

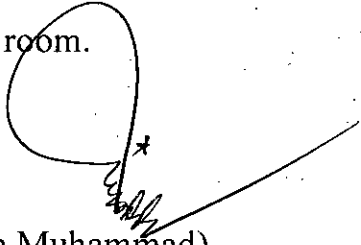
Appeal No. 7435/2021  
Fazal vs Rahman vs Govt

29.11.2021

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Ilays, Deputy Collector Irrigation, Mardan for respondents present.

Written reply/comments have already been submitted by the respondents which are placed on file. Learned counsel for the appellant submitted an application for withdrawal of the instant service appeal which is placed on file. Application is accepted and the instant service appeal in hand is therefore, dismissed as withdrawn. File be consigned to the record room.

Announced:  
29.11.2021



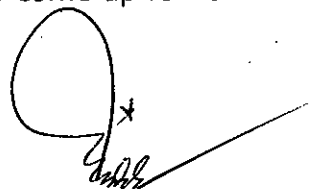
  
(Mian Muhammad)  
Member(E)

Form- A

FORM OF ORDER SHEET

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

Case No.- 7435 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/09/2021	<p>The appeal of Mr. Fazal-ur-Rehman presented today by Attiq-ur-Rehman 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-	30.09.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the appellant present.</p> <p>Learned counsel for the appellant argued the case preliminary to some extent. The appellant is aggrieved of the impugned order dated 26.08.2021 when he was transferred prematurely. The appellant had been posted in Malakand Irrigation Division (SDA Head Works Sub-Division) just four months back i.e 13.04.2021. The impugned order dated 26.08.2021 was therefore, challenged in departmental appeal dated 27.08.2021 but it was not responded, hence, the Service Tribunal was approached on 22.09.2021. It was further contended that the impugned order has been issued prematurely, illegally and is discriminatory, void, unwarranted, vexatious and unlawful, may be cancelled and set aside. Let pre-admission notice be issued to the respondents for an early reply. Adjourned. To come up for further proceedings before the S.B on 29.11.2021.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

I would do with draw this appeal  
A copy  
Office No. 12581-275248-5

Before The Hon'ble KPK Service Tribunal, Peshawar.

Fazal-ur-Rehman v/s Govt of KPK

Application For withdrawal of the  
instant Service Appeal:

X-----X-----X

Respectfully Submitted.

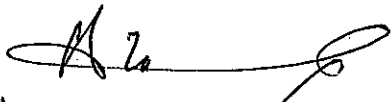
- 1) That above titled service appeal is pending before this Hon'ble Tribunal and is fixed for today i.e 29-11-21
- 2) That the cause of action of the appellant has been infructuous therefore the appellant will not press the instant petition.
- 3) That withdrawal of the instant appeal is in the interest of parties as well as justice.

It is therefore prayed that the instant appeal may kindly be dismissed as withdrawn.

Appellant

Through

Dated 29-11-21

  
Attiq-ur-Rehman  
Advocate High Court

۲۹/۱۱

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7435/2021

Fazal Ur Rehman Senior Clerk (SDA), Head Works Irrigation Sub Division, Malakand

بکھنور جناب رجسٹرار صاحب خیبر پختونخوا سروس ٹریبیونل پشاور۔

عنوان :- درخواست برائے واپسی اپیل نمبر 7435/2021

جناب عالی :-

مودبانہ گزارش کیجاتی ہے، کہ سائل نے اپنی تبادلے کے ل منسوخی کے لیے معزز عدالت میں اپیل نمبر 7435/2021 دائر کی تھی۔ سائل مذکورہ اپیل کو اپنی مرضی سے واپس لینا چاہتا ہے۔ اس لئے معزز عدالت سے گزارش کی جاتی ہے، کہ سائل کی اپیل نمبر 7435/2021 کو خارج واپسی کے احکامات جاری فرمائیں۔

بہت مہربانی ہوگی۔

العارض

F. Rehman

آپکا تابعدار فضل رحمن سنیر کلرک (SDA) ہیڈ ورکس سب ڈویژن ملاکنڈ

29/11

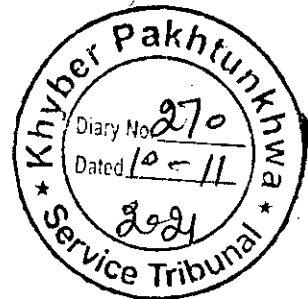
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Service Appeal No. 7435/2021

Fazal Ur Rehman Senior Clerk (SDA), Head Works Irrigation Sub Division, Malakand  
(Appellant)

VERSUS

1. Govt of Khyber Pakhtunkhwa through Chief Secretary.
2. Secretary Irrigation Department, Govt of Khyber Pakhtunkhwa.
3. Superintending Engineer, Mardan Irrigation Circle Mardan.
4. Executive Engineer Mardan Irrigation Division, Mardan.
5. Executive Engineer Malakand Irrigation Division, Malakand.
6. District Comptroller of Accounts Mardan.
7. District Accounts Officer Malakand



Reply

Comments / Reply on behalf of respondents

Respectfully Sheweth:

Respondents submit as under:-

**PRELIMINARY OBJECTIONS:-**

1. The appellant has got no cause of action.
2. The Tribunal has got no jurisdiction to entertain the appeal.
3. The appellant has not come to this Tribunal with clean hands.
4. The appellant has no locus standi to file the appeal.
5. The appeal is bad for non-joinder and mis-joinder of necessary and proper parties.
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7. The appeal is not maintainable being violating Section-4 (a) of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and rules of Khyber Pakhtunkhwa Civil Servants Appeal Rules, 1986.
8. The appeal is barred by law and premature.

**REPLY ON FACTS:**

- 1-2 Pertains to record.
- 3- The appellant had served for long time and as per Govt: instructions (Annex-A), the employees (including the appellant) spent more than 02 years on their posts were transferred.
- 4- That order was issued on need basis purely on administrative requirement, keeping in view public interest. The appellant did not agitate the said "pre-mature" order for the unknown reasons, instead the fact he had already served at Malakand/Dargai for long time.

- 5- As explained above, all the posting/transfers are made keeping in view administrative viability and public interests. Other colleagues of the appellant have also been transferred through the transfer orders referred to in the appeal, but no one questioned the same, knowing the official/Administrative requirements of the department. Besides, the appellant has not shown any reaction to all his "Pre-Mature" transfer orders, except the order dated 26.08.2021, vide which he has been alienated from Accounts as all the orders were in accordance with law and administrative requirements. Moreover keeping in view the administrative internal adjustment, the D.D.O as well as place of posting of the appellant is the same with the same salary and emoluments, only he was assigned another seat in the same station and in the same premises.
- 6- Incorrect. The appellant did not wait for lapse of time limit of 90 days prescribed in Section 4 (a) of the Service Tribunal Act, but filed the instant Service Appeal just to scandalize the routine administrative actions of the department.
- 7- As above.
- 8-9 As explained in Para-5 above.
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**REPLY ON GROUNDS:**

In reply it is submitted that:

- A. No discrimination has been made to the appellant. All the four transfer orders show reshuffle of all his colleagues and all of them being well aware of the administrative requirement and public interest did not questioned their transfers.
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- D. Incorrect, misleading and fictional story.
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G. Incorrect. Already explained above.

