


Appeal No. 1032/2013.
Mr. Sultan Haider

26.08.2013


No one is present on behalf of the appellant. Case is adjourned. To come up for preliminary hearing on 09.09.2013.


Member

4.

09.09.2013

No one is present on behalf of the appellant. Case is adjourned. To come up for preliminary hearing on 29.10.2013

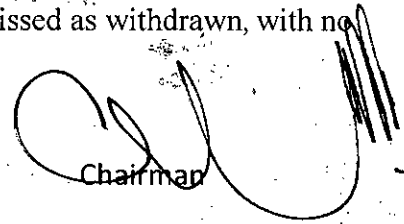

Member

29.10.2013

Appellant with counsel present. Private respondent No.4 is also present with Mr. Babar Khan Yousafzai, Advocate, but perusal of the file, particularly order sheets in the case, show no notice ever been issued to either to the official respondents or private respondents. On the other hand, the learned counsel for the appellant stated that the transfer order has been complied with, and the appellant is, therefore, satisfied, and seeks withdrawal of the appeal.

The appeal is accordingly dismissed as withdrawn, with no order as to costs.

ANNOUNCED
29.10.2013


Chairman

Since the order impugned has been complied with, the appellant seeks withdrawal of the appeal, please be allowed, as requested.


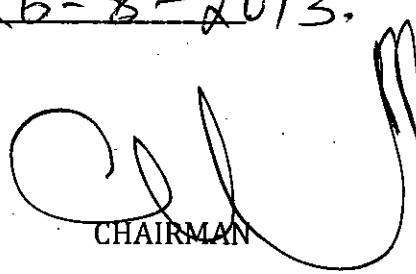


Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1032 /2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04/07/2013	<p>The appeal of Mr. Sultan Haider resubmitted today by Mr. Niaz Wali Khan Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	4-7-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>26-8-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Sultan Haider Naib Tehsildar received today i.e. on 01.07.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Addresses of respondent No. 4 & 5 are incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal Rules 1974.
- 2- Copies of departmental appeal and its rejection order are not attached the appeal which may be placed on it.
- 3- Annexures of the appeal may be attested.
- 4- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 974 /S.T,

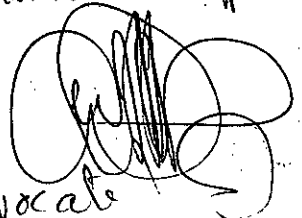
Dt. 02/07 /2013.


**REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.**

Mr. Niaz Wali Khan Advocate Peshawar.

Sir

The objection recorded at Serial No. 1 is removed hereby along with objection No. 3 and 4 - concerning the objection No. 2 it is submitted that this appeal is against the order of departmental authority therefore the appellant being not legally allowed to file departmental appeal could not move, nor have the copy of departmental appeal


Advocate

Before the Services Tribunal KPK Peshawar

In Re: Service appeal No. 1032 of 2013

Sultan Haider

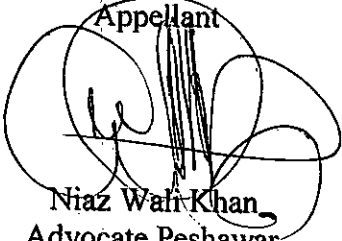
vs.

Government of Khyber Pakhtunkhwa,

INDEX

S/No	Detail of Documents	Annexure	Pages
1.	Appeal with affidavit		1-5
2.	Addresses of parties		6
3.	Transfer order dated 16/ 06/ 2013	"A"	7
4.	Writ petition No. 1407/13	"B"	8-12
5.	Order in writ petition No. 1407/13	"C"	13-14
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Through

Appellant

Niaz Wali Khan,
Advocate Peshawar

1

Before the Services Tribunal KPK Peshawar

In Re: Service appeal No. 1032 of 2013

Sultan Haider Naib Tehsildar Cirlice Mohmand Peshawar

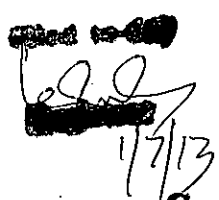
W.F. Peshawar
1081
01-7-13

Appellant

Versus

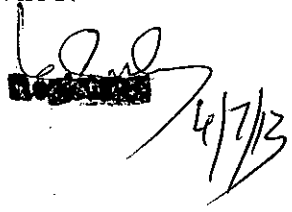
1. Government of Khyber Pakhtunkhwa, through Secretary Board of Revenue, Civil Secretariat Peshawar
2. Senior Member Board of Revenue Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Commissioner Peshawar, Commissioner House, The Mall Peshawar Cantt:
4. Kifayat Khan Naib Tehsildar, Head Clerk Revenue Peshawar
5. Adil Waseem District Qanungo Peshawar

Respondents


4/7/13

Service appeal under section 4 of the Services tribunal Act 1973, against the order dated 20/ 06/ 2013 of the respondent NO. 2 vide which the order of transfer passed by the respondent No. 3 was cancelled, on a very wrong premises of law and miss-appreciation of the judgments of the Hon' able Superior Courts

re-submitted to
and filed.


4/7/13

2

Prayer,

On acceptance of this appeal, the order 20/ 06/ 2013 of the respondent No. 2 may kindly be declared as illegal, null and void, without lawful authority, without jurisdiction of no legal effect and ineffective upon the valid and legal rights of the appellant, the same, being proved to be the result of political pressure, may kindly be cancelled any additional relief, not specifically prayed for but is available to the petitioners may also be awarded in the ends of justice

