

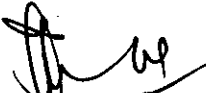
Sir,  
As per instruction  
of my client I seek  
the withdrawal of in-  
stant service appeal.

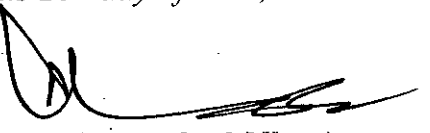
20<sup>th</sup> June, 2022

Counsel for the appellant present. Mr. Naseerud Din Shah,  
Asstt. AG alongwith Aurangzeb, SDFO for the respondents  
present.

2. Learned counsel for the appellant states that grievance of  
the appellant has been redressed and requests for withdrawal of  
the appeal. As a token of admission of his submission, he signed  
the margin of the order sheet. Disposed of accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under  
our hands and seal of the Tribunal this 20<sup>th</sup> day of June, 2022.*

  
(Fajeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman



449/2022

**Postscript**

2<sup>nd</sup> June, 2022

Later on Mr. Aurangzeb Khan, SDFO, Mardan appeared on behalf of respondent No.01 to 04 and submitted reply/comments. To come up for arguments on the date fixed i.e 16.06.2022 before D.B.


  
Chairman

16.06.2022

Mr. Noor Muhammad Khattak, Advocate for the appellant present. Mr. Aurangzeb SDFO alongwith Mr. Kabirullah Khattak, Additional Advocate General for official respondent No. 1 to 4 present. Counsel for private respondent No. 5 present.

The case was fixed for arguments however, representative of the respondents produced copy of office order No. 250 dated 02.06.2022, whereby the impugned order dated 14.02.2022 has been cancelled. Copy of the same is handed over learned counsel for the appellant and learned counsel for private respondent No. 5, who requested that time may be granted to them for arguments in the change scenario. Adjourned. To come up for arguments on 20.06.2022 before the D.B.

(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

شہزاد

~~DOA~~

20<sup>th</sup> June, 2022

Counsel for the appellant present. Mr. Naseerud Din Shah, Asstt. AG alongwith Aurangzeb, SDFO for the respondents present.

2. Learned counsel for the appellant states that grievance of the appellant has been redressed and requests for withdrawal of the appeal. As a token of admission of his submission, he signed the margin of the order sheet. Disposed of accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 20<sup>th</sup> day of June, 2022.*

**(Fareeha Paul)**  
Member (E)

**(Kalim Arshad Khan)**  
Chairman

7. Incorrect. After considering the report of Inquiry Officer and reply to the show-cause notice submitted by the appellant, the major penalty of dismissal was imposed upon him. He was also provided the opportunity of personal hearing, which was conducted on 25.03.2019.
8. Incorrect. The appellant could not prove that the charges levelled against him are wrong and untrue. An illegal voucher was prepared by him under the fake signature of Deputy Commissioner Haripur and processed but the compensation mentioned therein could not be drawn and loss to government exchequer was avoided due to in time action by this office. In this connection a preliminary report of Additional Deputy Commissioner Haripur is worth perusal, which is attached as **Annexure-C**.
9. Pertains to record. He could not satisfy the Inquiry Officer as well as this office in his reply to show-cause notice that the account was opened in United Bank Limited for GPF advance.
10. Incorrect. The Inquiry Officer gave him a full opportunity to defend himself but he failed to refute the charges mentioned in the charge sheet. As per enquiry report, the charges as mentioned in para-2 above were proved against him and he has been found guilty of preparing illegal voucher and transferring the compensation of acquired land into his personal account. The appellant was provided proper opportunity for his defense but he could not prove himself innocent before the inquiry officer. **(A copy of formal enquiry report is attached as Annexure-D)**. After adopting due course of lawful procedure, the appellant was dismissed from service vide order No. 3708-141(1)/HCR/DC(H) dated 26.03.2019 **(Annexure-E)**.
11. Incorrect. Formal inquiry under E&D Rules, 2011 was conducted properly and all the codal formalities were fulfilled while imposing major penalty upon him.
12. Para is denied. He was properly associated with the enquiry proceedings but he could not

OFFICE ORDER NO. 250 DATED PESHAWAR THE 02 /06/2022  
ISSUED BY MR. EJAZ QADIR, CHIEF CONSERVATOR OF FORESTS CENTRAL  
SOUTHERN FOREST REGION-I, KHYBER PAKHTUNKHWA PESHAWAR

As proposed by Conservator of Forests Southern Circle Peshawar, this office order No. 152, dated 14/2/2022 is hereby cancelled.

Sd/-  
(Ejaz Qadir)  
Chief Conservator of Forests  
Central Southern Forest Region-I  
Khyber Pakhtunkhwa Peshawar

No. 6840-43/E,

Copy forwarded for information and necessary action to the:-

1. Conservator of Forests Southern Circle Peshawar
2. Budget & Accounts Officer, Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar
- ✓ 3. Divisional Forest Officer Mardan Forest Division Mardan
4. Regional Accountant Head Office Peshawar

Chief Conservator of Forests  
Central Southern Forest Region-I  
Khyber Pakhtunkhwa Peshawar

Estt  
88  
DFOC 8/6/22  
Office of the  
DEO Forest Mardan  
Receipt No. 1886  
Date 10/06/2022

No. 3305-06 /E Dated 15 /06/2022

Copy forwarded to

- ✓ 1. Muhammad Wali Range Officer USC Forest Sub Division Katlang.
2. Mr. Javed Iqbal Deputy Ranger USC Forest Sub Division Katlang for compliance.

  
DIVISIONAL FOREST OFFICER  
MARDAN FOREST DIVISION.  
MARDAN

09.05.2022

Appeal No. 449/2022  
Muhammad Wali vs Govt  
Appellant with counsel present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Aurangzeb SDFO for official respondents No.1 to 4 present. Counsel for private respondent No.5 present.

Reply on behalf of respondents is still awaited. Request for adjournment was made on behalf of respondents for submission of comments. Opportunity is granted. To come up for reply/comments on 02.06.2022 before S.B. In the meanwhile, operation of impugned order shall remain suspended, if not acted upon earlier.



(Rozina Rehman)  
Member (J)

2<sup>nd</sup> June, 2022

Clerk of counsel for appellant present.  
Mr. Kabirullah Khattak, Addl. AG alongwith Naseeb Khan Section Officer (Finance) for respondents present.

Respondent No. 05 has submitted reply/comments which is placed on file. Respondents No.01 to 04 have not submitted reply/comments. Last chance is given to respondents No. 01 to 04 for submission of reply/comments on 16.06.2022 before S.B.



Chairman

11.04.2021

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for reply/comments on 09.05.2022 before S.B.

Annexed with the memo of appeal is an application for suspension of operation of the impugned order dated 14.02.2022. Notice of this application be served upon respondents. In the meanwhile, operation of the impugned order shall remain suspended, if not acted upon earlier.

An application has been filed by one Javed Iqbal through Safdar Iqbal Khattak Advocate for impleadment as private respondent. Upon which, learned counsel for appellant showed no objection, hence, accepted and the applicant namely Javed Iqbal is impleaded as private respondent No.5. Office is directed to make necessary entries in the panel of respondents as well as in the relevant register.

Rs-600/-  
Appellant Deposited  
Security & Process Fee

A. H. Hashmi  
14/4/22

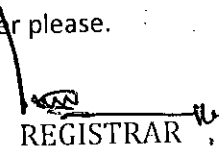

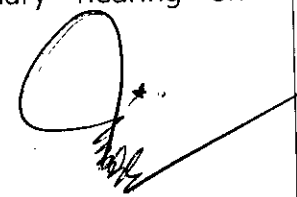
(Rozina Rehman)  
Member (J)


Form- A

## FORM OF ORDER SHEET

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

Case No.- 449/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/03/2022	<p>The appeal of Mr. Muhammad Wali presented today by Mr. Noor Muhammad Khattak 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>
2-		<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put up there on <u>08-04-2022</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	08.04.2022	<p>learned counsel for the appellant present. Mr. Safdar Iqbal Khattak, Advocate also present and submitted an application for impleadment of applicant namely Javed Iqbal S/O Hunar Ali which is placed on file.</p> <p>Preliminary arguments could not be heard due to paucity of time. Adjourned. To come up for preliminary hearing on 11.04.2022 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER(E)</p>

Noted  
  
Noor Mohd Khattak



# KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

## CHECK LIST

Case Title: Mohd wali

v/s

Eclara Khan

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: _____	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_

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

SERVICE APPEAL NO. 449 /2022

**MUHAMMAD WALI**

**V/S**

**FOREST DEPTT:**

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<b>5</b>	Impugned order dt: 14.02.2022	<b>B</b>	7
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Dated: \_\_\_\_/.03./2022

**APPELLANT**

Through:

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

**0345-9383141**

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 449 /2022

Diary No. 523

Dated 29-3-2022

Mr. Muhammad Wali, Forest Ranger (BPS-16),  
Presently Serving as Range Forest Officer,  
Katlang Forest Division .....

**APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Forest Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Chief Conservator of Forests Central Southern Forest Region-I, Khyber Pakhtunkhwa, Peshawar.
- 4- The Conservator of Forests Southern Circle, Peshawar.

5- *Javed Iqbal s/o Humayun Ali R/o Matta Spin Khak Katlang Distt: Mardan*

..... **RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 14.2.2022 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED IN VIOLATION OF TRANSFER/POSTING POLICY AND AGAINST THE APPELLATE ORDER DATED 25.2.2022 WHEREBY THE DEPARTMENTAL APPEAL HAS BEEN REJECTED BY THE APPELLATE AUTHORITY ON NO GOOD GROUNDS**

**PRAYER:**

It is therefore, most humbly prayed that on acceptance of this service appeal the impugned order dated 14.2.2022 and appellate order dated 25.2.2022 may very kindly be set aside and the respondents may kindly be directed that not to transfer the appellant from the post of Range Forest Officer (BPS-16), Katlang till his superannuation i.e. 3.4.2023 Or the respondents may kindly be directed to transfer the appellant to his home station i.e. Dargai, Malakand. Any other remedy which this august service Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

**Brief facts giving rise to the present writ petition are as under:-**

- 1- That appellant is the employee of respondent Department and is serving as Rang Forest Officer (BPS-16) Katlang, Mardan. That right from appointment till date the appellant has served the respondent

*Via order sheet 11-04-2022*  
**Filed to-day**  
**Registrar**  
*29/3/2022*

department quite efficiently and up to the entire satisfaction of his superiors.

- 2- That it is pertinent to mention that appellant is at the verge of retirement and is going to be retired from service on superannuation basis i.e. w.e.f. 3.4.2023. Copy of the CNIC is attached as annexure ..... **A.**
  
- 3- That appellant while performing his duty as Rang Forest Officer, Katlang, Mardan the respondent No.3 issued the impugned office order dated 14.2.2022 whereby the appellant was transferred from the post of Rang Forest Officer, Katlang and posted as Sub Divisional Forest Officer (BPS-17) Patrol Squad Southern Circle, Peshawar despite of the fact that the appellant is going to be retired on superannuation basis on 3.4.2023. Copy of the impugned order dated is attached as annexure ..... **B.**
  
- 4- That appellant feeling aggrieved from the impugned order dated 14.2.2022 filed Department appeal before the respondents wherein the appellant had fully explained his position that he is going to be retired on 3.4.2022 on superannuation basis but vide impugned appellate order dated 25.2.2022 the Departmental appeal of the appellant has been regretted on no good grounds. Copies of the Departmental appeal and rejection order are attached as annexure ..... **C and D.**
  
- 5- That as the august Service Tribunal is dysfunctional due to retirement of the Honorable Chairman of the Service Tribunal, therefore appellant having no other efficacious remedy filed writ petition No.931-P/2022 before the august Peshawar High Court Peshawar and the august Peshawar High Court granted interim order in favour of the appellant vide Judgment/order dated 10.3.2022. Copies of the memo of writ petition and order sheet are attached as annexure ..... **E and F.**
  
- 6- That as the august Service Tribunal is become functional, therefore the appellant prefer the instant appeal on the following grounds amongst the others.


**GROUND:**

- A- That the impugned orders dated 14.2.2022 and 25.2.2022 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
  
- B- That appellant has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That appellant is going to be retired on 3.4.2023 on superannuation basis and as such the impugned order dated 14.2.2022 is not tenable and liable to be set aside.
- D- That the impugned order dated 14.2.2022 is also violative of Clause-I, Clause-II and Clause-XI of transfer/posting policy of Provincial Government. Copy of the transfer/posting policy is attached as annexure ..... **G.**
- E- That the impugned order dated 14.2.2022 has been issued by the respondent No.3 in arbitrary and malafide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.
- F- That the impugned order dated 14.2.2022 has not been issued in the public interest nor exigencies of public service, therefore the same is not tenable and liable to be set aside.
- G- That the impugned order dated 14.2.2022 is based on discrimination, favoritism and nepotism hence not tenable and liable to be set aside.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

**APPELLANT**  


**MUHAMMAD WALI**

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

4

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

**SERVICE APPEAL NO. \_\_\_\_\_/2022**

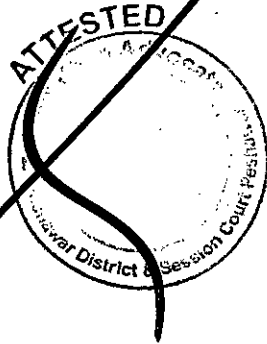
**MUHAMMAD WALI**

**VS**

**FOREST DEPTT:**

**AFFIDAVIT**

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



  
**DEPONENT**

**CERTIFICATE:**

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

  
**CERTIFICATION**

5

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

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

**MUHAMMAD WALI**

**VS**

**[REDACTED] DEPTT:**

**APPLICATION FOR SUSPENSION OF OPERATION OF**  
**THE IMPUGNED ORDER DATED 14.02.2022 TILL THE**  
**DISPOSAL OF THE ABOVE MENTIONED APPEAL**

**R/SHEWETH:**

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned order dated 14.02.2022 whereby the appellant has been transfer from Range Forest Officer, Katlang illegally and against the transfer posting policy.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned order dated 14.02.2022 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 order dated 14.02.2022 may very kindly be suspended till the disposal of the above mentioned service appeal.

DATED:

APPLICANT

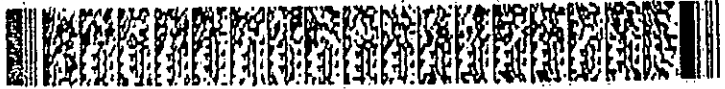
  
**MUHAMMAD WALI**

Through:

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE, HIGH COURT,**  
**PESHAWAR**

ANNEX "A" 6



شناسائی کارڈ: 15402-1393117-5 خانہ نمبر: S13M23  
 موجودہ پتہ: سائبر دارو کے، کوہ پور، تحصیل درگئی، ضلع مانچل  
 11763285327  
 پاکستان پتہ: قائد اعظم روڈ، ڈاکخانہ کوہ پور، تحصیل سندھ رائی، ضلع مالاکنڈ  
 تاریخ پیدائش: 15/04/2016 تاریخ رجسٹریشن: 15/04/2026  
 سندھ حکومت کے کارڈ کے لیے برقی ایسٹریکس میں ڈال دیں



Handwritten signature or initials

ATTESTED

حکومت پاکستان  
 قومی شناختی کارڈ  
 15402-1393117-5  
 نام: محمد ولی  
 پتہ: سید احمد اسمان  
 والد کا نام: محمد اسمان  
 شناسائی حالت: تازہ  
 عثمان یوسف مبین  
 تاریخ پیدائش: 04/04/1963



OFFICE ORDER NO. 152 DATED PESHAWAR THE 14 /02/2022  
ISSUED BY MR. EJAZ QADIR, CHIEF CONSERVATOR OF FORESTS CENTRAL  
SOUTHERN FOREST REGION-I, KHYBER PAKHTUNKHWA PESHAWAR

In the wake of transfer notification issued by Administrative Department vide No. SO(Est)FE&WD/1-8/2021, dated 11/2/2022, Muhammad Wali Forest Ranger presently as Range Forest Officer Katlang is hereby posted as SDFO Patrol Squad Southern Circle Peshawar as stopgap arrangement in the interest of public service with immediate effect till further order.

Consequent upon the above order, the charge of Katlang Range of Mardan Forest Division is hereby assigned to Mr. Javed Iqbal Deputy Ranger in his own pay scale as stopgap arrangement till further order.