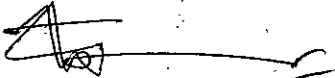
H. As explained in reply of Para-5 of facts and Para A & C of grounds above.

I. Incorrect. Detail reply already given in paras ibid.

J. The appellant did not even wait for reply of his departmental appeal and filed the instant Service Appeal in violation of prescribed time limit which shows his craze for Accounts matter/field and to scandalize the competent authority.

K. That respondents seek permission to raise further grounds during the arguments.

In view of the above, the appeal being false, malicious and devoid of law/merits, may be dismissed with cost.

  
Superintending Engineer,  
Mardan Irrigation Circle,  
Mardan

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7435/2021

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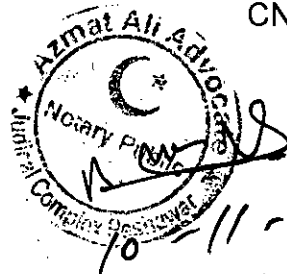
VERSUS

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2. Secretary Irrigation Department, Govt of Khyber Pakhtunkhwa.
3. Superintending Engineer, Mardan Irrigation Circle Mardan.
4. Executive Engineer Mardan Irrigation Division, Mardan.
5. Executive Engineer Malakand Irrigation Division, Malakand.
6. District Comptroller of Accounts Mardan.
7. District Accounts Officer Malakand.

AFFIDAVIT

I, Muhammad Ilyas, Deputy Collector, Mardan Irrigation Circle Office Mardan do hereby solemnly affirm and declare on oath that the contents of the accompanying para-wise comments on behalf of respondent No.3, 4, 5 are correct to the best of my knowledge and belief and nothing has been concealed from this honourable court..

ATTESTED



Deponent

(Muhammad Ilyas)

CNIC # 16102-6315160-5

Cell # 0306-8189445



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

Service Appeal No.7435/2021

Fazal Ur Rehman Senior Clerk (SDA), Head works Irrigation Sub Division  
Malakand

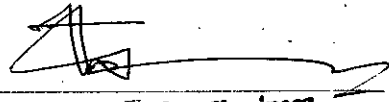
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AUTHORITY LETTER

Muhammad Ilyas, Deputy Collector Mardan Irrigation Circle Mardan, is hereby authorized to attend Khyber Pakhtunkhwa Service Tribunal Peshawar, in the subject noted appeal. He is also authorized to submit replies, record statement, provide record etc on behalf of the undersigned.

Superintending Engineer  
Mardan Irrigation Circle  
Mardan.(Respondent No:3)

  
\_\_\_\_\_  
**Superintending Engineer**  
**Mardan Irrigation Circle**  
**Mardan**

No. 233 / 10/2-E,  
To

Dated Mardan the 09/01/1995

Mr. Fazlur Rahman S/O Fatehur Rehman,  
R/O Gulshan Hayat P.O Sherpao Teh: Tangi  
Distt: Charsadda.

Subject: - **APPOINTMENT AS JUNIOR CLERK**

You are hereby offered a post of Junior Clerk in the time pay scale No.5 i.e Rs.1400-66-2390 plus usual allowances as admissible under rules and on the service conditions of Irrigation Department.

Your appointment in this Department is temporary and your services can be terminated on 15 days notice without any reasons at any time irrespective of the fact that you are holding a post other than that one on which you have been appointed or on the payment of 15 days salary in lieu of the notice. You will have to produce the following documents / certificates.

1. Health & Age Certificate.
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3. A certificate to the effect that you are not a dismissed Govt: Servant.
4. Blank Service Book.
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6. National Identity Card

You will have to join the duty at your own expenses and you will be governed by such rules and other relating to leave, T.A, medical attendance, pay, pension and discipline etc; as may be issued by the Govt: for the category of Govt: Servants to which you belong.

If you accept the post on the above conditions you should report for duty to the Executive Engineer, Malakand Irrigation Division Malakand upto 16.01.1995 failing which the offer will be considered as cancelled.

Superintending Engineer  
Mardan Irrigation Circle,  
Mardan.

Copy to the Executive Engineer, Malakand Irrigation Division Malakand for information and necessary action.

Sd-  
Superintending Engineer  
Mardan Irrigation Circle,  
Mardan.

No. 233

/10/2-E

Dated Mardan

the 9 11/1995

66

Ammer-A

Mr. Fazlur Rehman S/o Fatahur Rehman  
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Distt:Charsadda.

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Northern Irrigation Circle,  
Mardan.

Copy to the Executive Engineer, Malakand Irrigation Division for information and necessary action.

*[Handwritten signature]*

Superintending Engineer,  
Northern Irrigation Circle,  
Mardan.

-:0:-

**ATTESTED**

*[Handwritten signature]*  
The Executive Engineer,  
Malakand Irrigation Division

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No. 7435/2021**

Fazal Ur Rehman Senior Clerk (SDA), Head Works Irrigation Sub Division, Malakand  
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**Comments / Reply on behalf of respondents**

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**Respondents submit as under:-**

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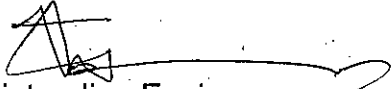
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(Muhammad Ilyas)

CNIC # 16102-6315160-5

Cell # 0306-8189445

Dated Mardan the 09/01/1995

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To

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Dated Mardan

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Superintending Engineer,  
Northern Irrigation Circle,  
Mardan.

-:0:-

ATTESTED

Attested  
[Signature]  
Executive Engineer  
Malakand

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**Service Appeal No. 7435/2021**

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- A. No discrimination has been made to the appellant. All the four transfer orders show reshuffle of all his colleagues and all of them being well aware of the administrative requirement and public interest did not questioned their transfers.
- B. Incorrect. Public Offices function under the rules coupled with administrative needs, to post proper persons on proper posts, performance, and general reputation/integrity.
- C. Incorrect. There is no blue eyed as evident from the posting orders, all the Senior Clerks have been shuffled. The appellant spent entire service in the field of accounts matters, and eventually when posted out from the field, he made a storm in tea cup.
- D. Incorrect, misleading and fictional story.
- E. As explained in reply A & C above.

F. As above.

G. Incorrect. Already explained above.

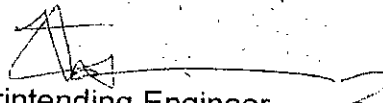
H. As explained in reply of Para-5 of facts and Para A & C of grounds above.

I. Incorrect. Detail reply already given in paras ibid.

J. The appellant did not even wait for reply of his departmental appeal and filed the instant Service Appeal in violation of prescribed time limit which shows his craze for Accounts matter/field and to scandalize the competent authority.

K. That respondents seek permission to raise further grounds during the arguments.

In view of the above, the appeal being false, malicious and devoid of law/merits, may be dismissed with cost.