Respectfully submitted,

1. The appellant after being appointed was entrusted the liabilities dully performed by him with zeal and complacency, leaving non as deficient, required by law to be done and performed.
2. The appellant was being subjected to many transfers in between the department and accepted the same as order of his superiors
3. On 16/ 04/ 2013 the transfer in reference was made by the competent authority, which was questioned in a writ petition NO. 1407/ 2013 which was disposed off and the matter was entrusted to the respondent No. 2 who thereafter without going in to the merits of the case accepted the representation and set aside the transfer order. (Copy of the transfer order, writ petition, order it upon and the order of respondent No. 2 are annexed as annexure A, B, C and D)
4. A notification concerning the transfers of the civil servants was issued by the election commission of Pakistan, without the consent of the caretaker Government nor the same was passed under any political pressure, that notification was made a bas and then general transfers were made under such compliance, which were never objected by any person at any forum. (Copy of the notification is annexed as annexure E).
5. To implement the notification other letters and correspondence were made which were also made a base to give a strong footing to the notification referred above. Copies are annexed as annexure E-1, E-2, and E-3)
6. Since the respondent No. 2 has passed the order in a very hasty manners, illegally, rather on the bases of two applications it is clear that the political pressur has been

used (Copies are attached) therefore this Hon' able services Tribunal is being approached, by the appellant on the following grounds inter alia

Grounds

- A. Impugned order of the respondent No. 2 is against law, facts, circumstances, justice, without lawful authority, without jurisdiction of no legal effect and ineffective upon the valid and legal rights of the petitioners.
- B. While hearing the departmental representation, the appellant, being respondent therein was to be summoned, informed and heard by respondent No. 2, by not doing so the petitioners have been condemned unheard, which is a grave miscarriage of justice on the part of respondent No. 2.
- C. There is no proof that the impugned transfer has been made by the caretaker Government, rather the same has been made in compliance of the notification, issued by the Election Commission of Pakistan. There is not indication with regard to the involvement of the caretaker Government in the matter, hence terming the transfer as made by the caretaker Government is the misinterpretation of law, orders and judgments of the superior Courts.
- D. The order of the respondent No. 2 is based on malafide, attracting favor to the respondents No. 4 and 5 the same is hasty and without consideration, rather without justification and application of judicial mind, therefore the order is not maintainable and is liable to be set aside.
- E. Since the matter is very urgent and emergent, wherein even a premature appeal can be entertained by this Hon' able Tribunal, despite of the non availability of the benches, the appellant has no other remedy to avail hence this appeal, as the service career of the appellant is involved, and even the statutory period for transfer has not been completed by the appellant
- F. Law, facts, circumstances, justice duly incline in favour of grant of this constitutional petition.
- G. The petitioners seek leave of this Hon' able Court to raise/ argue additional grounds at the time of arguments

4

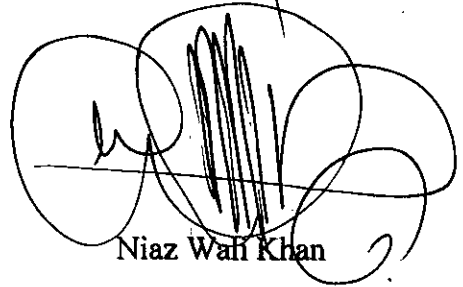
It is therefore prayed On acceptance of this appeal, the order 20/ 06/ 2013 of the respondent No. 2 may kindly be declared as illegal, null and void, without lawful authority, without jurisdiction of no legal effect and ineffective upon the valid and legal rights of the appellant, the same, being proved to be the result of political pressure, may kindly be cancelled any additional relief, not specifically prayed for but is available to the petitioners may also be awarded in the ends of justice

Appellant



Sultan Haider

Through

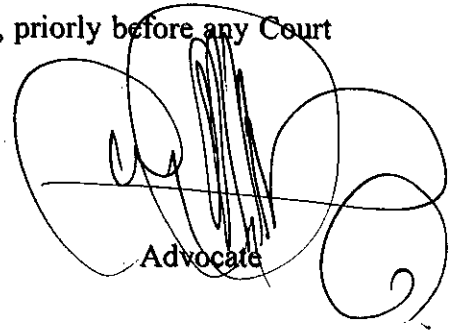


Niaz Wali Khan

ASC Peshawar

Certificate

It is certified that no appeal of such kind has been filed, priorly before any Court of law, nor before This Hon' able Court.



Advocate

Before the services tribunal KPK Peshawar

In Re: Service appeal No. of 2013

Sultan Haider Naib Tehsildar Circle Mohmand Peshawar

Appellant

Versus

1. Government of Khyber Pakhtunkhwa, through Secretary Board of Revenue, Civil Secretariat Peshawar
2. Senior Member Board of Revenue Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Commissioner Peshawar, Commissioner House, The Mall Peshawar Cantt:
4. Kifayat Khan Naib Tehsildar, Head Clerk Revenue Peshawar
5. Adil Waseem District Qanungo Peshawar

Respondents

Addresses of parties

Respectfully submitted

Addresses of parties are submitted as above

Appellant

Sultan Haider

Through

Niaz Wafiq Khan

ASC Peshawar

Before the Services Tribunal KPK Peshawar

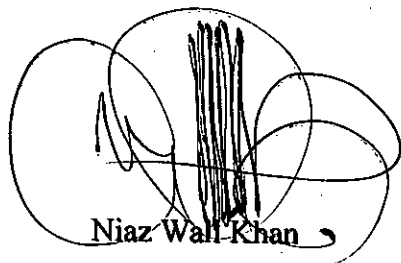
In Re: Service appeal No. of 2013

Sultan Haider vs. Government of Khyber Pakhtunkhwa,

Affidavit

I, Sultan Haider Naib Tehsildar Circle Mohmand Peshawar do hereby affirm and declare on oath that the contents of the service appeal are true and correct to the best of my knowledge and belief, nothing has been concealed from this Hon' able Court

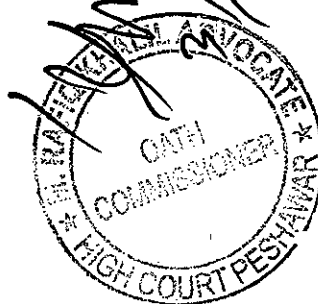
Identified by


Niaz Wali Khan

ASC Peshawar


Deponent

ATTESTED



Ann. A,

7



OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR.

Dated Peshawar the, 16/04/2013

OFFICE ORDER

No:2-2(AR)Vol.VI/2012.

The following posting/transfer amongst Naib Tehsildars in Peshawar Division is hereby ordered with immediate effect and in the interest of public service.