Sd/-  
(Ejaz Qadir)  
Chief Conservator of Forests  
Central Southern Forest Region-I  
Khyber Pakhtunkhwa Peshawar

No. 4244-47/E B-IX-8

Copy forwarded for information and necessary action to the:-

1. Conservator of Forests Southern Circle Peshawar
2. Budget & Accounts Officer, Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar
3. Divisional Forest Officer Mardan Forest Division Mardan
4. Regional Accountant Head Office Peshawar

Chief Conservator of Forests  
Central Southern Forest Region-I  
Khyber Pakhtunkhwa Peshawar

No. 2904-05 E

Mardan dated the 15/02 /2022 ✓

Copy forwarded to

- ✓ 1. Muhammad Wali Range Officer for information and necessary action. He is directed to immediately hand over the charge of USC Forest Sub-Division to Mr. Javed Iqbal Deputy Ranger.
2. Mr. Javed Iqbal Deputy Ranger for information and necessary action. He is directed to immediately assume the charge of USC Forest Sub-Division Katlang.

DIVISIONAL FOREST OFFICER  
MARDAN FOREST DIVISION

Mardan

~~ATTESTED~~

ANNEX C

8

To

The Chief Conservator of Forest  
Central South Forest Region – I  
Peshawar.

SUBJECT: - POSTING / TRANSFER OF FOREST RANGER.

With due respect I beg to submit that I have been transferred to Southern Patrol Squad vide your kind honor office order No 152 dated 14-02-2022 the jurisdiction of which is extended from Peshawar to D.I.Khan despite of the fact that I have attained the age of superannuation as my age is 59 years therefore the government has framed rules that whenever a government servant is reached to 59 years of age, he should be transferred to his home district in order to make facilitated the process of his pension case and completion of other documentation e.t.c after retirement. Moreover in case of death the process of transfer of pension case to his family should also be making easier for his widow or other family members. But even then I have been shifted from my home district by ignoring that policy of the government and have been assigned a difficult task of patrolling within a long distance from Peshawar to Kohat, Bannu and D.I.Khan while my physical condition is too weak to meet with this challengeable difficult task.

Keeping in view the above factual position I beg to request and beseech before your kind honor that my transfer order may kindly be reviewed and cancelled on humanitarian grounds keeping in view my superannuation stage of life and also the future of my family members for which I shall pray for your long life and prosperity please.

Muhammad Wali

  
Range Officer  
Mardan Forest Division.



~~ATTESTED~~

ANNEX ..D 9

Chief Conservator of Forests  
Central Southern Forest Region-1  
Khyber Pakhtunkhwa Peshawar



Shami Road Peshawar  
Ph: 091-9212177 Fax # 9211478  
E-mail: [ccfforests.pesh@gmail.com](mailto:ccfforests.pesh@gmail.com)

No. 4546 /E

Dated Peshawar the 25 /02/2022

To

Muhammad Wali  
Range Forest Officer

Subject: - POSTING/TRANSFER

Memo:- Reference your appeal dated 16/2/2022

After obtaining comments from Conservator of Forests Southern Circle Peshawar, the appeal preferred by you for cancellation of transfer order being issued in light of Instructions/cabinet decision is hereby rejected.

Chief Conservator of Forests  
Central Southern Forest Region-1  
Khyber Pakhtunkhwa Peshawar

Ju

~~ATTESTED~~

ANNEX E

10

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**



**WRIT PETITION NO. \_\_\_\_\_/2022**

Mr. Muhammad Wali, Forest Ranger (BPS-16),  
Presently Serving as Range Forest Officer,  
Katlang Forest Division ..... **PETITIONER**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Forest Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Chief Conservator of Forests Central Southern Forest Region-I, Khyber Pakhtunkhwa, Peshawar.
- 4- The Conservator of Forests Southern Circle, Peshawar.

..... **RESPONDENTS**

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN 1973 AS AMENDED UPTO DATE**

**R/SHEWETH:**  
**ON FACTS:**

**Brief facts giving rise to the present writ petition  
are as under:-**

1- That petitioner is the employee of respondent Department and is serving as Rang Forest Officer (BPS-16) Katlang, Mardan. That right from appointment till date the petitioner has served the respondent department quite efficiently and up to the entire satisfaction of his superiors.

2- That it is pertinent to mention that petitioner is at the verge of retirement and is going to be retired from service on superannuation basis i.e. w.e.f. 3.4.2023. Copy of the CNIC is attached as annexure

3- That petitioner while performing his duty as Rang Forest Officer, Katlang, Mardan the respondent No.3 issued the impugned office order dated 14.2.2022 whereby the petitioner was transferred from the post of Rang Forest Officer, Katlang and posted as Sub Divisional Forest Officer (BPS-17) Patrol Squad Southern Circle, Peshawar despite of the fact that the petitioner is going to be retired on superannuation basis on 3.4.2023. Copy of the impugned order dated is attached as annexure

**TESTED**  
**EXAMINER**  
Peshawar High Court



- 4- That petitioner feeling aggrieved from the impugned order dated 14.2.2022 filed Department appeal before the respondents wherein the petitioner had fully explained his position that he is going to be retired on 3.4.2022 on superannuation basis but vide impugned appellate order dated 25.2.2022 the Departmental appeal of the appellant has been regretted on no good grounds. Copies of the Departmental appeal and rejection order are attached as annexure ..... **C and D.**
- 5- That as the august Service Tribunal is dysfunctional due to retirement of the Honorable Chairman of the Service Tribunal, therefore petitioner having no other efficacious remedy prefer the instant writ petition on the following grounds amongst the others.

**GROUND:**

- A- That the impugned orders dated 14.2.2022 and 25.2.2022 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That petitioner has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That petitioner is going to be retired on 3.4.2023 on superannuation basis and as such the impugned order dated 14.2.2022 is not tenable and liable to be set aside.
- D- That the impugned order dated 14.2.2022 is also violative of Clause-I, Clause-II and Clause-XI of transfer/posting policy of Provincial Government. Copy of the transfer/posting policy is attached as annexure ..... **E.**
- E- That the impugned order dated 14.2.2022 has been issued by the respondent No.3 in arbitrary and malafide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.
- F- That the impugned order dated 14.2.2022 has not been issued in the public interest nor exigencies of public service, therefore the same is not tenable and liable to be set aside.
- G- That the impugned order dated 14.2.2022 is based on discrimination, favoritism and nepotism hence not tenable and liable to be set aside.
- H- That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

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It is therefore, most humbly prayed that on acceptance of this writ petition the impugned order dated 14.2.2022 and appellate order dated 25.2.2022 may very kindly be set aside and the respondents may kindly be directed that not to transfer the petitioner from the post of Range Forest Officer (BPS-16), Katlang till his superannuation i.e. 3.4.2023 Or the respondents may kindly be directed to transfer the petitioner to his home station i.e. Dargai, Malakand. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner.

**INTERIM RELIEF:**

That the operation of impugned office order dated 14.2.2022 may kindly be suspended till the disposal of the instant writ petition.

**PETITIONER**

**MUHAMMAD WALI**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

**VERIFICATION:**

It is verified that no other earlier writ petition was filed between the parties.