  
Superintending Engineer,  
Mardan Irrigation Circle,  
Mardan

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No. 7435/2021**

Fazal Ur Rehman Senior Clerk (SDA), Head Works Irrigation Sub Division, Malakand  
(Appellant)

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Chief Secretary.
2. Secretary Irrigation Department, Govt of Khyber Pakhtunkhwa.
3. Superintending Engineer, Mardan Irrigation Circle Mardan.
4. Executive Engineer Mardan Irrigation Division, Mardan.
5. Executive Engineer Malakand Irrigation Division, Malakand.
6. District Comptroller of Accounts Mardan.
7. District Accounts Officer Malakand.

**AFFIDAVIT**

I, Muhammad Ilyas, Deputy Collector, Mardan Irrigation Circle Office Mardan do hereby solemnly affirm and declare on oath that the contents of the accompanying para-wise comments on behalf of respondent No.3, 4, 5 are correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.

  
**Deponent**

(Muhammad Ilyas)

CNIC # 16102-6315160-5

Cell # 0306-8189445

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

**Service Appeal No.7435/2021**

**Fazal Ur Rehman Senior Clerk (SDA), Head works Irrigation Sub Division  
Malakand**

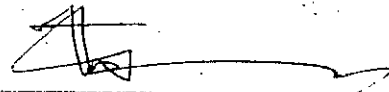
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3. Superintending Engineer Mardan Irrigation Circle Mardan.
4. Executive Engineer Mardan Irrigation Division Mardan.
5. Executive Engineer Malakand Irrigation Division Malakand.
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7. District Accounts Officer Malakand.

**AUTHORITY LETTER**

Muhammad Ilyas, Deputy Collector Mardan Irrigation Circle Mardan, is hereby authorized to attend Khyber Pakhtunkhwa Service Tribunal Peshawar, in the subject noted appeal. He is also authorized to submit replies, record statement, provide record etc on behalf of the undersigned.

Superintending Engineer  
Mardan Irrigation Circle  
Mardan. (Respondent No:3)

  
Superintending Engineer  
Mardan Irrigation Circle  
Mardan

No. 233 / 10/2-E,  
To

Dated Mardan the 09/01/1995

Mr. Fazlur Rahman S/O Fatehur Rehman,  
R/O Gulshan Hayat P.O Sherpao Teh: Tangi  
Distt: Charsadda.

Subject: - APPOINTMENT AS JUNIOR CLERK

You are hereby offered a post of Junior Clerk in the time pay scale No.5 i.e Rs.1400-66-2390 plus usual allowances as admissible under rules and on the service conditions of Irrigation Department.

Your appointment in this Department is temporary and your services can be terminated on 15 days notice without any reasons at any time irrespective of the fact that you are holding a post other than that one on which you have been appointed or on the payment of 15 days salary in lieu of the notice. You will have to produce the following documents / certificates.

1. Health & Age Certificate.
2. Domicile Certificate.
3. A certificate to the effect that you are not a dismissed Govt: Servant.
4. Blank Service Book.
5. Matriculation Certificate.
6. National Identity Card

You will have to join the duty at your own expenses and you will be governed by such rules and other relating to leave, T.A, medical attendance, pay, pension and discipline etc: as may be issued by the Govt: for the category of Govt: Servants to which you belong.

If you accept the post on the above conditions you should report for duty to the Executive Engineer, Malakand Irrigation Division Malakand upto 16.01.1995 failing which the offer will be considered as cancelled.

Superintending Engineer  
Mardan Irrigation Circle,  
Mardan.

Copy to the Executive Engineer, Malakand Irrigation Division Malakand for information and necessary action.

Sd-  
Superintending Engineer  
Mardan Irrigation Circle,  
Mardan.

No. 233  
To

/10/2-E

Dated Mardan

the 9/11/1995

(8)

66  
Ammer-A

Mr. Fazlur Rehman S/o Fatehur Rehman  
R/o Gulshan Hayat P.O. Sherpao Tah: Tangi  
Distt: Charsadda.

Subject:-

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Northern Irrigation Circle,  
Mardan.

Copy to the Executive Engineer, Malakand Irrigation Division for information and necessary action.

*[Handwritten signature]*

Superintending Engineer,  
Northern Irrigation Circle,  
Mardan.

--O--

**ATTESTED**

*[Handwritten signature]*  
Attested  
Executive Engineer  
Northern Irrigation Circle  
Malakand



**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No. 7435/2021**

Fazal Ur Rehman Senior Clerk (SDA), Head Works Irrigation Sub Division, Malakand  
(Appellant)

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Chief Secretary.
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3. Superintending Engineer, Mardan Irrigation Circle Mardan.
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5. Executive Engineer Malakand Irrigation Division, Malakand.
6. District Comptroller of Accounts Mardan.
7. District Accounts Officer Malakand.

**Comments / Reply on behalf of respondents**

**Respectfully Sheweth:**

**Respondents submit as under:-**

**PRELIMINARY OBJECTIONS:-**

1. The appellant has got no cause of action.
2. The Tribunal has got no jurisdiction to entertain the appeal.
3. The appellant has not come to this Tribunal with clean hands.
4. The appellant has no locus standi to file the appeal.
5. The appeal is bad for non-joinder and mis-joinder of necessary and proper parties.
6. The Appeal is not maintainable in its present form.
7. **The appeal is not maintainable being violating Section-4 (a) of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and rules of Khyber Pakhtunkhwa Civil Servants Appeal Rules, 1986.**
8. The appeal is barred by law and premature.

**REPLY ON FACTS:**

- 1-2 Pertains to record.
- 3- The appellant had served for long time and as per Govt. instructions (Annex-A), the employees (including the appellant) spent more than 02 years on their posts were transferred.
- 4- That order was issued on need basis purely on administrative requirement, keeping in view public interest. The appellant did not agitate the said "pre-mature" order for the unknown reasons, instead the fact he had already served at Malakand/Dargai for long time.

- 5- As explained above, all the posting/transfers are made keeping in view administrative viability and public interests. Other colleagues of the appellant have also been transferred through the transfer orders referred to in the appeal, but no one questioned the same, knowing the official/Administrative requirements of the department. Besides, the appellant has not shown any reaction to all his "Pre-Mature" transfer orders, except the order dated 26.08.2021, vide which he has been alienated from Accounts as all the orders were in accordance with law and administrative requirements. Moreover keeping in view the administrative internal adjustment, the D.D.O as well as place of posting of the appellant is the same with the same salary and emoluments, only he was assigned another seat in the same station and in the same premises.
- 6- Incorrect. The appellant did not wait for lapse of time limit of 90 days prescribed in Section 4 (a) of the Service Tribunal Act, but filed the instant Service Appeal just to scandalize the routine administrative actions of the department.
- 7- As above.
- 8-9 As explained in Para-5 above.
- 10- The appellant have no cause of action / locus standi to file the subject appeal.