S.No	Name of Officials	From	To
1	Mr. Sultan Haider Naib Tehsildar(BPS-14)	Reader Commissioner Pesh.	Naib Tehsildar Circle Mohmand vice S.No. 2
2	Mr. Kifayat Khan Naib Tehsildar (BPS-14)	Naib Tehsildar Circle Mohmand	Head Clerk (Revenue) Peshawar.
3	Mr. Adil Waheed Naib Tehsildar(BPS-14)	Naib Tehsildar Circle Qasba.	District Peshawar Karungo
4	Mr. Muhammad Ibrar Naib Tehsildar(ACB)	District Karungo, Peshawar	Naib Tehsildar, Circle Qasba vice S.No. 3 above

27/04/13

-Sd-
COMMISSIONER
PESHAWAR DIVISION PESHAWAR.

No: 3-738-13 /2-2(AR)Vol.VI/2012

- Copy forwarded to the:
1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
 2. Accountant General Khyber Pakhtunkhwa.
 3. Deputy Commissioner, Peshawar.
 4. Officials concerned for compliance.
 5. Office order file.
 6. Personal files.

(MUHAMMAD AMIN)
ASST. TO COMMISSIONER(REV./GA)
PESHAWAR DIVISION PESHAWAR.

Allotted

[Handwritten signature]

Naib Tehsildar
Asst. Secy Peshawar

8

IN THE PESHAWAR HIGH COURT PESHAWAR

Ann B



R/O Gulbahar No.3, Street Idress Abad, Peshawar City.....Petitioner
Kifayatullah S/O Haji Akbar

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Board of Revenue,
Civil Secretariat, Peshawar.

2. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Civil
Secretariat, Peshawar

3. Commissioner, Peshawar, Commissioner House, The Mall,
Peshawar Cantt.

4. Syed Sultan Haidar Shah S/O Syed Gulzar Hussain Shah R/O
Sheikh Abad No.3, House No.946/ 14-A, Peshawar City

..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF PAKISTAN

Respectfully Sheweth:

Briefly the facts of the case are as under:-

1. That the petitioner after successfully qualified for the position
Commissioner examination was appointed / recommended as Naib
Tehsildar BPS-14 in the Department of Board of Revenue on
22.01.2009. Copy of the appointment order is annexure "A".

Peshawar High Court

Attorng

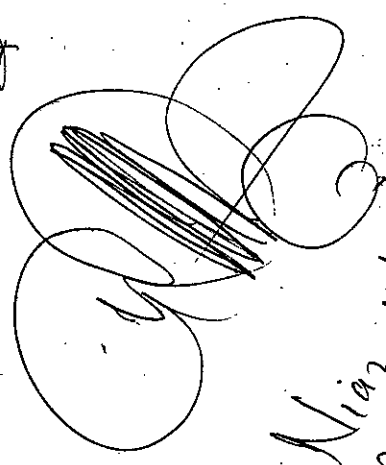
Muz
AS c
Peshawar, Jehan

- 2. That the petitioner was posted as Naib Tehsildar Qasba Circle on 22.06.2010 and on 15.02.2013 he was again transfer/ posted as Naib Tehsildar Moh.nand.Circle, Peshawar. Copy of the transfer order dated 15.02.2013 is annexure "B"
- 3. That the District & Sessions Judge/ District Returning Officer, Peshawar vide letter dated 04.04.2013 required the Deputy Commissioner Peshawar to assign two officers not below the rank of Naib Tehsildar at the disposal of District Judiciary for the arrangements of vehicle/ transportation of election materials thus the petitioner along with one another Mr. Adil Waseem Naib Tehsildar Qasba Circle was placed at the disposal of District & Sessions Judge/ Returning Officer, Peshawar vide letter dated 05.04.2013. Copy of the letter dated 04.04.2013 is annexure "C" and that of letter dated 05.04.2013 is annexure "D".
- 4. That in sheer violation of law, rules and regulation respondent No.3 without any authority issued letter dated 16.04.2013 wherein the petitioner was again transferred and was posted as Head Clerk (Revenue) Peshawar. Copy of the impugned order dated 16.04.2013 is annexure "E".

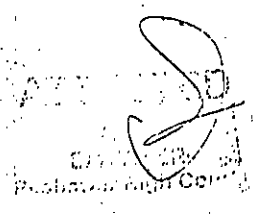
It may be mentioned here that by posting the petitioner as Head Clerk (Revenue) Peshawar which is a lower grade and different cadre post in clear violation of the Govt. Khyber Pakthunkhwa Gazette Notification dated 29.09.2012 wherein it is clearly mentioned that only Assistant having dealt with revenue or acquisition matter can be posted as head clerk revenue. Copy of the Gazette Notification dated 29.09.2012 is annexure "F".

- 5. That in the last two months the petitioner has been transferred twice and thus is mortally aggrieved of the impugned transfer order, hence prefers this constitutional petition for the following amongst other grounds;

Attested



*Niaz Akbar Khan
A.S.C Peshawar*



(11)

D. That the posting of petitioner in a different and lower cadre post i.e. Head Clerk (Revenue) will adversely affect the promotion prospects of petitioner by positing him in a different cadre post and thus will practically not only taking him out of the seniority list of Naib Tehsildar but infact repatriating him to lower and different cadre post.

E. That according to Notification dated 20.09.2012 issued by Secretary to Govt. Revenue & Estate Department, the minimum posting period for Tehsildar & Naib Tehsildar is one year and in case the transfer is made before one year period, prior permission of Revenue & Estate Department is required, thus the impugned transfer orders of petitioner is prima facie violative of the aforesaid notification dated 20.09.2012. Copy of the notification dated 20.09.2012 is annexure "I".

F. That the petitioner is being treated unequally against the law and he is being deprived of equal protection of law.

G. That through the impugned transfer order dated 16.04.2013 the respondents have violated the fundamental rights of petitioner as guaranteed by the Constitution of Pakistan.