**DEPONENT**


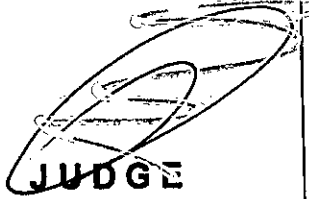
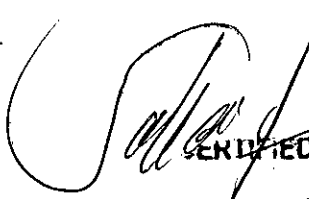
**LIST OF BOOKS:**

1. CONSTITUTION OF PAKISTAN.
2. SERVICES LAWS BOOK.
3. ANY OTHER CASE LAW AS PER NEED.

14 MAR 2022

PESHAWAR HIGH COURT, PESHAWAR  
FORM OF ORDER SHEET



Date of Order or Proceedings	3
1	2
10.03.2022	<p><b>WP No.931-P/2022 with I/R.</b></p> <p><b>Present:</b> Mr. Noor Muhammad Khattak, Advocate, for the petitioner.</p> <p style="text-align: center;">****</p> <p>Since the Service Tribunal is non-functional, therefore, for the time being the impugned transfer/office order dated 14.02.2022 shall not be acted upon till 29.03.2022.</p> <p style="text-align: right;"> <b>JUDGE</b></p> <p style="text-align: right;"> <b>JUDGE</b></p> <p style="text-align: center;"> CERTIFIED TO BE TRUE COPY</p> <p style="text-align: center;"><b>EXAMINER</b> Peshawar High Court, Peshawar Authorized Under Article 87 of the Constitution of Pakistan Order 1985</p> <p style="text-align: center;"><b>14 MAR 2022</b></p>

No. 28951

Date of Presentation of Application 11/3/2022

No of Pages 129

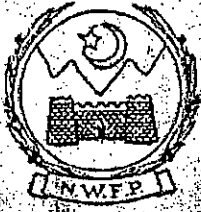
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Total 161-

Date of Preparation of Copy 14/3/2022

Date of Delivery of Copy 14/3/2022

Received By Ahmad



**GOVERNMENT OF NWFP  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(Regulation Wing)**

**POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.**

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) <sup>1</sup>{ }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- <sup>2</sup>While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

**ATTESTED**

*J.K.*



- ✓ xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement  
 DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

- ✓ xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- ✓ a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

ATTACHED

Handwritten signature

16

- xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.
  - i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
  - ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

.....

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.  
 {Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

.....

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

ATTACHED

ATTACHED

**VAKALATNAMA**

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

APPEAL NO: \_\_\_\_\_ OF 2022

Muhammad Wali

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Forest Deptt:

(RESPONDENT)  
(DEFENDANT)

I/We Muhammad Wali  
Do hereby appoint and constitute **NOOR MUHAMMAD 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. \_\_\_\_/\_\_\_\_/2022

  
\_\_\_\_\_  
**CLIENTS**

  
**ACCEPTED**

**NOOR MUHAMMAD KHATTAK**

  
**UMER FAROOQ MOHMAND**

  
**KAMRAN KHAN**

  
**MOHAMMAD MAAZ MADNI**

  
**HAIDER ALI**

**&**

  
**ADVOCATES**

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

C.M No. \_\_\_\_\_ of 2022

IN

Appeal No. 449 /2022

**Mr Muhammad Wali ..... Appellant**

**VERSUS**

**Govt of KPK & others..... Respondents**

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Application for impleadment		1-2
2.	Affidavit		3
3.	Copies of relevant documents	A	4-8
4.	Wakalat Nama		9.

Through

Applicant

**SAFDAR IQBAL KHATTAK**

Advocate, High Court  
Peshawar

Date: 02.04.2022

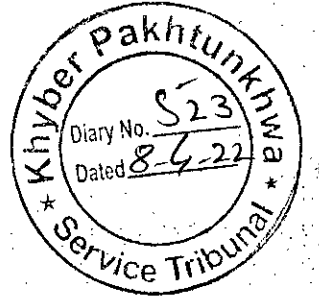
*Put up to the court with  
relevant appeal.*

*8/04/2022*

Reader.

①

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



C.M No. \_\_\_\_\_ of 2022

IN

Appeal No. \_\_\_\_\_/2022

**Muhammad Wali..... Appellant**

**VERSUS**

**Govt of KPK & others..... Respondents**

**APPLICATION FOR IMPLEADMENT OF  
APPLICANT NAMELY JAVED IQBAL S/O  
HUNAR ALI R/O MATTA SPIN KHAK,  
KATLANG DISTRICT MARDAN BEING  
IMPORTANT AND NECESSARY PARTY  
IN THE NOTED SERVICE APPEAL IN  
THE PANEL OF RESPONDENTS.**

**Respectfully Sheweth:**

**The Applicants humbly submits as under:-**

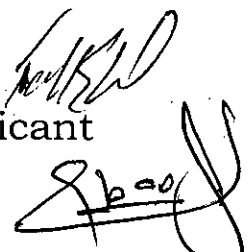
1. That the above mentioned case is pending adjudication before this Hon'ble Court in which no date of hearing has yet been fixed.
2. That it is well settled and equitable principles of law for just and proper decision of the instant case, the necessary parties who have intentionally not been made party, as Applicant will be directly affected, if any adverse order is passed against the impugned Order.
3. That if the Application for impleadment is not allowed the Applicant would suffer extreme irreparable loss.

4. That there is no bar in such like application and the necessary parties may be made party as in the panel of Respondents and without impleaded the Applicant in the instant case as Party, this Hon'ble Tribunal cannot pass effective judgment.
5. That the Appellant prior to the instant Appeal filed a WP No. 931-P/2022, which was dismissed vide order dated 29.03.2022 and on basis of the said order, the Appellant was directed by the competent Authority i.e Divisional Forest Officer Mardan, Forest Division to hand over the charge to the present Applicant vide in his order dated 31.03.2022 and the same fact was not disclosed by the Appellant in the instant Appeal. It is worth to mention here that the Applicant has already been assume his charge on impugned order, on the direction of the competent Authority. **(Copies are attached)**
6. That any other ground will be raised at the time of arguments with prior permission of this Hon'ble Court.

**It is, therefore, most respectfully prayed that on acceptance of this application, the above noted Party may kindly be impleaded as important and necessary party in the panel of Respondents for just and proper decision of the present cases.**

Through

Applicant

  
**SAFDAR IQBAL KHATTAK**  
Advocate, High Court  
Peshawar

Date: 02.04.2022

3

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

C.M No. \_\_\_\_\_ of 2022

IN

Appeal No. \_\_\_\_\_/2022

**Mr Muhammad Wali ..... Appellant**

**VERSUS**

**Govt of KPK & others.....Respondents**

**AFFIDAVIT**

I, **Javed Iqbal S/o Hunar Ali R/o Matta Spin Khak, Katlang District Mardan**, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




**DEPONENT**

**CNIC # 16101-1237831-3**

**Cell # 0345-4354298**

4

Shah Hussain Divisional Forest Officer		Mardan Forest Division Mardan Ph #: 0937-9230052 Email: mardan.forest.division@gmail.com
No: _____ / E		Dated Mardan the 31/10/2022

To

Mr. Muhammad Wali  
Range Officer the then I/C of  
USC Forest Sub Division Katlang

Subject: WRIT PETITION NO. 231-P OF 2022 FILED BY MUHAMMAD WALI  
RANGE OFFICER AGAINST THE FOREST DEPARTMENT


Memo: -


The subject Writ Petition filed by you has been dismissed by the Honourable Peshawar High Court on 29-3-2022. Therefore you are requested to immediately hand over the charge of USC Forest Sub Division to your successor on proper format so as to apprise the higher authorities regarding compliance of the transfer order No. 152 dated 14-2-2022.

DIVISIONAL FOREST OFFICER  
MARDAN FOREST DIVISION  
MARDAN

No 3392 /A

Copy forwarded to Mr. Javed Iqbal Deputy Ranger for information and necessary action. He is directed to immediately take over the charge of USC Forest Sub Division from his predecessor and submit charge assumption report to the undersigned for onward submission to the higher authorities.

  
**ATTESTED**

  
DIVISIONAL FOREST OFFICER  
MARDAN FOREST DIVISION  
MARDAN



(5)

**PESHAWAR HIGH COURT PESHAWAR**  
**FORM "A"**  
**ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
2	3
29.03.2022	<p><b>W.P No. 931-P of 2022.</b></p> <p><b>Present:</b></p> <p>Mr. Mujeeb ur Rehman, for petitioner.</p> <p>Mr. Safdar Iqbal Khattak, Advocate for the respondents.</p> <p style="text-align: center;">*****</p> <p><b>ROOH-UL-AMIN KHAN, J:-</b> Through instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has prayed for issuance of the following writ: -</p> <p><i>"It is therefore, most humbly prayed that on acceptance of this writ petition the impugned order dated 14.02.2022 and appellate order dated 25.02.2022 may very kindly be set aside and the respondents may kindly be directed that not to transfer the petitioner from post of Range Forest Officer (BPS-16), Kozlang IIII his superannuation i.e. 03.04.2023 or the respondents may kindly be directed to transfer the petitioner to his home station i.e. Dargai, Malakand. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner."</i></p> <p>2. Disputedly petitioner is civil servant and has filed</p>

**ATTESTED**

6

instant writ petition against the order of posting transfer which squarely falls in terms and conditions of service. The learned counsel for respondents states that the instant writ petition has been filed by the petitioner when service tribunal was non-functional, however, by know the Chairman, Service Tribunal has been appointed and the Tribunal is very much functional and in this way, the instant petition being non maintainable under Article 212 (2) of the constitution, stand dismissed, however, he may approach proper forum if so desired.