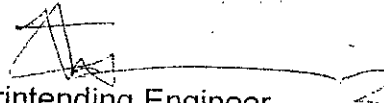
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Mardan

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No. 7435/2021**

Fazal Ur Rehman Senior Clerk (SDA), Head Works Irrigation Sub Division, Malakand  
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**VERSUS**

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**Deponent**

(Muhammad Ilyas)

CNIC # 16102-6315160-5

Cell # 0306-8189445

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

**Service Appeal No.7435/2021**

**Fazal Ur Rehman Senior Clerk (SDA), Head works Irrigation Sub Division  
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Versus

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary.
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Superintending Engineer  
Mardan Irrigation Circle  
Mardan.(Respondent No:3)

  
**Superintending Engineer**  
**Mardan Irrigation Circle**  
**Mardan**

No. 233 / 10/2-E,  
To

Dated Mardan the 09/01/1995

Mr. Fazlur Rahman S/O Fatehur Rehman,  
R/O Gulshan Hayat P.O Sherpao Teh: Tangi  
Distt: Charsadda.

Subject: - APPOINTMENT AS JUNIOR CLERK

You are hereby offered a post of Junior Clerk in the time pay scale No.5 i.e Rs.1400-66-2390 plus usual allowances as admissible under rules and on the service conditions of Irrigation Department.

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Superintending Engineer,  
Northern Irrigation Circle,  
Mardan.

Copy to the Executive Engineer, Malakand Irrigation Division for information and necessary action.

*[Handwritten signature]*

Superintending Engineer,  
Northern Irrigation Circle,  
Mardan.

--O:--

**ATTESTED**

*[Handwritten signature]*  
Attested  
Executive Engineer,  
Malakand Irrigation Division,  
Malakand

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Fazal-ur-Rehman vs Govt of KP etc

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Attia-ur-Rehman</u>		
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?	✓	
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?		
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: Attia-ur-Rehman  
 Signature: A-ur-R  
 Dated: 22-9-2021



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

Service Appeal No: \_\_\_\_\_/2021

Fazal Ur Rehman Senior Clerk (SDA)  
Head Works Irrigation Sub Division Malakand (SDA)

**APPELLANT**

**VERSUS**

Government of Khyber Pakhtunkhwa & Others

**RESPONDENTS**

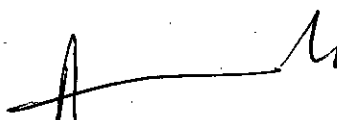
**INDEX**

S#	Description of Documents	Annexure	Pages
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5.	Copy of 1 <sup>st</sup> Transfer Order dated 27/11/2020	B	9
6.	Copy of 2 <sup>nd</sup> transfer Order dated 13/04/2021	C	10
7.	Copy of impugned Transfer order dated 26/08/2021	D	11
8.	Copy of the Departmental appeal	E	12-14
9.	Copy of the Rules, 1989 / Policy	F	15-18
10.	Wakalatnama		19

Dated: 14/09/2021

  
Appellant

Through

  
Attiq Ur Rehman  
Advocate High Court

①

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

Service Appeal No: 7435 /2021

Fazal Ur Rehman Senior Clerk (SDA)  
Head Works Irrigation Sub Division Malakand (SDA)

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7626

Dated 22/9/2021

**APPELLANT**

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Chief Secretary,  
Civil Secretariat Peshawar
2. Secretary, Irrigation Department, Government of KP, Peshawar
3. Superintending Engineer, Office of the Superintending Engineer Mardan  
Irrigation Circle Mardan
4. Executive Engineer, Mardan Irrigation Division, Mardan
5. Executive Engineer, Malakand Irrigation Division, Malakand
6. District Comptroller of Accounts Mardan
7. District Accounts Officer Malakand

**RESPONDENTS**

**SERVICE APPEAL U/S 04 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT 1974 AGAINST INACTION OF  
RESPONDENT NO. 02 ON THE DEPARTMENTAL APPEAL OF  
THE APPELLANT DATED 29/08/2021 AND AGAINST THE  
IMPUGNED OFFICE ORDER NO. 3297/10/2-E, DATED  
26/08/2021 OF THE RESPONDENT NO. 03 WHEREBY THE  
APPELLANT WAS TRANSFERRED PREMATURE.**

Filed to-day

Registrar

22/9/2021

**Respectfully Submitted as under;**

1. That the appellant is a well-qualified Pakistani national belongs to a respectable family and is the resident of District Charsadda.
2. That appellant was appointed in irrigation department as Junior Clerk in the year 1995. The appellant served the Respondents (department) with full zeal and zest resultantly he was promoted as senior clerk. [Copy of appointment order is Annexure A]
3. That initially the appellant was serving at Dargai irrigation Sub Division, Dargai. On dated 27/11/2020 the appellant was transfer from Dargai Irrigation Sub Division, Dargai to Mardan Irrigation Circle Mardan. [Copy of Officer Order is Annexure B]
4. That on dated 13/04/2021 appellant without completing the tenure of 02 years at Mardan Irrigation Circle Office Mardan was premature transferred to Malakand Irrigation Division Malakand

(SDA Head Works Su Division) [Copy of transfer order is Annexure C]

5. That recently the appellant was again premature transferred from Head Works Irrigation Sub Division Malakand (SDA) to Divisional Office Malakand. [Copy of Impugned order is Annexure D]
6. That the appellant has not assumed the charge at Divisional Office Malakand challenged the impugned order before the Respondent No. 02 feeling aggrieved from the inaction of the Respondent the appellant preferred departmental appeal. [Copy of departmental appeal is Annexure E]
7. That considerable time had been lapse but no action on departmental appeal had been taken so far hence the instant service appeal on the following grounds amongst others.
8. That the Appellant is being subject to persistent acts of discrimination on continuous basis and turned to be into shuttle cocks as without observing the normal tenures of posting and transfer, the Appellant is transferred and posted again and again.
9. That the impugned transfer order dated 26/08/2021 was illegally issued whereby the Appellant was premature transferred from Head Works Irrigation Sub Division Malakand to Divisional Office Malakand is an illegal, discriminatory, void, and unwarranted manner.
10. That feeling aggrieved and having no other expeditious remedy available, the Appellant approached this Hon'ble Tribunal for recognition, enforcement and acknowledgment of their fundamental rights upon the following grounds inter alia:-

**GROUND:**

- A. That the Appellant is a naturally born bonafide citizens of the Islamic Republic of Pakistan and is fully and equally, on equality basis, entitled to all basic and fundamental rights as enshrined in the fundamental law of the land, interpreted, guaranteed and enforced by the laws of the land and discrimination along with unfettered exercise of discriminatory powers by an authority or office is always been deplored, deprecated and depreciated by superior Courts of the land.
- B. That persistent orders of transfer and posting of any Civil Servant/Government servant is always hazardous and injurious to the Potential and capabilities of the such civil servant /Government servant and has always been depreciated and discouraged by the Superior Courts, being always held as violation to fundamental rights and not solely to the service rights.
- C. That the impugned transfer and posting orders is highly discriminatory ones and at the same time the premature transfer of the Appellant to Divisional Office Malakand without any rem and reason and without observing the law on subject while all the blue eyed ones were posted and transferred to their favorite places of posting and were left in field is highly discriminatory and void and amount to falling of the bolt from the blue upon the Appellant.