It is therefore prayed that the impugned transfer order dated 16.04.2013 whereby the petitioner has been transferred and posted as Head Clerk (Revenue) Peshawar and instead respondent No.3 without lawful authority transferred / posted respondent No.4 as Naib Tehsildar may please be declared as illegal, unlawful and without jurisdiction and be declared accordingly.

Attested



*Niaz Wali Khan
AISC
Peshawar*

ATTACHED
CC
Peshawar

INTERIM RELIEF:

By way of Interim Relief the operation of the impugned order dated 16.04.2013 may please be suspended till the disposal of the writ petition.

Petitioners
Through
A. Latif Afridi

Khalid Anwar Afridi
Advocates, Supreme Court

Barrister Kamran Qaisar
Advocates, Peshawar.

CERTIFICATE:

Certified that no such like writ petition has earlier been filed on the subject matter before this Hon'ble Court.

ADVOCATE

LAW BOOKS:

- 1. Constitution of Pakistan
- 2. any Law Book as per need

ADVOCATE

FILED TODAY
Deputy Registrar

Attested
Miazi Khalid Khan
Asc Peshawar

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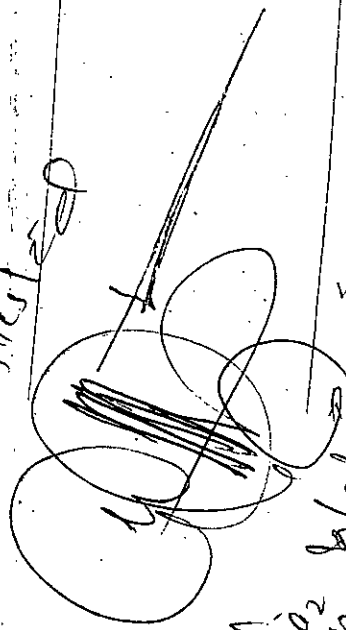
PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of..... of.....
Case No.....

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
04.06.2013	<p><u>W.P.No. 1407-P/2013.</u></p> <p>Present: Mr. Babar Khan Yousafzai, Advocate, for the petitioner.</p> <p>Mr. Naveed Akhtar, AAG, for the official respondents.</p> <p>***</p> <p><u>DOST MUHAMMAD KHAN, C.J.-</u> Grievance of the petitioner is that he was untimely transferred not in the public interest but for consideration other than that, which is clear violation of the service law & rules and because his transfer order was passed by the caretaker government, which was having no mandate to make posting & transfer as held by the Hon'ble Apex Court in the recent judgment, therefore, this petition is disposed of with the observations that the Departmental Appellate</p>

Attested

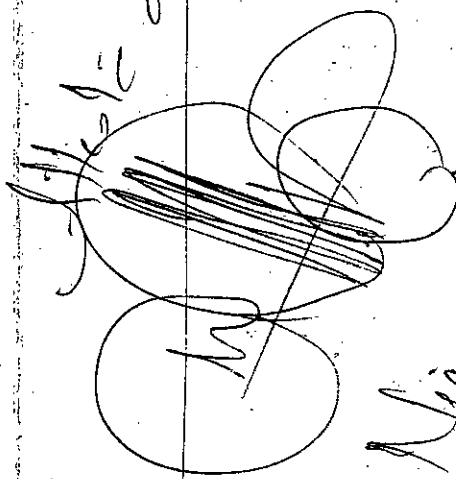


Mr. Naveed Akhtar
AAG Pesh

petitioner shall revisit the matter, if not already decided, and grievance of the petitioner in light of the Supreme Court judgment, mentioned above, but positively within fifteen (15) days.

~~_____~~
CHIEF JUSTICE

W. S.
JUDGE

Filed

Niaz ulat Khan
Asst. Deshwar

BEFORE THE COURT OF SENIOR MEMBER, BOARD OF
REVENUE KHYBER PAKHTUNKHWA

Ann. D. (15)

1. Kifayatullah Naib Tehsildar
2. Adil Waseem Naib Tehsildar Appellants

Versus

Commissioner, Peshawar Division Peshawar Respondent

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE
ORDER DATED 16.04.2013 PASSED BY COMMISSIONER
PESHAWAR DIVISION PESHAWAR.

My this single order will dispose of the above mentioned two identical
appeals / representations against the order dated 16.04.2013 issued by Commissioner,
Peshawar Division whereby M/S Kifayatullah Naib Tehsildar was posted as Head Clerk
(Revenue) and Adil Waseem was posted as District Kanungo Peshawar.

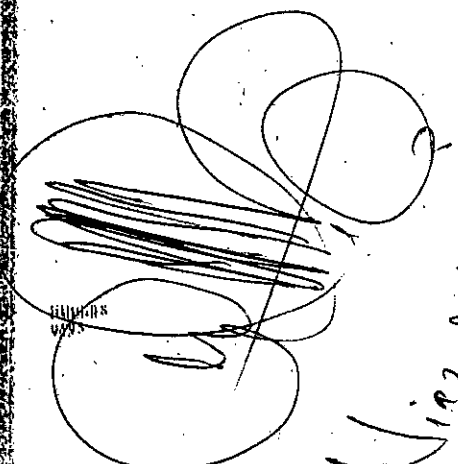
Peshawar High Court vide their Judgement dated 04.06.2013 remanded the
case of the appellants with the observations that the departmental appellate authority, who
earlier rejected the Representations of the Petitioners shall revisit the matter, if not already
decided and grievances of the Petitioners be resolved in light of the Supreme Court
Judgement dated 09.05.2013 whereby all the appointments, transfers and postings which has
been made by the Caretaker Government, has been declared void ab initio, null and void and
without lawful authority.

Perusal of the available record reveals that the posting / transfer orders were
issue during the Caretaker Government, therefore in light of Judgement of Peshawar High
Court dated 04.06.2013 passed in Writ Petition No. 1407-P/2013 and Hon'ble Apex
Supreme Court of Pakistan the posting / transfer orders dated 16.04.2013 of Commissioner,
Peshawar is without lawful authority and is therefore cancelled. Appeals / Representations
are accepted.