Announced  
29.03.2022

*Amal Kumar*  
SENIOR PUISNE JUDGE

JUDGE

VERIFIED  
*[Signature]*  
30 MAR 20

(DB) Hon'ble Mr. Justice Rishi Ujagar Singh, Senior PUISNE Judge  
Hon'ble Mr. Justice Maheshwari (Retired) J.

31634

30.3.22

7-p

28

30.3.22  
30.3.22

ATTESTED

*[Signature]*

to be  
for

(7)

ON ALL CHARGE AMONGST GAZETTED GOVT. SERVANTS ONE FILLED UP AND DESPATCHED BY THE SAME DAYS POSTS

FOR USE IN THE OFFICE OF THE BUDGET AND ACCOUNTS OFFICE ENVIRONMENT DEPARTMENT GOVT. OF KHYBER PAKHTUNKHWA

I Javed Iqbal Deputy Ranger have this day on 31/03/2022(forenoon) assumed the charge of USC Forest Range Katlang in compliance with Chief Conservator of Forests Central Southern Forest Region-I Khyber Pakhtunkhwa Office Order No.152 dated 14.02.2022.

If a Government takes the benefits of Sunday or Gazatted Holiday under the rules framed by the Punjab Government under Pakistan Supplementary Rules see the condition laid-down therein are fulfilled  
Certified that both reports as regards both and relived Government Servant the necessary entries have been made in the audit register and history of the services and also in the case of Gazatted Government Servant proceeding on leave out of Pakistan any necessary adjustment of his allowances consequence on the receipt of this certificate has been entered in the objection column (Page Volume)

*Javed Iqbal*  
Javed Iqbal  
Deputy Ranger  
31/3/2022

No. 3434-36 /E

dated. Mardan the 01/04 /2022.

*[Signature]*  
**ATTESTED**

Copy forwarded for favour of information to:

1. Chief Conservator of Forests Central Southern Forest Region-I Khyber Pakhtunkhwa Peshawar.
2. Conservator of Forests Southern Circle Peshawar.
3. Officer/Official Concerned.

*[Signature]*  
DIVISIONAL FOREST OFFICER  
MARDAN FOREST DIVISION  
MARDAN

(8)


**ON ALL CHARGE AMONGST GAZETTED GOVT. SERVANTS  
ONE FILLED UP AND DESPATCHED BY THE SAME DAYS  
POSTS**

**FOR USE IN THE OFFICE OF THE BUDGET AND ACCOUNTS  
OFFICE ENVIRONMENT DEPARTMENT GOVT. OF KHYBER  
PAKHTUNKHWA**

I Javed Iqbal Deputy Ranger have this day on  
16/02/2022 (forenoon) assumed the charge of USC Forest Range  
Katlang in compliance with Chief Conservator of Forests  
Central Southern Forest Region-I Khyber Pakhtunkhwa Office  
Order No. 152 dated 14.02.2022.

If a Government takes the benefits of Sunday or Gazatted  
Holiday under the rules framed by the Punjab Government under  
Pakistan Supplementary Rules see the condition laid-down  
therein are fulfilled.

Certified that both reports as regards both and relived  
Government Servant the necessary entries have been made in the  
audit register and history of the services and also in the case of  
Gazatted Government Servant proceeding on leave out of  
Pakistan any necessary adjustment of his allowances  
consequence on the receipt of this certificate has been entered in  
the objection column (Page Volume)

  
Javed Iqbal  
Deputy Ranger  
16/2/2022




No. 2906-08 /E


dated, Mardan the 16 /02 /2022.

Copy forwarded for favour of information to:

1. Chief Conservator of Forests Central Southern Forest Region-I Khyber Pakhtunkhwa Peshawar.
2. Conservator of Forests Southern Circle Peshawar.
3. ✓ Officer/Official Concerned.

  
DIVISIONAL FOREST OFFICER  
MARDAN FOREST DIVISION  
MARDAN

قیمت 50	9354			
ایڈوکیٹ: مسٹر جمال حسن		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 10-7969-10		جسٹس ٹریبونل پشاور سے		
رابطہ نمبر: 0300-598054		بعدالت جناب:		

منجانب: مسٹر جمال حسن	دعویٰ: 2008
محمد ولی احمد	علت نمبر:
	مورخہ: 5-4 No
گورنمنٹ لاء آفیسر - ریسٹرنٹس	جرم:
	تھانہ:

**بابت تحریر آئیکہ**

جسٹس ٹریبونل پشاور

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام لکھنؤ سے مسٹر جمال حسن کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریرات و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری ٹیکسٹ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے لئے ارسال ہونے پر تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو کچھ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

الموقع: محمد ولی احمد

الموقع: محمد ولی احمد

الموقع: محمد ولی احمد

مقام لکھنؤ سے مسٹر جمال حسن کے لیے منظور ہے۔

16/10-1237831-3

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

Khyber Pakhtunkhwa  
Service Tribunal

In Re:  
Service Appeal No. \_\_\_\_\_

Diary No. 138

Dated 02/6/2022

Mr. Muhammad Wali.....**Appellant**

Versus

Govt. of Khyber Pakhtunkhwa & other.....**Respondents**

**PARAWISE REPLY ON BEHALF OF THE NEWLY  
IMPLEADED RESPONDENT NO.5**

---

**Respectfully Sheweth:**

**Preliminary Objections:**

- a. That the appeal in hand is not maintainable in its present form, hence liable to be dismissed.
- b. That the appellant is not come to the Hon'ble Tribunal with clean hands and suppressed some material from this Hon'ble Tribunal.
- c. That the appellant has already been received and the answering respondent already been assume his charge on 16.02.2022, and regularly attending his office duty, further adjudication of the appeal shall waste the precious time of this Hon'ble Tribunal.

- d. That the transfer order issued by the competent authority on the directives of the Hon'ble Chief Minister to all department to the effect that those officials who have completed their normal tenure of 2 years, should be transferred in the interest of public.
- e. That as the transferred order issued by competent authority, which clearly comes with the domain of administration authority, therefore this Hon'ble Tribunal got no jurisdiction to entertain the instant appeal.
- f. That there is no ill-will/malafide intention on part of the respondent departments and nor issued the said transfer order as a punishment but as routine matter.
- g. That appeal is bad due to mis-joinder/ non-joinder of necessary parties.
- h. That with due respect, the Hon'ble Tribunal lacks jurisdiction to adjudicate upon the matter.

**OBJECTION ON FACTS:**

- 1. Para No.1 pertains to record.
- 2. Para No.2 pertains to record.

3. In response to Para No.3, it is humbly submitted that the respondent No.3 after using his administrative power whereby the transferred of the appellant was transferred from Forest Ranger Katlang to SDFO Patrol Squared Southern cerate Peshawar in the best interest of public service and there was no ill will no malafide on the part of respondent/department in transfer of the appellant in the office order. Moreover the appellant served more than his normal tenure in the said office i.e. 2 years. It is pertinent to mentioned here that the Hon'ble Chief Minister Khyber Pakhtunkhwa issued clear cut directives to the effect that all the employees working in different department, who have completed his normal tenure i.e 2 years should be transferred.
4. That in response to Para No.4 it is humbly submitted that his appeal was rightly rejected by the respondents department after fulfilling all the legal and codal formalities.
5. Para No.5 pertains to record needs no reply.



**OBJECTION ON GROUNDS.**

- A. Para-A is totally incorrect, baseless, hence denied. More the appellant served more than his normal tenure of 2 years in the said office, therefore respondent/department used their administrative power to transferred the appellant vide in the impugned office order dated 14.02.2022.
- B. Para-B is also incorrect, baseless, hence denied. The respondents Department not violated the law, rules and regulation as the same as in the domain of respondents Department to transfer his employee from one place to another.
- C. Para-C is incorrect, baseless, hence denied.
- D. In response to Para-D, it is humbly submitted that as per government policy with respect to posting transferring policy any Civil servant who are due to retire with in one year may be posted on their option posts on the District of their Domicile and be allowed till his the retirement, but in the instant case the appellant never opted for transferring to his own district.
- E. That Para-E is totally incorrect, baseless hence denied as detail reply given in the above paras.