- D. That such premature transfer on such higher scale and that too whom infested with malicious intentions, at this moment give rise to many questions as the removed of officials at the helm of powers having influential characters which can be availed by candidates of election campaign and for whose appeasement this reshuffling at this crucial moment of this higher scale has been carried is unwarranted and void.
- E. That appellant premature transfer resulted to unfettered discrimination and even only on this score the impugned office orders is void and illegal.
- F. That the normal tenure of transfer and posting can only be allowed to be left in are and exceptional cases and that to in a defined public interest. But here the Appellant have repeatedly been transferred, transferred and transferred for no reasons, which is certainly not a good omen.
- G. That posting and transferring any Civil Servant/Government Servant is a defined mechanism of service laws and a procedure is detailed in Esta Code while the accrued rights, accrued thereupon, is fully protected under the same code whose details is provided under rule 9 of Transfer, Promotion and Appointment Rules of 1989. But here the situation is volte-face and the Appellant is premature transfer without any justification and the same tantamount to violation of not only service laws but as well as fundamental law.
- H. That no one can be condemned unheard, nor anyone can be condemned for no wrong.
- I. That from every angle and perspective the impugned transfer and posting orders is illegal, discriminatory, void, unwarranted, vexatious, and unlawful and is liable to be cancelled and set aside.
- J. That even the appellant authority by not entertaining the departmental appeal and that too without any speaking order and cogent reasons.
- K. That any other ground no raised here may graciously be allowed to be raised at the time of arguments.


It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned transfer order dated 26/08/2021 passed by the respondents graciously be cancelled and set aside and appellant may please be allowed to keep continue his service at Head works Irrigation Sub Division Malakand (SDA) in his original post i-e Senior Clerk and if the same is not feasible then the Appellant be posted and transferred near to his home town Charsadda in the same capacity of Senior Clerk in the best interest of justice.

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Dated: 14/09/2021

  
Appellant

Through

  
Attiq Ur Rehman  
Advocate High Court

(4)

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

Service Appeal No: \_\_\_\_\_/2021

Fazal Ur Rehman Senior Clerk (SDA)  
Head Works Irrigation Sub Division Malakand (SDA)

\_\_\_\_\_ **APPELLANT**

**VERSUS**

Government of Khyber Pakhtunkhwa & Others

\_\_\_\_\_ **RESPONDENTS**

**AFFIDAVIT**

I, Fazal Ur Rehman Senior Clerk (SDA) Head Works Irrigation Sub Division Malakand (SDA) do hereby solemnly affirm and declare that all the contents of the accompanied appeal is true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

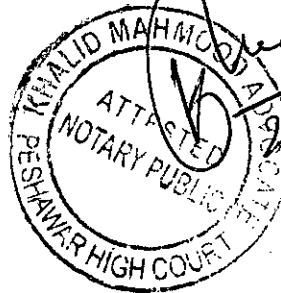
Identified By:

*u y*

*[Signature]*  
Deponent

*A*  
Attiq Ur Rehman  
Advocate High Court

Fazal Ur Rehman Senior Clerk



5

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

Service Appeal No: \_\_\_\_\_/2021

Fazal Ur Rehman Senior Clerk (SDA)  
Head Works Irrigation Sub Division Malakand (SDA)

\_\_\_\_\_ **APPELLANT**

**VERSUS**

Government of Khyber Pakhtunkhwa & Others

\_\_\_\_\_ **RESPONDENTS**

**APPLICATION FOR SUSPENSION OF THE IMPUGNED OFFICE ORDER NO. 3297/10/2-E DATED: 26/08/2021 OF THE SUPERINTENDING ENGINEER MARDAN IRRIGATION CIRCLE MARDAN WHEREBY THE APPELLANT WAS PREMATURE TRANSFERRED FROM HEAD WORKS IRRIGATION SUB DIVISION MALAKAND (SDA) TO DIVISIONAL OFFICE MALAKAND.**

Respectfully Sheweth,

1. That the appellant is filing the accompanying service appeal, the contents of which may graciously be considered as integral part and parcel of the instant petition.
2. That prima facie case exist in favour of the appellant.
3. That if the impugned notification as mentioned above is not suspended the appellant will suffer irreparable loss.
4. That balance of convenience is also lies in favor of appellant and his quite sanguine of his success.
5. That in the given circumstances the suspension of operation of the impugned notification is indispensable.

It is, therefore, most humbly prayed that on acceptance of the instant petition the operation of the impugned notification for as mentioned above may kindly be suspended till the final disposal of the accompanying appeal.

Any other relief not specifically asked for may also graciously be extended in favour of the appellant in the circumstances of the case.

Dated: 14/09/2021

  
Appellant

Through

  
Attiq Ur Rehman  
Advocate High Court

6

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

Service Appeal No: \_\_\_\_\_/2021

Fazal Ur Rehman Senior Clerk (SDA)  
Head Works Irrigation Sub Division Malakand (SDA)

**APPELLANT**

**VERSUS**

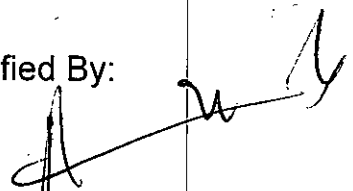
Government of Khyber Pakhtunkhwa & Others

**RESPONDENTS**

**AFFIDAVIT**

I, Fazal Ur Rehman Senior Clerk (SDA) Head Works Irrigation Sub Division Malakand (SDA) do hereby solemnly affirm and declare that all the contents of the accompanied appeal is true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Identified By:



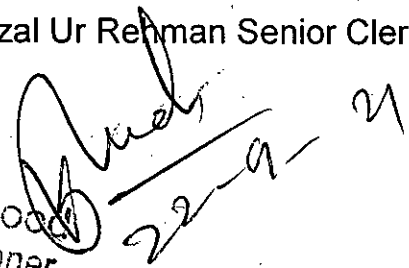
Attiq Ur Rehman  
Advocate High Court



Deponent

Fazal Ur Rehman Senior Clerk

Khalid Mahmood  
Oath Commissioner  
Peshawar High Court

  
22-9-21

7

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

Service Appeal No: \_\_\_\_\_/2021

Fazal Ur Rehman Senior Clerk (SDA)  
Head Works Irrigation Sub Division Malakand (SDA)

\_\_\_\_\_ **APPELLANT**

**VERSUS**

Government of Khyber Pakhtunkhwa & Others

\_\_\_\_\_ **RESPONDENTS**

**ADDRESSES OF PARTIES**

**APPELLANT**

Fazal Ur Rehman Senior Clerk (SDA)  
Head Works Irrigation Sub Division Malakand (SDA)  
R/O Gulshan Hayat Kaly PO SherPawo Tehsil Tangi Charsadda

**RESPONDENTS:**

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar
2. Secretary, Irrigation Department, Government of KP, Peshawar
3. Superintending Engineer, Office of the Superintending Engineer Mardan Irrigation Circle Mardan
4. Executive Engineer, Mardan Irrigation Division, Mardan
5. Executive Engineer, Malakand Irrigation Division, Malakand
6. District Comptroller of Accounts Mardan
7. District Accounts Officer Malakand

Dated: 14/09/2021.