Announced
Dated 20.06.2013

Announced
Senior Member

Attested



*Niaz Iqbal Khan
Msc Peshawar*

3-4-2013
 1553
 3-4-2013

ELECTION COMMISSION OF PAKISTAN
 Islamabad, the 2nd April, 2013

NOTIFICATION

No.F.8(12)/2012-Cord(1)- WHEREAS it is expedient to ensure that those who are in the service of Pakistan perform their duties to serve public interest and assist the Election Commission of Pakistan in the conduct of General Elections 2013 fairly, justly, honestly and in accordance with law;
 AND WHEREAS it is also expedient to take pre-emptive steps so that any employee in the service of Pakistan should try to influence the election process in any manner to favour any particular political party or a candidate;
 NOW THEREFORE, in exercise of the powers conferred upon it under Article 218(3) of the Constitution read with sections 103(c) and 104 of the Representation of the People Act 1976, the directions dated 08-08-2012 of the Supreme Court of Pakistan in Workers' Party Pakistan's case and all other powers enabling it in that behalf, the Election Commission of Pakistan is pleased to direct the Federal and Provincial Caretaker Governments to:

- (i) Shuffle / transfer all Federal and Provincial Secretaries. However, if the caretaker government considers that a federal or provincial secretary need not be transferred / shuffled, it may refrain from doing so and intimate the same to the Election Commission.
- (ii) Assess whether the Chairpersons / Chief Executives of all autonomous and semi-autonomous and/or state owned bodies, IG Police, CCPOs, City Commissioners, DCOs, DPOs, SHOs, patwaris and EDOs are independent individuals and transfer those who do not meet this criteria.

2. Clauses (iii) and (iv) of this Commission's Notification No.8(12)/2012-Cord(1) dated 28th March, 2013 are hereby withdrawn. This directive shall not apply to specific transfers made under the directions of the Election Commission.
 By order of the Election Commission of Pakistan

(Signature)
 (Syed Sher Afgan)
 Director General (Elections)

✓
 Secy Estab.
 Process

(Signature)
 3/4
 SEE

Secy Dept. E & AD
 Please take action on para 2 of the notification as discussed.

(Signature)
 1.4.2013

Chief Secretary
 Govt. of Pakistan

(Large Signature)

(Signature)
 Niaz Wali, IHC
 Asst. Secy Peshawar

SOE-1
 3/4/13

**MOST IMMEDIATE
ELECTION MATTER**

17



**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

NO. SO (E-I)E&AD/9-49/2012
Dated Peshawar, the April 13, 2013

To

- 1) All Administrative Secretaries,
Government of Khyber Pakhtunkhwa.
- 2) Provincial Police Officer, Khyber Pakhtunkhwa.
- 3) All Divisional Commissioners, Khyber Pakhtunkhwa.

Subject:

**IMPLEMENTATION OF DIRECTIONS OF ELECTION COMMISSION
OF PAKISTAN- NEUTRALITY ASSESSMENT**

Dear Sir,

I am directed to refer to the subject and to inform that a meeting will be held on April 16, 2013 at 1500 hours under the chairmanship of Chief Secretary, Khyber Pakhtunkhwa in the Committee Room of Establishment & Administration Department to discuss the progress regarding subject matter.

You are requested to make it convenient to attend the meeting on the date mentioned above.

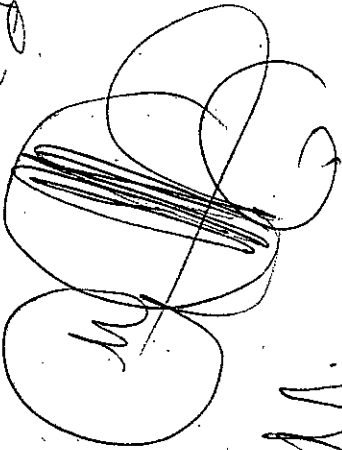
Yours faithfully,

(MUHAMMAD JAVED SIDDIQI)
SECTION OFFICER (ESTT-I)

Copy of the above is forwarded for information to the:

1. PS to Chief Secretary, Khyber Pakhtunkhwa
2. PS to Secretary Establishment, Khyber Pakhtunkhwa.
3. PS to Secretary Administration, Khyber Pakhtunkhwa.

SECTION OFFICER (ESTT-I)

Attested

Mir Wajid Khan
ASc
Peshawar

MOST IMMEDIATE
ELECTION MATTER

E-2

18



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

NO. SO (E-I)E&AD/9-49/2012
Dated Peshawar, the April 13, 2013

To

- 1) All Administrative Secretaries,
Government of Khyber Pakhtunkhwa.
- 2) Provincial Police Officer, Khyber Pakhtunkhwa.
- 3) All Divisional Commissioners, Khyber Pakhtunkhwa.

Subject: IMPLEMENTATION OF DIRECTIONS OF ELECTION COMMISSION OF
PAKISTAN- NEUTRALITY ASSESSMENT

Dear Sir,

I am directed to refer to the subject and intimate that the Election Commission of Pakistan has desired that in order to conduct General elections, 2013, in a fair, free and just manner, all preventive steps are required to ensure that no employee in the service of Pakistan or the province should influence the election process in any manner and should not have any leverage which would enable him to favour any political party or a candidate. The Election Commission of Pakistan has therefore inter alia directed the Federal and Provincial care-taker Governments to:

"Assess whether the Chairpersons/ Chief Executives of all autonomous and semi-autonomous and/ or state owned bodies, IG Police, CCPOs, City Commissioners, DCOS, DPOs, SHOs, Patwaris and EDOs are independent individuals and transfer those who do not meet this criteria."

You are therefore requested to kindly carry out necessary neutrality assessment exercise and take sequential actions for the purpose and complete it within three days, repeat three days positively under intimation to this Department for onward transmission to the Election Commission of Pakistan/ Federal Government.