F&G That in response to Para F and G detail reply already in the above paras

It is, therefore, humbly prayed that the appeal of the appellant may kindly be dismissed.

Through

Respondent No.5

*[Handwritten Signature]* 2/6/2022

**Safdar Iqbal Khattak**  
Advocate,  
High Court Peshawar

Dated: 02.06.2022

**AFFIDAVIT**

It is stated on oath that the contents of the **Reply** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.



*[Handwritten Signature]*

DEPONENT



**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

**WRIT PETITION NO. \_\_\_\_\_/2022**

Mr. Muhammad Wali, Forest Ranger (BPS-16),  
Presently Serving as Range Forest Officer,  
Katlang Forest Division ..... **PETITIONER**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Forest Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Chief Conservator of Forests Central Southern Forest Region-I, Khyber Pakhtunkhwa, Peshawar.
- 4- The Conservator of Forests Southern Circle, Peshawar.

..... **RESPONDENTS**

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN 1973 AS AMENDED UPTO DATE**

**R/SHEWETH:**  
**ON FACTS:**

**Brief facts giving rise to the present writ petition  
are as under:-**

1- That petitioner is the employee of respondent Department and is serving as Rang Forest Officer (BPS-16) Katlang, Mardan. That right from appointment till date the petitioner has served the respondent department quite efficiently and up to the entire satisfaction of his superiors.

2- That it is pertinent to mention that petitioner is at the verge of retirement and is going to be retired from service on superannuation basis i.e. w.e.f. 3.4.2023. Copy of the CNIC is attached as annexure

**ATTESTED**  
EXAMINER  
Peshawar High Court

..... **A.**  
3- That petitioner while performing his duty as Rang Forest Officer, Katlang, Mardan the respondent No.3 issued the impugned office order dated 14.2.2022 whereby the petitioner was transferred from the post of Rang Forest Officer, Katlang and posted as Sub Divisional Forest Officer (BPS-17) Patrol Squad Southern Circle, Peshawar despite of the fact that the petitioner is going to be retired on superannuation basis on 3.4.2023. Copy of the impugned order dated is attached as annexure

..... **B.**

4- That petitioner feeling aggrieved from the impugned order dated 14.2.2022 filed Department appeal before the respondents wherein the petitioner had fully explained his position that he is going to be retired on 3.4.2022 on superannuation basis but vide impugned appellate order dated 25.2.2022 the Departmental appeal of the appellant has been regretted on no good grounds. Copies of the Departmental appeal and rejection order are attached as annexure ..... **C and D.**

5- That as the august Service Tribunal is dysfunctional due to retirement of the Honorable Chairman of the Service Tribunal, therefore petitioner having no other efficacious remedy prefer the instant writ petition on the following grounds amongst the others.

**GROUND:**

A- That the impugned orders dated 14.2.2022 and 25.2.2022 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

B- That petitioner has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That petitioner is going to be retired on 3.4.2023 on superannuation basis and as such the impugned order dated 14.2.2022 is not tenable and liable to be set aside.

D- That the impugned order dated 14.2.2022 is also violative of Clause-I, Clause-II and Clause-XI of transfer/posting policy of Provincial Government. Copy of the transfer/posting policy is attached as annexure ..... **E.**

E- That the impugned order dated 14.2.2022 has been issued by the respondent No.3 in arbitrary and malafide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.

F- That the impugned order dated 14.2.2022 has not been issued in the public interest nor exigencies of public service, therefore the same is not tenable and liable to be set aside.

G- That the impugned order dated 14.2.2022 is based on discrimination, favoritism and nepotism hence not tenable and liable to be set aside.

H- That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

**ATTESTED**  
EXAMINER  
Peshawar High Court

It is therefore, most humbly prayed that on acceptance of this writ petition the impugned order dated 14.2.2022 and appellate order dated 25.2.2022 may very kindly be set aside and the respondents may kindly be directed that not to transfer the petitioner from the post of Range Forest Officer (BPS-16), Katlang till his superannuation i.e. 3.4.2023 Or the respondents may kindly be directed to transfer the petitioner to his home station i.e. Dargai, Malakand. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner.

**INTERIM RELIEF:**

That the operation of impugned office order dated 14.2.2022 may kindly be suspended till the disposal of the instant writ petition.

**PETITIONER**

**MUHAMMAD WALI**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

**VERIFICATION:**

It is verified that no other earlier writ petition was filed between the parties.

**ATTESTED**  
EXAMINER  
Peshawar High Court

**DEPONENT**

**LIST OF BOOKS:**

1. CONSTITUTION OF PAKISTAN.
2. SERVICES LAWS BOOK.
3. ANY OTHER CASE LAW AS PER NEED.

**IN THE PESHAWAR HIGH COURT, PESHAWAR**

W.P No. \_\_\_\_\_/2022

Muhammad Wali.....Petitioner

**V E R S U S**

Govt. of Khyber Pakhtunkhwa & others.....Respondents

**A F F I D A V I T**

I, Muhammad Wali Son of Muhammad Ishaq R/o Satana Darwo Kalay, Kopar, Tehsil Dargai District Malakand, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Writ Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

  
**DEPONENT**

CNIC#: 15402-1393117-5 ✓

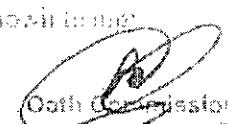
Cell No. 0345-6007640

  
**Noor Muhammad Khattak**  
Advocate Supreme Court

**ATTESTED**  
EXAMINER  
Peshawar High Court

4773

Certified that the above was verified on solemn affirmation before me in office, this 03 day of March 2022 at M. Wali s/o M. Ishaq Malakand who was identified by Adv. Muhammad Khattak who is personally known to me.

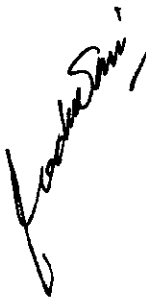
  
Oath taken before me  
Peshawar High Court - Peshawar  
03/03/2022

**PESHAWAR HIGH COURT PESHAWAR**  
**FORM "A"**

**ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
2	3
29.03.2022	<p><b><u>W.P No. 931-P of 2022.</u></b></p> <p>Present:</p> <p>Mr. Mujeeb ur Rehman, for petitioner.</p> <p>Mr. Safdar Iqbal Khattak, Advocate for the respondents.</p> <p style="text-align: center;">*****</p> <p><b><u>ROOH-UL-AMIN KHAN, J:-</u></b> Through instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has prayed for issuance of the following writ: -</p> <p style="text-align: center;"><i>“It is therefore, most humbly prayed that on acceptance of this writ petition the impugned order dated 14.02.2022 and appellate order dated 25.02.2022 may very kindly be set aside and the respondents may kindly be directed that not to transfer the petitioner from post of Range Forest Officer (BPS-16), Katlang till his superannuation i.e. 03.04.2023 or the respondents may kindly be directed to transfer the petitioner to his home station i.e. Dargai, Malakand. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner”.</i></p> <p>2. Disputedly, petitioner is civil servant and has filed</p>

**ATTESTED**  
EXAMINER  
Peshawar High Court



instant writ petition against the order of posting transfer which squarely falls in terms and conditions of service. The learned counsel for respondents states that the instant writ petition has been filed by the petitioner when service tribunal was non-functional, however, by know the Chairman, Service Tribunal has been appointed and the Tribunal is very much functional and in this way, the instant petition being non maintainable under Article 212 (2) of the constitution, stand dismissed, however, he may approach proper forum if so desired.

**Announced.**  
29.03.2022

*Rooh Ul Amin Khan*  
**SENIOR PUISNE JUDGE**  
*[Signature]*  
**JUDGE**

**CERTIFIED TO BE TRUE COPY**  
*[Signature]*  
Hon'ble Mr. Justice Rooh Ul Amin Khan, Senior Puisne Judge.  
Hon'ble Mr. Justice Mohammad Ibrahim Khan, J.

08 APR 2022

*\*Abdul Saeed\**

(DB)

Hon'ble Mr. Justice Rooh Ul Amin Khan, Senior Puisne Judge.  
Hon'ble Mr. Justice Mohammad Ibrahim Khan, J.