  
Appellant

Through

  
Attiq Ur Rehman  
Advocate High Court



No. 233 /10/2-E Dated Mardan the 9 11/1995

8

656  
Ammer-A

Mr. Fazlur Rehman S/o Fatehur Rehman  
R/o Gulshan Hayat P.O.Sherpao Teh:Tangi  
Distt:Charsadda.

Subject:- APPOINTMENT AS JUNIOR CLERK

You are hereby offered a post of Junior Clerk in the time pay scale No.5 i.e. Rs.1400-66-2390 plus usual allowances as admissible under Rules and on the service conditions of Irrigation Department.

Your appointment in this Department is temporary and your services can be terminated on 15 days notice without any reasons at any time irrespective of the fact that you are holding a post other than that one on which you have been appointed or on the payment of 15 days salary in lieu of the notice. You will have to produce the following documents/certificates:-

- ✓ 1- Health & Age certificate.
- 2- Domicile certificate.
- 3- A certificate to the effect that you are not a dismissed Govt: servant.
- ✓ 4- Blank Service Book.
- 5- Matriculation certificate.
- 6- National Identity card.

You will have to join the duty at your own expenses and you will be governed by such Rules and other relating to leave, P.A. Medical Attendance, Pay, pension and Discipline etc: as may be issued by the Govt: for the category of Govt: servants to which you belong.

If you accept the post on the above conditions you should report for duty to the Executive Engineer, Malakand Irrigation Division, upto 16/01/1995 failing which the offer will be considered as cancelled.

Superintending Engineer,  
Northern Irrigation Circle,  
Mardan.

Copy to the Executive Engineer, Malakand Irrigation Division for information and necessary action.

Superintending Engineer,  
Northern Irrigation Circle,  
Mardan.

-:0:-

**ATTESTED**

Attested  
Executive Engineer,  
Malakand Irrigation Division,  
Malakand

No.233/10/2-E

Dated: Mardan

the 9/1/1995

To

Mr. Fazlur Rehman S/o Fatehur Rehman  
R/o Gulshan Hayat P.O Sherpao Teh: Tangi  
Distt: Charsadda.

Subject:-

**APPOINTMENT AS JUNIOR CLERK**

You are hereby offered a post of Junior Clerk in the time pay scale No.5, i.e. Rs.1400-66-2390 plus usual allowances as admissible under Rules and on the service conditions of Irrigation Department.

Your appointment in this Department is temporary and your services can be terminated on 15 days notice without any reasons at any time irrespective of the fact that you are holding a post other than that one on which you have been appointed or on the payment of 15 days salary in lieu of their notice. You will have to produce the following documents/certificates:-

- 1- Health & Age certificate.
- 2- Domicile certificate.
- 3- A certificate to the effect that you are not a dismissed Govt: servant.
- 4- Blank Service Book.
- 5- Matriculation certificate.
- 6- National Identity card.

You will have to join the duty at your own expenses and you will be governed by such Rules and other relating to leave, T.A, Medical, Attendance, Pay, pension and Discipline etc: as may be issued by the Govt: for the category of Govt: servants to which you belong.

If you accept the post on the above conditions you should report for duty to the Executive Engineer, Malakand Irrigation Division, upto 16/01/1995 failing which the offer will be considered as cancelled.

Superintending Engineer,  
Northern Irrigation Circle,  
Mardan.

Copy to the Executive Engineer, Malakand Irrigation Division  
for information and necessary action.

Sd/-  
Superintending Engineer,  
Northern Irrigation Circle,  
Mardan.

**ATTESTED**



OFFICE OF THE SUPERINTENDING ENGINEER  
MARDAN IRRIGATION CIRCLE MARDAN

0932-452049

(9)

Annex-B

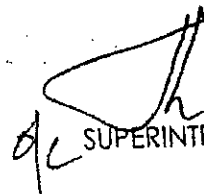
No. 2678 /10/2-E

Dated Mardan the 27/11/2020

**OFFICE ORDER:-**

In compliance with the directives of the Provincial Cabinet in its meeting dated: 18 August 2020, the following posting/transfer amongst the ministerial establishment of this Circle i.e. (Senior Clerks) is hereby ordered with immediate effect in the Public interest:-

S.No	Name of the official & Designation	From	To	Remarks
1	Mr. Muhammad Israr Senior Clerk	Malakand Irrigation Division Malakand	Mardan Irrigation Division Mardan.	Vice.No.7
2	Mr.Fazli Rehman Senior Clerk(SDA)	Dargai Irrigation Sub Division ,Dargai	Mardan Irrigation Circle Mardan.	Vice No.8
3	Mr.Israr Muhammad Senior Clerk	Mardan Irrigation Circle Mardan	Malakand Irrigation Division Malakand.	Vice No.4
4	Mr.Muhammad Azam Senior Clerk	Malakand Irrigation Division Malakand	Mardan Irrigation Circle Mardan.	Vice No,3
5	Mr.Jan Malik Senior Clerk/ Accounts Clerk	Head Works Irrigation Sub Division, Malakand	Mardan Irrigation Sub Division Mardan.	Vice No.6
6	Mr.Hussain Ali Senior Clerk	Mardan Irrigation Sub Division Mardan.	Head Works Irrigation Sub Division Malakand	Vice No.5
7	Mr.Khurshid Iqbal Senior Clerk.	Mardan Irrigation Division Mardan.	Dargai Irrigation Sub Division Dargai	Vice No.2
8	Mr.Fazal Hadi Senior Clerk	Mardan Irrigation Circle Mardan.	Baizai Irrigation Sub Division Katloug	Vice No.1

  
SUPERINTENDING ENGINEER

**ATTESTED**

Page 1 of 2



SUPERINTENDING ENGINEER,  
MARDAN IRRIGATION CIRCLE, MARDAN  
Phone No. 0937 - 9230194  
Mardan\_circle@yahoo.com

No. 1184 /10/2-E.  
Dated Mardan, the 13 /04/ 2024

10  
Annex-1

**OFFICE ORDER**

The following posting / transfer amongst the ministerial establishment of this circle is hereby ordered in the best interest of public service with immediate effect.