Yours faithfully,

(MUHAMMAD JAVED SIDDIQI)
SECTION OFFICER (ESTT-I)

Copy of the above is forwarded for information to the:

1. Secretary Election Commission of Pakistan, Islamabad w/r to letter No. FB(12)/2012-Cord(1) dated 02/04/2013.
2. Additional Secretary, Government of Pakistan, Cabinet Secretariat, Islamabad w/r letter No. 2/1/2013-E-6 dated 04/04/2013.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.

SECTION OFFICER (ESTT-I)

Actd.
[Signature]

Mistred
[Signature]
Muztalib, Icha
ASc Peshawar

F-3
Amr
19



OFFICE OF THE
COMMISSIONER PESHAWAR
DIVISION PESHAWAR

Dated 17.04.2013

No. 5834 /7/5(AC)

To

Muhammad Javed Siddiqi,
Section Officer (Estt-I),
Establishment Department,
Govt. of Khyber Pakhtunkhwa.
(Focal Person)

Subject: IMPLEMENTATION OF DIRECTIONS OF ELECTION
COMMISSION OF PAKISTAN-NEUTRALITY ASSESSMENT.

Memo:

I am directed to invite your attention to your letter No. SO(E-I)
E&AD/9-49/2012 dated April 13, 2013 and to intimate that a meeting of all
Deputy Commissioners in Peshawar Division was held under the chairmanship
of Commissioner Peshawar Division on 14.04.2013 to assess whether the
revenue officers/Patwaris are independent and don't link with contesting
candidates to influence the election process in any manner.

After detailed deliberation, posting/transfer of those who don't meet
this criteria were made as per details below:

S.No	District	No of NTs transferred	No of Kanunges / Girdawars transferred	No of Patwaris transferred
1	Peshawar	02	6	76
2	Nowshera	Nil	2	30
3	Charsadda	Nil	12	57
	Total	02	20	163

Handwritten signature and initials
He/R.

Copies of posting/transfer orders are enclosed herewith.

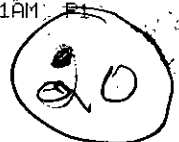
17/4/2013

Signature
(MUHAMMAD AMIN)
Assistant to Commissioner (R/GA)
Peshawar Division

No. 5834 - 3 /7/5(AC)

Copy forwarded to the:

1. PSO to Chief Secretary, Khyber Pakhtunkhwa.
 2. PS to Secretary Establishment Department, Khyber Pakhtunkhwa.
 3. PS to Commissioner Peshawar Division.
- Supdt. The concern.*



**OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR.**
Dalod Peshawar No. 23/04/2013

**OFFICE ORDER/MODIFICATION
IMPLEMENTATION OF DIRECTIONS OF ELECTION COMMISSION OF
PAKISTAN - NEUTRALITY ASSESSMENT.**

In continuation of this office earlier order No.5612-19/DC(P)/DK, dated 15.04.2013 & No.5699-5706/DC(P)/DK, dated 17.4.2013, postings/transfers assessment of the patwaris were carried out wherein it came to the knowledge of the undersigned that appeals of the following Patwaris were subjudiced in the Khyber Pakhtunkhwa Services Tribunal and vide orders dated 22.3.2013, dated 25.3.2013 & dated 22.4.2013 status quo has been granted/extended by the honourable Services Tribunal. Hence in pursuance of the status quos, this office orders indicated above are modified as under:

S#	Name of Patwari	From	To
1.	Mr. Sadiq Akber	Under transfer to P.H Takhtabad Awal.	P.H Khazana vice No.2
2.	Mr. Filawatur Rehman	Under transfer to P.H Khazana.	P.H Passani vice No.4
3.	Mr. Mohammad Aslam	Under transfer to DK's office	P.H Ram Kishin vice No.8
4.	Mr. Mir Zaman	Under transfer to P.H Passani	P.H Tauda vice No.6.
5.	Mr. Mohammad Younis.	Under transfer to P.H Garhi Sherdad.	P.H Pajjagi vice No.9
6.	Mr. Illikhar Alam	Under transfer to P.H Tauda	Report to DK's office for further posting.
7.	Mr. Waqar Ahmed	Under transfer to DK's office.	P.H Daman Hindki vice No.10
8.	Mr. Mohammad Yasin	Under transfer to P.H Ram Kishin	Report to DK's office for further posting.
9.	Mr. Saeed Ahmed Khan	Under transfer to P.H Pajjagi.	P.H Takhtabad Awal vice No.1
10.	Mr. Fazle Muhitaj	Under transfer to P.H Daman Hindki.	P.H Garhi Sherdad vice No.5.

[Signature]
Deputy Commissioner
Peshawar.

No. 5961-69/DC(P)/DK.

Dated Peshawar the 23 /04/2013

Copy forwarded to the:-

1. Commissioner Peshawar Division Peshawar
 2. Registrar Khyber Pakhtunkhwa Services Tribunal Peshawar with reference to above orders for information please.
 3. Additional Deputy Commissioner, Peshawar.
 4. Assistant Commissioner, Peshawar.
 5. Additional Assistant Commissioner (Rev) Peshawar.
 6. PS to S.M.B.R Khyber Pakhtunkhwa Peshawar.
 7. Tehsildar Peshawar.
 8. Revenue Bill Clerk.
- Official concerned for compliance

[Signature]
Deputy Commissioner
Peshawar.

[Signature]
Supdt.

