placed at the disposal of Commissioner Malakand Division for further posting in the Division in the best public interest.

With the approval of  
Competent Authority

No. & Date Even.


Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. Commissioners, Peshawar and Malakand Divisions.
3. SPS to Senior Member, Board of Revenue.
4. PS to Member-III Board of Revenue.
5. PA to Secretary-I Board of Revenue.
6. Officer concerned.
7. Personal File.

  
(NOOR KHAN)  
Assistant Secretary (Estt)  
Board of Revenue



"D" = 9-

	<b>GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE &amp; ESTATE DEPARTMENT.</b>	
091-9213989	Peshawar Dated the <u>06/09/2022</u>	091-9214208

**CORRIGENDUM.**

No.Estt:I/PF/Ajmal Khan/23643-52. In partial modification of this Department Notification No.Estt:I/DPC/Tehsildar/2021/23561-68 dated 06.09.2022, the services of Mr. Ajmal Khan, Tehsildar (ACB) under transfer to Commissioner Malakand Division is hereby placed at the disposal of Commissioner Peshawar Division with immediate effect.

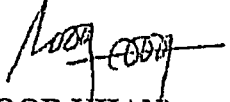
Rest of the Notification shall be intact.

With the approval of  
Competent Authority

No. & Date Even.

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. Commissioners, Peshawar and Malakand Divisions.
3. SPS to Senior Member, Board of Revenue.
4. PS to Member-III Board of Revenue.
5. PA to Secretary-I Board of Revenue.
6. Officer concerned.
7. Personal File.

  
(NOOR KHAN)  
Assistant Secretary (Estt)  
Board of Revenue

To

The Senior Member  
Board of Revenue Khyber Pakhtunkhwa at Peshawar.

"E"

-10-

**Subject:** Departmental Appeal against the impugned Transfer Order dated 09/09/2022 Where by the appellant has been prematurely Transferred from the post of Tehsildar Tangai District Charsada with direction to report to the office of Commissioner Peshawar by the Commissioner Peshawar without any lawful authority, in utter violation of Law, Rules and Transfer/Posting policy of the Provincial Government.

**Prayers:**

On acceptance of this Departmental Appeal, the impugned premature, illegal Transfer posting Order dated 09/09/2022 may graciously be set aside and the appellant may kindly be posted on his previous place of posting i.e Tehsildar Tangai District Charsada

Dear Sir,

The appellant submits as under;

1. That the appellant is serving was initially appointed as Patwari and due to his devotion and performance the appellant was promoted as Girdawar and then Naib Tehsildar however since his appointment the appellant performed his duty with great zeal, zest, honesty and to the entire satisfaction of his high ups.
2. That though the appellant was a Girdawar however due to his honesty and performance the appellant was entrusted the duties of Naib Tehsildar firstly in settlement at Abbottabad and after satisfactory performance was posted as Naib Tehsildar on revenue side.
3. That after regular promoted and was posted as Tehsildar (BS-16) against the vacant post of Tehsildar Tangai district Charsada vide order dated 06-06-2022.

4. That The appellant was surprised to see that he was Prematurely Transferred vide impugned order dated 09/09/2022 and a blue eyed Mr Ajmal Khan was posted on his post as Tehsildar Tangai district Charsada which is violation of the transfer posting policy of the provincial Government.
5. That the appellant has no other adequate remedy against the impugned order dated 09/09/2022 hence filing the Instant Departmental Appeal on the following grounds ;

**GROUND:**

- A. That the impugned order dated 09/09/2022 is against the law, rules Principles of Natural justice hence void ab initio not sustainable under the law.
- B. That as per Transfer Posting Policy of Provincial Government normal tenure on a post of a civil servant is 2 years however the appellant has been made a rolling stone by transferring the prematurely vide order date 09/09/2022 in utter violation of the ibid policy.
- C. That as per judgments of superior courts, the authority given to any official shall be exercised as a Public Trust and in accordance with law and rules however the impugned order is an example of colourful exercise of powers in violation of law and Rules.
- D. That the appellant is entitled to be treated equally in accordance with transfer posting policy however the appellant has been discriminated by transferring him prematurely which is violation of Article 4 and 25 of the constitution of Pakistan 1973.
- E. As per reported judgment of Supreme Court of Pakistan 2018 **SCMR 1411(b)**, Section 10 of the Baluchistan Civil Servant Act 1974 did not prescribe a minimum period during which a civil servant must serve at his post ,it did not mean that the government without assigning any reason could move a civil servant from the place he was posted to after a month or subject the civil servant to repeated postings in a short period of time because that would amount to punishing him such postings also adversely affected the

public interest and resulted in the wastage of scarce resources and constituted bad governance.

F. That the impugned order is political motivated hence liable to be set-aside on the sole ground.

It is therefore requested that the appeal may kindly be accepted as prayed for in the heading of the instant appeal.


Your's obediently



**TEHSEEN ULLAH**  
TEHSILDAR.



"F" -13-

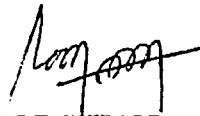
	<b>GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE &amp; ESTATE DEPARTMENT.</b>
091-9213989	091-9214208
No.Estt:V/PF/Tehseenullah/ 26578	Peshawar Dated the 15/09/2022

To

Mr. Tehseen Ullah,  
Naib Tehsildar waiting for posting in  
Commissioner office Peshawar.

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED TRANSFER  
ORDER DATED 09.09.2022.

Your Departmental Appeal has been processed/examined and filed by the  
competent authority.

  
(NOOR KHAN)  
Assistant Secretary (Estt)  
Board of Revenue

**VAKALATNAMA**

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

APPEAL NO: \_\_\_\_\_ OF 2021

TEHSEEN ULLAH

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

RMBR

(RESPONDENT)  
(DEFENDANT)

I/We Tehseen ulleh

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

Dated. \_\_\_\_/\_\_\_\_/202

**CLIENT**

**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**  
**(BC-10-0853)**  
**15401-0705985-5**

**UMAR FAROOQ**  
&  
**WALEED ADNAN**

**M. AYUB**  
**ADVOCATES**

**OFFICE:**

Flat No.(TF) 291-292 3<sup>rd</sup> floor  
Deans trade centre Peshawar cantt:  
Mobile No. 0334-5277323