S. #	NAME OF OFFICIALS	FROM	TO	REMARKS
1-	Mr. Fozle Rehman Senior Clerk	Mardan Irrigation Circle Office Mardan	Malakand Irrigation Division Malakand (SDA Head Works Sub Division)	Vice No:2
2-	Mr. Anwar Ali Senior Clerk	Under transfer to Malakand Irrigation Division Malakand (Head Works Sub Division Malakand)	Mardan Irrigation Circle Office Mardan	Vice No. 1
3-	Mr. Ahmad Ali Shah Junior Clerk	Malakand Irrigation Division Malakand (Head Works Sub Division Malakand S.D.C)	Mardan Irrigation Circle Office Mardan	Against vacant post.
4-	Mr. Taimoor Khan Junior Clerk	Malakand Irrigation Division Malakand (Accounts Branch)	Malakand Irrigation Division Malakand(Head Works Sub Division Malakand S.D.C)	Vice No: 3
5-	Mr. Raham Bakhat Junior Clerk	Mardan Irrigation Division Mardan	Malakand Irrigation Division Malakand	Vice No:4
6-	Mr. Mumtaz Ali Junior Clerk	Mardan Irrigation Division Mardan	Malakand Irrigation Division Malakand	Against vacant post.
7-	Mr. Gul Faqir Junior Clerk	Malakand Irrigation Division Malakand	Mardan Irrigation Division Mardan	Vice No: 6
8-	Mr. Mir Haider Junior Clerk	Malakand Irrigation Division Malakand	Mardan Irrigation Division Mardan	Vice No:5
9-	Mr. Fozle Mula Junior Clerk	Mardan Irrigation Circle Office Mardan	Mardan Irrigation Division Mardan	Vice No:10
10-	Mr. Asad Ullah No:1 Junior Clerk	Mardan Irrigation Division Mardan	Mardan Irrigation Circle Office Mardan	Vice No:9

**ATTESTED**

SUPERINTENDING ENGINEER.

Copy of the above is forwarded for information to the:-  
1. Executive Engineer, Mardan Irrigation Division Mardan  
2. Executive Engineer, Malakand Irrigation Division Malakand  
3. District Comptroller of Accounts Mardan/Malakand for information and  
4. necessary action, please.  
Official concerned.

*[Signature]*  
Superintending Engineer

*[Signature]*  
Malakand Irrigation  
Malakand

**SUPERINTENDING ENGINEER**  
**MARDAN IRRIGATION CIRCLE MARDAN**  
 Phone No. 0937-9230194  
 Mardan\_circle@yahoo.com

No.1184/10/2-E  
 Dated Mardan, the 13/04/2021

**OFFICE ORDER**

The following post /transfer amongst the ministerial establishment of this circle is hereby ordered in the best interest of public service with immediate effect.

S#	NAME OF OFFICIALS	FROM	TO	REMARKS
1	Mr. Fazle Rehman Senior Clerk	Mardan Irrigation Circle Office Mardan	Malakand Irrigation Division Malakand (SDA Head Works Sub Division)	Vice No:2
2	Mr. Anwar Ali Senior Clerk	Under transfer to Malakand Irrigation Division Malakand (Head Works Sub Division Malakand)	Mardan Irrigation Circle Office Mardan	Vice No:1
3	Mr. Ahmad Ali Shah Junior Clerk	Malakand Irrigation Division Malakand (Head Works Sub Division Malakand S.D.C)	Mardan Irrigation Circle Office Mardan	Against vacant post
4	Mr. Taimoor Khan Junior Clerk	Malakand Irrigation Division Malakand (Accounts Branch)	Malakand Irrigation Division Malakand (Head Works Sub Division Malakand S.D.C)	Vice No:3
5	Mr. Raham Bakht Junior Clerk	Mardan Irrigation Division Mardan	Malakand Irrigation Division Malakand	Vice No:4
6	Mr. Mumtaz Ali Junior Clerk	Mardan Irrigation Division Mardan	Malakand Irrigation Division Malakand	Against vacant post
7	Mr. Gul Faqir Junior Clerk	Malakand Irrigation Division Malakand	Mardan Irrigation Division Mardan	Vice No:6
8	Mr. Mir Haider Junior Clerk	Malakand Irrigation Division Malakand	Mardan Irrigation Division Mardan	Vice No:5
9	Mr. Fazla Mula Junior Clerk	Mardan Irrigation Circle Office Mardan	Mardan Irrigation Division Mardan	Vice No:10
10	Mr. Asad Ullah No:1 Junior Clerk	Mardan Irrigation Division Mardan	Mardan Irrigation Circle Office Mardan	Vice No:9

**SUPERINTENDING ENGINEER**

Copy forwarded for information & necessary action to the:-

- Executive Engineer, Mardan Irrigation Division, Mardan.
- Executive Engineer, Malakand Irrigation Division, Malakand.
- District Comptroller of Accounts Mardan/Malakand for information and necessary action, please.
- Official concerned.

*[Signature]*  
**ATTACHED**  
**ATTACHED**

Sd/-  
**SUPERINTENDING ENGINEER**



OFFICE OF THE SUPERINTENDING ENGINEER  
MARDAN IRRIGATION CIRCLE MARDAN  
PHONE NO. 0937-9230194  
mardanirrigationcircle@gmail.com

mardan\_circle@gmail.com

No. 3297 /10/2-E

Dated Mardan the 26 /08/2021

OFFICE ORDER

The following posting / transfers amongst the Ministerial establishment of this Circle is hereby ordered with immediate effect in the best public interest.

S#	Name of officials	From	To	Remarks
1	Mr. Fazli Rahman, Senior Clerk	Head works Irrigation Sub Division Malakand (SDA)	Divisional Office Malakand.	Vice No.2 ✓
2	Mr. Jan Malik, Senior Clerk	Divisional Office Malakand.	Head works Irrigation Sub Division Malakand (SDA)	Vice No.1
3	Mr. Taimoor Khan, Junior Clerk	Head works Irrigation Sub Division Malakand (SDC)	Divisional Office Malakand.	Vice No.4
4	Mr. Nouman Khan, Junior Clerk	Divisional Office Malakand.	Head works Irrigation Sub Division Malakand (SDC)	Vice No.3
5	Mr. Zubair Khan, Junior Clerk	Mardan Irrigation Circle Mardan	Mardan Irrigation Division Mardan	Vice No.6
6	Mr. Mir Haider, Junior Clerk	Mardan Irrigation Division Mardan	Mardan Irrigation Circle Mardan	Vice No 5

SUPERINTENDING ENGINEER  
(Phone No. 9230194)

Copy forwarded for information & necessary action to the:-

1. Executive Engineer, Mardan Irrigation Division, Mardan.
2. Executive Engineer, Malakand Irrigation Division Malakand
3. District Comptroller of Accounts Mardan.
4. District Accounts Officer Malakand.
5. Official concerned

جاری شد  
مردان

  
SUPERINTENDING ENGINEER  
(Phone No. 9230194)

  
**ATTESTED**

Executive Engineer  
Malakand Irrigation  
Malakand

**OFFICE OF THE SUPERINTENDING ENGINEER**  
**MARDAN IRRIGATION CIRCLE MARDAN**  
**PHONE NO.0937-9230194**  
 mardanirrigationcircle@gmail.com

No.3297/10/2-E  
 Dated Mardan, the 26/08/2021

OFFICE ORDER

The following post /transfers amongst the Ministerial establishment of this Circle is hereby ordered with immediate effect in the best public interest.