[Signature]
24/4

AR

[Signature]

[Signature]
Commissioner Peshawar
No. 4794 Dated 24/4/13

Mr. Tariq Asad, ASC,
Mr. M. Shoaib Shaheen, ASC
Mr. Naseer Ahmed Bhutta, ASC
Mr. Abdul Rehman Siddiqui, ASC
Raja Aamir Abbas, ASC

Miss Tehmina Aamer, DS, PM Sectt.
Mr. Rashid Bashir Mazari, ED, NAVTCL.
Mr. Hafeez, DG, Wafaqi Mohtasib.
Mr. Saeed Chishti, Dir. Wafaqi Mohtasib.
Mr. K.M.Zubair, Ex-DG, Wafaqi Mohtasib.
Mr. Mumtaz Khan, Member, IRSA, Balochistan.
Mr. Abid Javed Akram, CE/TDAP.
Syed Muhammad Amin, PSP.
Mr. Muhammad Akbar Khan Hoti, Ex-IGP, KPK.
Rana Asad Amin, Advisor, Finance Division.
Mr. M. Saleem Ahmed Ranjha, Ex-MD, PSEB
Mr. Arif Ala-o-Din, MD, Enercon.
Mr. Faraz Khan Jadon, Law Officer, PTA.
(all in person)

For Establishment Division : Mr. Sher Afzal, Joint Secretary
For Respondent No.1-2 : Nemo
Date of Hearing : 04.06.2013

ORDER

It is informed by the learned Attorney General for Pakistan that Chairman, Anti Dumping Appellate Tribunal, after his appointment on 16.05.2013 tendered resignation on 22.05.2013 which has been accepted on 31.05.2013. Similarly, Raja Aamir Abbas, learned ASC stated that Chairman NEPRA (Mr. Justice (Retd.) Ahmed Khan Lashari) has tendered resignation on 2nd June, 2013, but he is not aware as to whether the same has been accepted or not.

2. Khawaja Muhammad Asif, petitioner, appeared in person and stated that the order dated 22.05.2013 has not been complied with in letter and spirit inasmuch as the Caretaker Government without lawful authority terminated the services of

Handwritten signatures and notes:
A large, stylized signature in black ink, possibly reading "Asif".
Below it, the words "Dr. was" are written in a cursive hand.
To the right, the word "Dr." is written vertically.

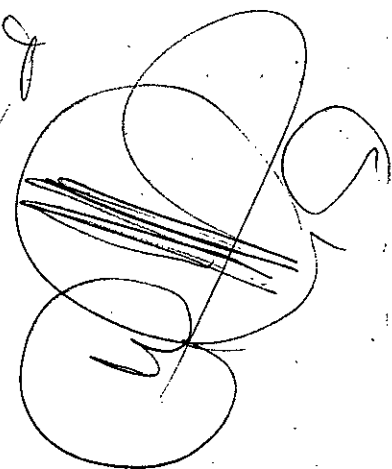
some of those officers who were already working and performing their duties in Finance Division and I.T., either as Advisors or on contract. As duly elected government is likely to take over within a day or so and budget is likely to be prepared shortly, therefore, due to unlawful action of Caretaker Government concerned Divisions are facing a lot of difficulties. He has further stated that about more than 100 officers have been sent on deputation to different organizations from the Province of Balochistan after 22nd May, 2013 without adhering to the rules and regulations knowing well that the orders relating to the policy making cannot be passed by the Caretaker Government.

3. Similarly, Mr. Tariq Asad, learned ASC stated that services of some of the doctors who were holding contractual posts in the Federal Government Services Hospital (Poly Clinic) Islamabad, have also been terminated and there are so many such like examples, on the basis of which disturbance has been created.

4. Since all these issues are important in nature, therefore, we direct to the Secretaries, Establishment, Cabinet, Health, Water & Power, Finance Division(s) and all other concerned Departments/Corporations to file lists of the officers :-

(a) who were appointed against any post, by the Caretaker Government after taking over including Chairmen etc of the Corporations whose list finds mention in the order dated 22.05.2013;

(b) whose services were acquired on deputation from different organizations on different positions in the

Attested


24

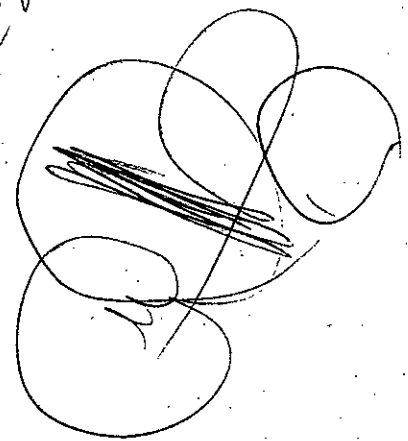
Departments and Corporations controlled by the Federal Government;

- (c) *whose services were terminated because they were holding different positions on contract basis in all the Government Departments/Hospitals;*
- (d) *Whose transfers have been made contrary to the Judgment of Anita Turab's case etc;*
- (e) *Deputationists brought to Federal Government Departments from the Province of Balochistan.*

5. In the meanwhile all above orders of termination/transfer/posting or deputation etc., shall remain suspended till passing of the final order.

6. Syed Adil Gillani, Advisor, Transparency International, Pakistan, has submitted an application (CMA No.3393/13) stating therein that appointment of Federal Ombudsman has taken place after passing of the order of this Court dated 22.05.2013 whereas the Secretary to the Federal Ombudsman has communicated that the appointment of Federal Ombudsman has been made on 1st of March, 2013, by the President of Pakistan and Oath of his office has also taken place. Let Syed Adil Gillani, appear in person to substantiate his application and in the meanwhile Secretary, Establishment Division as well as Secretary Law and Principal Secretary to the Prime Minister are directed to submit reports confirming or otherwise the contents of the allegations contained in the application. Notice to Salman Farooqi be also issued through the Secretary, Ombudsman.

Adil



7. Let the case be fixed on 06.06.2013 at Serial No.1 for further hearing.

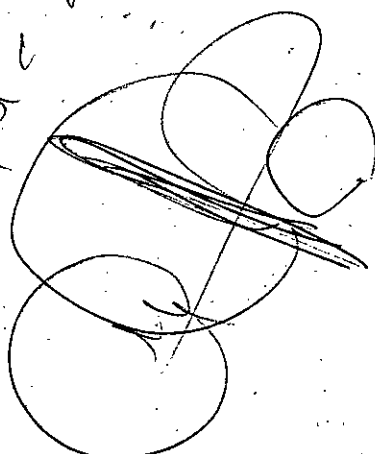
Chief Justice

Judge

Islamabad
04.06.2013
Hasnain

Judge

Hasnain



Before the Services Tribunal KPK Peshawar

In Re: Service appeal No. of 2013

Sultan Haider vs. Government of Khyber Pakhtunkhwa,

**Application for suspension of the order dated 20/ 06/ 2013
of the respondent No. 2 till the final disposal of the
accompanied appeal**