32897

No. \_\_\_\_\_  
Date of Presentation of Application \_\_\_\_\_ 8-4-22  
No of Pages \_\_\_\_\_ 6-P  
Copying fee \_\_\_\_\_  
Total \_\_\_\_\_ 24  
Date of Preparation of Copy \_\_\_\_\_ 8-4-22  
Date of Delivery of Copy \_\_\_\_\_ 8-4-22  
Received By \_\_\_\_\_ [Signature]



2001 PLC (C.S.) 1175

[Punjab Service Tribunal]

M, Wali

Before Aqeel Ahmad Khan, Chairman

**NAZIR AHMAD HASRAT, CHIEF OFFICER, MUNICIPAL  
COMMITTEE, JHANG**

Versus

**SECRETARY TO GOVERNMENT OF THE PUNJAB,  
LG & RD DEPARTMENT/ CHAIRMAN, PUNJAB  
LOCAL GOVERNMENT BOARD, LAHORE and 2 others**

Appeal No. 1670 of 1997, decided on 4th September, 1997

**Civil service-----**

---Transfer---Civil servant who was due to retire from service on attaining age of superannuation, was transferred only about one year before his retirement---Civil servant had challenged his transfer contending that under transfer policy he was entitled to be posted at a station of his choice, but his request was turned down without giving any reason---Request of civil servant having been turned down by Authority without any plausible reason, Authority was not justified to transfer civil servant at its own sweet-will without taking into consideration choice of civil servant.

Dr. Ehsan-ul-Haq Khan for Appellant.

Syed Abbas Raza, District Attorney for Respondents.

Date of hearing: 4th September, 1997.

## **JUDGMENT**

The appellant while posted as Chief Officer Municipal Committee Jhang was transferred vide order, dated 7-12-1996 and his services were placed at the disposal of Punjab Local Government Board of further posting. The department representation filed by the appellant was rejected on 21-5-1997.

2. I have heard learned counsel for the appellant and the learned District Attorney for the respondents. The learned counsel for the appellant contended that the appellant is retiring from service on attaining the age of superannuation on 31-12-1997, and therefore, under the transfer policy he was entitled to be posted at a station of his choice, but this request of the appellant has been turned down without giving any reason. Respondent No. 1 contested the appeal stating that the appellant is an officer of BS-16 but he was holding the post of Chief Officer Municipal Committee Jhang which is in BS-17. It is further stated that the appellant was subsequently posted as Deputy Chief Officer Zila Council Jhang on 9-12-1996. The learned District Attorney asserted that the grievance of the appellant has thus, been redressed as he has been adjusted at the same station. The learned counsel for the appellant has produced a Notification No.LCS (Adms.) 3(102)/81, dated 9th June, 1997 of the Local Government and Rural Development Department Government of the Punjab whereby the post of Deputy Chief Officer Zila Council Jhang has been abolished. The appellant, therefore, cannot be adjusted against the said post of Deputy Chief Officer Jhang. Admittedly the appellant is going to retire from 29-12-1997.

3. In the circumstances I find no justification for his transfer from Municipal Committee Jhang. Consequently this appeal is accepted and the impugned order, dated 7-12-1996 is set aside.

Appeal No-449/2020

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Muhammad Wali

Khyber Pakhtunkhwa  
Service Tribunal

**VERSUS**

Diary No. 141

Govt; of KPK etc Forest Dept.

Dated 02/06/2022

**Reply to application for suspension of the impugned order dated 14.02.2022**

**Preliminary objections:**

1. That the application in hand is not maintainable in its present form, hence liable to be dismissed.
2. That the order has already been acted upon and newly transferred Respondent No. 5 already assumed his charge.
3. That as the applicant already been completed normal tenure of 2 years, and the transfer is the sole domain of the Administrative authority.
4. That there is no malafide intention is involved on part of the answering respondents.
5. That the preliminary objections raised in the main reply may also be considered as part & parcel of this reply.

**ON FACT:**

1. Para No. 01 needs no reply.
2. Para No. 02 is correct to the extent that the appellant was transferred through impugned order dated 14.02.2022, but rest of the Para to the extent of illegally transfer is wrong, incorrect, as the answering respondent before issuing the impugned order fulfilling all the legal and codal formalities. Moreover, the transfer come within the domain of administrative authority, and on the direction of Hon`ble Chief Minister of KP, that who completed normal tenure of 02 years, should be transferred.
3. In response to remaining Para 03 & 04 the detail reply already given in the above paras.

It is therefore, humbly requested that the application of the plaintiff may kindly be dismissed.

*Q. Ahmad*

Respondents

Through

*Conservator of Forest,  
South Circle Peshawar.*

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

Muhammad Wali

Versus

Government of Forest Department

**AFFIDAVIT**

I, Aurang Zeb Khan S/o Wakeel Khan Sub Division officer Forest Department (Authority letter), do hereby solemnly affirm and state on oath that all contents of appeal and ~~reply~~ are true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.

Deponent

CNIC: 17101-9744220-5

CELL NO. 0333-9294406

Identified By:-

**Aurang Zeb Khan SDFO**



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

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 139

Dated 2/6/2022

Mohammad Wali

**Versus**

Govt of KP Etc

**REPLY TO APPLICATION FOR SUSPENSION**  
**OF THE IMPUGNED ORDER DATED 14-02-**  
**2022.**

**Preliminary Objections:**

1. That the application in hand is not maintainable in its present form, hence liable to be dismissed.
2. That the order has already been acted upon and newly transferee/ Respondent No.5, already assumed his charge.
3. That as the applicant already been completed normal tenure of 2 years, and the transfer is the sole domain of the Administrative authority.

4. That there is no malafide intention is involved on part of the answering respondents.

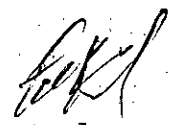
5. That the preliminary objections raised in the main reply may also be considered as part & parcel of this reply.

**ON FACTS:**

1. Para No. 1 needs no reply.
2. Para No.2 is correct to the extent that the appellant was transferred through impugned order dated 14/02/2022, but rest of the Para to the extent of illegally transfer is wrong; incorrect, as the answering respondent before issuing the impugned order fulfilling all the legal and codal formalities. Moreover, the transfer come within the domain of administrative authority, and on the direction of Hon'ble Chief Minister of KP, that who completed normal tenure of 2 years, should be transferred.
3. In response to remaining Para 3 & 4 the detail reply already given in the above paras.

*It is, therefore, humbly requested that the application of the plaintiff may kindly be dismissed.*

Dated: 02/07/2022

  
Respondents

(5)

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

Appeal No: 449/2022

Muhammad Wali

VERSUS

The Government of KPK Forest Department

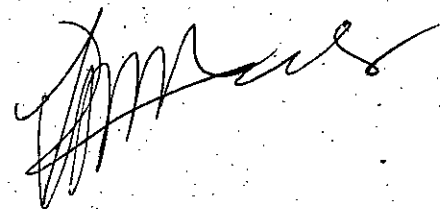
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<i>S#</i>	<i>Description of Documents</i>	<i>Annexure</i>	<i>Pages</i>
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2.	Posting Transfer Policy	"A"	4-6
3.	Charge Order	"B"	7
4.	Divisional Forest Officer Mardan Subject	"C"	8
5.	Brief History Of The Case	"D"	9

Dated: 02/06/2022

Appellant

Sub Divisional Officer Mardan



①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 449/2022

Muhammad Wali Forest Ranger (BPS-16)

**VERSUS**

Khyber Pakhtunkhwa Service Tribunal **Appellant**

Diary No. 140  
Dated 2/6/2022

1. The Govt: of Khyber Pakhtunkhwa through Chief Secretary,  
Khyber Pakhtunkhwa Peshawar & others.

**Respondents**

**COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 4**

**Preliminary objections:**

1. The Appellant has been transferred in the interest of public service and on the directives of Honorable Chief Minister Khyber Pakhtunkhwa to the effect to transfer the staff of all Departments who have completed their tenure of 02 years in the same office.
2. The Appellant belongs to village Dargai of Malakand, therefore the present place of his duty from where he has been transferred, does not come in the jurisdiction of his home station/district.
3. Transfer is not punishment. It comes in the domain of administrative setup of an authority.
4. The Appellant has been assigned the duty of incharge of patrol squad which is easier than the field duty. As the Appellant has stepped into the age of superannuation, therefore, it is difficult for him to perform the field duty which is consisting of multifarious nature of forestry activities under the scheme "10-Billion Trees Tsunami Afforestation Programme" The pace of work has been accelerated thereby the plantation has been started on war footing basis in different communal lands in the remote areas of Katlang. It is difficult for the Appellant to supervise these forestry activities and to pay visits to each sites of forestry activities being at the verge of superannuation. The Provincial Government Posting transfer Policy also provides that those government servants who are due to retire in the near future should be posted against non-administrative posts vide para xi of the said policy (Annex-I).