S#	Name of officials	From	To	Remarks
1	Mr. Fazli Rahman, Senior Clerk	Head works Irrigation Sub Division Malakand (SDA)	Divisional Office Malakand	Vice No.2
2	Mr. Jan Malik, Senior Clerk	Divisional Office Malakand	Head works Irrigation Sub Division Malakand (SDA)	Vice No.1
3	Mr. Taimoor Khan, Junior Clerk	Head works Irrigation Sub Division Malakand (SDC)	Divisional Office Malakand	Vice No.4
4	Mr. Nouman Khan, Junior Clerk	Divisional Office Malakand	Head works Irrigation Sub Division Malakand (SDC)	Vice No.3
5	Mr. Zubair Khan, Junior Clerk	Mardan Irrigation Circle Mardan	Mardan Irrigation Division Mardan	Vice No.6
6	Mr. Mir Haider, Junior Clerk	Mardan Irrigation Division Mardan	Mardan Irrigation Circle Mardan	Vice No.5

/   
 SUPERINTENDING ENGINEER  
 (Phone No.9230194)

Copy forwarded for information & necessary action to the:-

1. Executive Engineer, Mardan Irrigation Division, Mardan.
2. Executive Engineer, Malakand Irrigation Division, Malakand.
3. District Comptroller of Accounts Mardan.
4. District Accounts Officer Malakand.
5. Official concerned.

Sd/-  
 SUPERINTENDING ENGINEER  
 (Phone No.9230194)

**ATTESTED**

12

Annex-E

To,

**The Hon'ble Secretary Irrigation  
Department, Khyber Pakhtunkhwa  
Peshawar**

**Subject:- DEPARTMENTAL APPEAL AGAINST IMPUGNED  
TRANSFER ORDER VIDE NOTIFICATION DATED  
26.08.2021 BY THE SECRETARY HEATH KHYBER  
PAKHTUNKHWA WITH MALAFIDE INTENTION JUST  
TO DEPRIVE THE APPELLANT FROM HIS VALUABLE  
RIGHTS.**

Respected Sir,

1. That the Appellant is peaceful and law abiding citizen of Pakistan, the Appellant is a well-qualified Pakistani National belongs to a respectable family and is the resident of District Charsadda.
2. That the Appellant was appointed in irrigation department as Junior Clerk in the year 1995. The Appellant served the respondents department with full zeal and zest resultantly he was promoted as Senior Clerk. **(Copy of Appointment Order is Annexure A)**
3. That initially the Appellant was serving at Dargai Irrigation Sub Division, Dargai, on dated 27.11.2020 the Appellant was transfer from Dargai Irrigation Sub Division, Dargai to Mardan Irrigation Circle Mardan. **(Copy of Office Order is Annexure B)**
4. That on dated 13.04.2021 Appellant without completing the tenure of 02 years at Mardan Irrigation Circle Office Mardan was premature transferred to Malakand Irrigatuion Division Malakand. (SDA Head Works Sub Division). **(Copy of Transfer Order is annexure C)**

**ATTESTED**



(13)

5. That recently the Appellant was again prematurely transferred from Head Works Irrigation Sub Division Malakand (SDA) to Divisional Office Malakand. **(Copy of Impugned Order is Annexure D)**
6. That the Appellant has not assumed the charge at Divisional Office Malakand.
7. That the Appellant is being subject to persistent acts of discrimination on continuous basis and turned to be into shuttle cocks as without observing the normal tenures of posting and transfer, the Appellate is transferred and posted again and again.
8. That the impugned transfer order dated 26.08.2021 was illegally issued whereby the Appellant was premature transferred from Head Works Irrigation Sub Division Malakanad to Divisional Office Malakand is an illegal, discriminatory, void, and unwarranted manner.
9. That persistent orders of transfer and posting of any Civil Servant / Government Servant is always hazardous and injurious to the potential and capabilities of the such civil servant / Government servant and has always been depreciated and discouraged by the Superior Courts, being always held as violation to fundamental rights and not solely to the services rights.
10. That the impugned transfer and posting orders is highly discriminatory ones and at the same time the premature transfer of the Appellant to Divisional Office Malakand without any rem and reason and without observing the law on subject while all the blue eyed ones were posted and transferred to their favourite places of posting and were left in field is highly discriminatory and void and amount to falling of the bolt from the blue upon the appellant.



14

11. That such premature transfer on such higher scale and that too whim infested with malicious intentions, at this moment give rise to many questions as the removed of officials at the help of powers having influential characters which can be availed by candidates of election campaign and for whose appeasement this reshuffling at this crucial moment of this higher scale has been carried is unwarranted and void.

**It is, therefore, humbly prayed that on acceptance of this Appeal, the Impugned Transfer Order dated 26.08.2021 of the Appellant may kindly be suspended / set aside and the Appellant may kindly be allowed to perform his duty on his respective Post.**

**Applicant**

**Dated: 27.08.2021**



**FAZAL UR REHMAN**

**Senior Clerk (SDA)**

Head Works Irrigation Sub

Division Malakand (SDA)

**Note:**

**All the relevant documents / record is attached herewith the instant Appeal.**



15-

Amex-F

## Posting and Transfer

### Statutory Provision.

### Section 10 of the NWFP Civil Servants Act, 1973.

**Posting and Transfer.** Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

### 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

<sup>1</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

1. 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.

  
**ATTESTED**

16

**ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 85**

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.
- 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  
<sup>2</sup>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. <b>DMG, PSP</b> 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.

1 Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004  
 2 Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

**ATTESTED**

**86 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]**

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-
<b>In the Secretariat</b>		
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.
- 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.

**ATTESTED**

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**ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 87**

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.

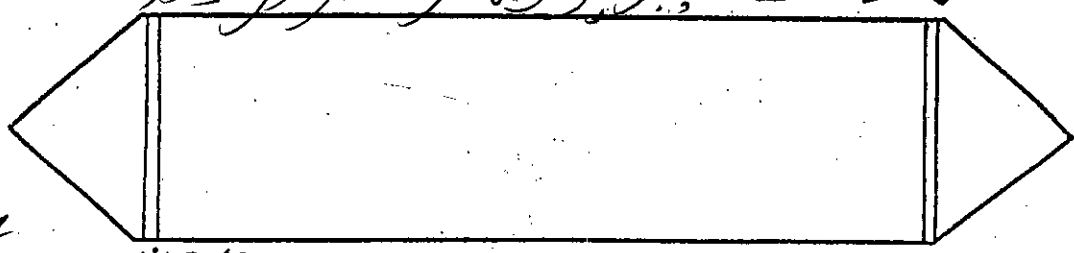
4. I am further directed to request that the above noted policy may be strictly observed /implemented.

5. 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: Latter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

**ATTESTED**

# بعدالت صبر کونو خواہ سروس ٹریڈنگ کمپنی



Appellant

2021ء منجانب

فصل الرحمن بنام گورنمنٹ آف NPIL وغیرہ

مورخہ	-----
مقدمہ	-----
دعویٰ	-----
جرم	-----

## باعث تحریر آنکے

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

*Accepted*  
*Accepted*

فصل الرحمن و قاضی

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 2021ء

\_\_\_\_\_ واہ الع

بمقام \_\_\_\_\_ کے لئے منظور ہے۔