Respectfully submitted,

1. Accompanied with a service appeal has been filed, yet to be fixed for hearing the contents of which may kindly be considered as integral part of this application.
2. The applicant has a very good prima facie case and is sanguine of eventual success in the matter
3. Balance of convenience lie in favor of the applicant and the non grant of the application shall cause irreparable loss to the applicant
4. Law, facts, circumstances and justice dully incline in favour of grant of this application.
5. The applicant seeks leave of this Hon' able Court to raise/ argue additional grounds at the time of arguments

It is prayed that the applicant may kindly be allowed as prayed for in the ends of justice

Applicant

Sultan Haider

Niaz Waq Khan

ASC Peshawar

Through

Before the Services Tribunal KPK Peshawar


In Re: Service appeal No. of 2013

Sultan Haider vs. Government of Khyber Pakhtunkhwa.

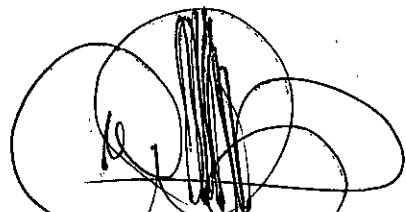
Affidavit

I, Sultan Haider Naib Tehsildar Circle Mohmand Peshawar do hereby affirm and declare on oath that the contents of the stay application appeal are true and correct to the best of my knowledge and belief, nothing has been concealed from this Hon' able Court


Deponent

ATTESTED
4/7/13

M. RAFIQ KHAN, ADVOCATE
CITY COMMISSIONER
HIGH COURT PESHAWAR

Identified by


Niaz Wali Khan

ASC Peshawar

20

Min / Revenue & Estate
Diary No. 25-W.E
Dated. 27/06/2013.

To,

The Minister for Revenue & Estate Department,
Khyber Pakhtunkhwa

Subject: NON-COMPLAINE OF ORDERS BY SULTAN HAIDER
NAIB TEHSILDAR

PS/SMBR
Dy No. 3203
Date 28/6
Govt. of Khyber Pakhtunkhwa

R/Sir,

With due respect it is humbly stated that the undersigned as per your Court orders dated 20/06/2013, passed in the departmental appeal / representation against the order dated 16/04/2013 passed by Commissioner Peshawar went to his office for assumption of charge in compliance of the above mentioned order, but the outgoing Naib Tehsildar Mr. Sultan Haider denied to obey of the Honourable Senior Member's, Board of Revenue Court.

He further stated that I am not bound to obey the orders's of Senior Member, Board of Revenue and neither the Senior Member, Board of Revenue has got such powers.

It is therefore, humble requested to kindly direct the official concnered to obey the orders of Honourable Court of Senior Member, Board of Revenue, in order to maintain the sanctity of this forum.

Your Obedient Servant,

(Signature)

(Kifayat Ullah)
Naib Tehsildar

Dated: 27/06/2013.

*SMBR! SIR
MR. SULTAN HAIDER SHOULD APPEAR
IN FRONT OF BOARD & IN MY
PLACE AS SUCH INDISCIPLINARY
NOT BEARRABLE IN REVENUE DEPT.*

Submitted
(Signature)

BEFORE THE COURT OF SENIOR MEMBER BOARD OF
REVENUE KHYBER PAKHTUNKHWA

1. Kifayatullah Naib Tehsildar
2. Adil Waseem Naib Tehsildar Appellants
Versus
Commissioner, Peshawar Division Peshawar Respondent

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE
ORDER DATED 16.04.2013 PASSED BY COMMISSIONER
PESHAWAR DIVISION PESHAWAR.

By this single order will dispose of the above mentioned two identical
appeals / representations against the order dated 16.04.2013 issued by Commissioner,
Peshawar Division whereby M/S Kifayatullah Naib Tehsildar was posted as Head Clerk
(Revenue) and Adil Waseem was posted as District Kasungo Peshawar.

Peshawar High Court vide their Judgment dated 04.06.2013 remanded the
case of the appellants with the observations that the departmental appellate authority, who
earlier rejected the Representations of the Petitioners shall revisit the matter, if not already
decided and grievances of the Petitioners be resolved in light of the Supreme Court
Judgment dated 09.05.2013 whereby all the appointments, transfers and postings which has
been made by the Caretaker Government, has been declared void ab initio, null and void and
without lawful authority.

Perusal of the available record reveals that the posting / transfer orders were
issued during the Caretaker Government, therefore in light of Judgment of Peshawar High
Court dated 04.06.2013 passed in Writ Petition No 1407-P/2013 and Hon'ble Apex
Supreme Court of Pakistan the posting / transfer orders dated 16.04.2013 of Commissioner,
Peshawar is without lawful authority and is therefore cancelled. Appeals / Representations
are accepted.

Announced
Dated 20.06.2013


ATTESTED

M. Shariq
M. Shariq

M. Shariq

STATEMENT OF MR. SULTAN HAIDER, NT.

Stated on Oath that I am posted as NT Mohamand Circle. Previously Kifayatullah NT was holding the charge. I have not been received the order issued by the Senior Member, Board of Revenue, Khyber Pakhtunkhwa dated 20-06-2013, whereby the order of Commissioner, Peshawar Division, Peshawar was cancelled. Neither Commissioner Peshawar intimated the same order to me. The application written by Mr. Kifayatullah, NT to the Minister Revenue wherein he has stated that I am not bound to obey the order of Senior Member, Board of Revenue and neither the Senior Member, Board of Revenue has got such powers. The contents of the application are totally incorrect.


(Sultan Haider)
Naib Tehsildar
Mohmand

بعدالت یہاں سندرویس سرٹیفکیٹ P. 12

31

سندھانہ سرٹیفکیٹ 2 منجانب

مورخہ 29/6
مقدمہ 18
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام سندھانہ کیلئے پہلے ہی کاروائی کے 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 ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و رد پیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

20/8

ماہ

المرقوم 29

واہ العبد

کے لئے منظور ہے۔

مقام