**ON FACT:**

1. Correct to the extent that the Appellant has performed his duty for which he has been paid from the Govt Exchequer therefore, the question of serving the department does not arise.
2. Already explained at Para 5 of the aforesaid preliminary objections.
3. The Appellant has been transferred in the interest of public service as it was difficult for him to achieve the targets of different forestry activities under the scheme "10-Billion Trees

**Tsunami Afforestation Programme**” being at the stage of superannuation, therefore he has been posted on an indoor working post where he will only dispose of the official matters while his subordinates staff will perform the duty of patrolling. His overall duty as incharge of Patrol Squad will be confined to the following:

- i. Disposal of official matters.
- ii. Supervision of the activities of his staff.

Being at the stage of superannuation, the duty has been made easier to the Appellant.

4. His appeal has been disposed of on the basis of merit of the case.
5. As the instant appeal has been considering and temporary injunction has once been granted by the Peshawar High Court and also **The Office Order dated 14-2-2022 has already been acted upon by the successor of Appellant (Annex-II)**. Moreover the Appellant has also resumed duty recently after granting temporary injunction by this Honourable Court (**Annex-III**) which is also a token to the effect that the aforesaid order has been acted upon/implemented. Therefore it is requested before this Honourable Court that no further temporary injunction may be granted to the Appellant.
6. Already explained as per para 4 of the **Preliminary objections**.

**ON GROUNDS:**

- A. Incorrect. As the respondent No. 03 has exercised the powers bestowed to him by the Government, therefore, office orders dated 14-2-2022 and 25-2-2022 are covered by the law.
- B. Incorrect. Transfer of a civil servant is not punishment which is a part of the arrangements of administrative setup of an authority to the effect either to re-organize the said set-up by way of posting of suitable staff on the posts keeping in view their ability and potential or to make partial modification therein.
- C. Incorrect. Transfer of the Appellant is not an impediment in the way of his retirement.
- D. Incorrect. The Appellant has never applied for his transfer to his home district under the said Transfer Policy of Provincial Government. The Appellant has already admitted in the contents of prayer annexed with this petition that his home station is Dargai Malakand which is out of the administrative jurisdiction of Mardan Forest Division. In the said contents of prayer, the Appellant has given contradictory statements which are clarified as under:
  - i. on one hand he has stated that: **the respondents may be directed not to transfer him from Katlang till his superannuation i.e. 3-4-2023**
  - ii. But on the other hand he has stated that: **the respondents may be directed to transfer the petitioner to his home station i.e. Dargai Malakand**. This statement clearly shows that the Appellant has not been transferred from his home station.
- E. Incorrect. The Appellant has not been transferred from his home station.
- F. Incorrect as no cogent justification has been given by the Appellant.
- G. Incorrect as this statement is irrational and not covered by legal justification.



3

H. The Appellant should have annexed all the proofs with the instant petition so as to enable the respondents to challenge the same in the light of rules, therefore it is requested before this Honourable Court that no such permission may kindly be granted to the Appellant.

The Appellant has repeated the said contradictory statement because Katlang is out of the jurisdiction of his home station therefore his consecutive insistence for retention on the Post of Range Officer Katlang irrespective of the fact that the said station is out of the jurisdiction of his home station clearly speaks of his ulterior motives, therefore, it is requested before this august court that his petition being baseless, ineffective, may kindly be dismissed.

Chief Secretary Government of Khyber Pakhtunkhwa Peshawar

Respondent No. 1

Secretary Forest Department Khyber Pakhtunkhwa Peshawar

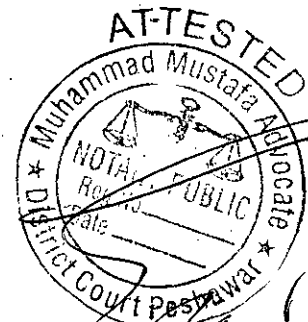
Respondent No. 2

Chief Conservator of Forest Central Southern Forest  
Region-I Khyber Pakhtunkhwa Peshawar

Respondent No. 3

Conservator of Forest Southern Circle Peshawar

Respondent No. 4



بیان حلفی  
جلہ صواب  
صبر علیہ وسلم  
صبر علیہ وسلم

3A

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

Muhammad Wali

Versus

Government of Forest Department

**AFFIDAVIT**

I, Aurang Zeb Khan S/o Wakeel Khan Sub Division officer Forest Department (Authority letter), do hereby solemnly affirm and state on oath that all contents of appeal and ~~Reply~~ are true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.

**Deponent**

CNIC: 17101-9744220-5

CELL NO. 0333-9294406

*[Handwritten signature]*  
SDFO

Identified By:-

**Aurang Zeb Khan SDFO**



02 JUN 2022

(4)

Amad-B



GOVERNMENT OF NWFP  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posting/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) { }  
vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained  
  
While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

J.K.

ATTACHED

- (S)
- (xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement.
- DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof.

Outside the Secretariat	
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.
	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).
	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.
	-do-
In the Secretariat	
1.	Secretaries
	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.
	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another
	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

(xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- (a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

ATTACHED

*[Handwritten signature]*

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business, 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government.
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.  
(Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance:

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

RECEIVED

RECEIVED

Handwritten signature and initials.

7

ON ALL CHARGE AMONGST GAZETTED GO  
ONE FILLED UP AND DESPATCHED BY THE  
POSTS.

I Javed Iqbal Deputy Ranger have  
16/02/2022 (forenoon) assumed the charge of US  
Katlang in compliance with Chief Conservator  
Central Southern Forest Region-I Khyber Pakhtun  
Order No.152 dated 14.02.2022.

Javed Iqbal  
Deputy Ranger

16/2/2022

No. 2906-08 /E

Copy forwarded for favour of information to:

1. Chief Conservator of Forests Central South
2. Conservator of Forests Southern Circle Pes
3. Officer/Official Concerned.

D:\2021-22 Charge Assumption\Javed & Wali - Copy.doc

8

ANNEX-III


To

The Divisional Forest Officer  
Mardan Forest Division  
Mardan

Subject: APPEAL No. 449/2022

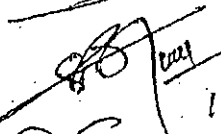
Memo:

In pursuance with the decision of Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar announce on 11-4-2021 (copy enclosed) I beg to resume my duty of USC Forest Sub Division Katlang in the forenoon of 12-4-2022

  
12/4/22  
Muhammad Wali

Range Forest Officer

I/C USC Forest Sub Division Katlang

Estt.  
  
DFO  
18/4/2022

Office of the  
DFO Forest Mardan  
Receipt No. 1553  
Date 13/4/22

9

## BRIEF HISTORY OF THE CASE

Mr. Muhammad Wali Forest Ranger transferred to Mardan Forest Division on 28-3-2019 vide CCF-I officer order No.147 dated 28-3-2019 and assumed the charge on 2-4-2019. He has been transferred to Patrol Squad Southern Circle Peshawar vide CCF-I officer order No. 152 dated 14-2-2022 after completion of 03 years tenures in USC Forest Sub Division Katlang of Mardan Forest Division. He has attained the age of 59 years therefore he is not in a position to perform the duty of multifarious nature of field duty. His transfer has been made in the interest of public service but he has filed appeal in the Service Tribunal Peshawar against the said transfer order on the pretext that as per rules, a government servant whenever reaches to superannuation, should be posted in his home district. The petitioner belongs to Dargai Malakand which is out of the jurisdiction not only of Mardan Forest Division but also of the District Mardan.

Having become aggrieved of his transfer, the aforesaid Forest Ranger has now filed the instant service appeal in Service Tribunal Peshawar.

**Chief Conservator of Forest  
Central Southern Forest  
Region-I Khyber Pakhtunkhwa  
Peshawar**