

18<sup>th</sup> Nov, 2022

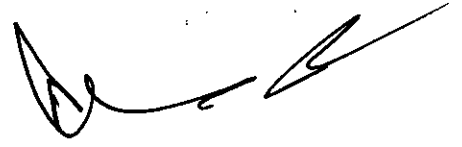
1. None present for the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present.

2. Called several times till last hours of the court but nobody turned up on behalf of the petitioner. In view of the above, the instant service appeal is dismissed in default. Consign.

3. *Pronounced in open court in Abbottabad and given under our hands and seal of the Tribunal on this 18<sup>th</sup> day of November, 2022.*



(Salah Ud Din)  
Member(J)




(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad

22.07.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and sought time for submission of reply/comments. Last opportunity given. In case the last chance as given is not availed, the next adjournment shall be subject to prior payment of cost of Rs. 5000/-, failing which the right of respondents for submission of reply/comments shall be deemed as struck off. Adjourned. To come up for submission of reply/comments on 23.09.2022 before the S.B at Camp Court Abbottabad.

SCANNED  
KPST  
Peshawar


  
(Salah-Ud-Din)  
Member (J)  
Camp Court Abbottabad

23.09.2022

Junior to counsel for appellant present.

Muhammad Jan, learned District Attorney present.

Despite last chance, respondents are absent. Therefore, all the respondents are placed ex-parte and file to come up for arguments on 18.11.2022 before D.B at Camp Court, Abbottabad.

  
(Rozina Rehman)  
Member (J)  
Camp Court, A/Abad

24.01.2022

Counsel for the appellant present. Preliminary arguments have been heard.

This appeal has been preferred to impugn the order dated 21.12.2021, whereby the appellant has been transferred from Irrigation Sub Division, Haripur to Irrigation Sub Division (Mansehra Section) purporting the transfer being in the best public interest. The remarks column in the impugned order is blank and thus it is not clear that the post against which the transfer has been made is vacant or otherwise. According to the designation of the appellant given in the impugned order, he is Beldar and as per contention of the learned counsel this is a post in BPS-02. Whether the transfer of holder of such post from one Sub Division to the other Sub Division has any expediency, need arguments from both sides. The appeal is admitted for regular hearing subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 18.02.2022 before S.B at Camp Court Abbottabad.


The appeal is accompanied by an application for suspension of the operation of impugned order dated 21.12.2021. Notice of the said application be also given to the respondents. The operation of the impugned order shall remain suspended till next date.

Appellant deposited  
Security & Process Fee  
24/1/22

  
Chairman

18-2-22



Due to retirement of worthy chairman case is adjourned. To come up for the same as before on 22/7/22.

  
Beldar

FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ 80/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/01/2022	<p>The appeal of Mr. Baber Khan presented today by Fiza Ahmad Nizami 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 S. Bench at Peshawar for preliminary hearing to be put up there on <u>24/01/2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>

*[Handwritten notes in the left margin]*

*[Handwritten notes in the middle margin]*

*[Handwritten notes in the middle margin]*

*[Handwritten notes in the right margin]*

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**CHECK LIST**

Case Title: Baber Khan V/S Govt of KPK etc.

S#	CONTENTS	Yes	No
1.	This Appeal has been presented by <u>FIZA AHMED NIZAMI Advocate</u> ✓	✓	
2.	Whether counsel / appellant / respondent / deponent have signed the requisite document?	✓	
3.	Whether appeal is within time?	✓	
4.	Whether appeal enactment under which the appeal is filed is mentioned?	✓	
5.	Whether 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 / annexure are properly paged?		
9.	Whether certificate regarding filing any earlier appeal in the subject, furnished?		
10.	Whether annexures are legible?		
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/ clear?		
13.	Whether copies 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 number 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 are attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are completed?	✓	
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 Rule 1974 rule 11, Notice along with copy of appeal and annexure has been sent to respondents? On _____		
26.	Whether copies of comments / replay/ rejoinder submitted? On _____		
27.	Whether copies of comments / replay/ rejoinder provided to opposite party? On _____		

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

Name:- FIZA AHMED NIZAMI ADVOCATE

Signature:- 

Dated:- 24/01/2022.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL CAMP COURT, ABBOTTABAD

Service Appeal No. 80 /2022

Baber Khan, Beldar, Irrigation Sub-Division Haripur.

SCANNED  
KPST  
Peshawar

APPELLANT

Government of KPK through Secretary Irrigation,  
Secretariat Peshawar & others.

RESPONDENTS

SERVICE APPEAL

INDEX

S.No.	Description of Document	Annexure	Page No.
1	Service Appeal Along-with Affidavit, Application for status-quo		1-6
2	Copy of office order	"A"	7
3	Copies of memo of appeal and TCS	"B & C"	8-9
3	Vakalat Nama	--	10

  
APPELLANT

Through:

Dated:- 23/01/2022

  
(Faiza Ahmed Nizami)  
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL CAMP COURT, ABBOTTABAD

Service Appeal No. 80 /2022

Diary No. 82

24/01/2022

Baber Khan, Beldar, Irrigation Sub- Division Haripur.

APPELLANT

Versus

1. Government of KPK through Secretary Irrigation, Secretariat Peshawar.
2. Chief Engineer, Irrigation Khyber Pakhtunkhwa, ~~Swabi~~ North Peshawar.
3. Executive Engineer, Hazara Irrigation Division, supply Abbottabad.
4. Superintendent Engineer, Irrigation Hazara Circle office at Swabi

RESPONDENTS

APPEAL U/S-4 OF KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT- 1974, AGAINST THE OFFICE ORDER  
NO. 1093/10-E DATED 21/12/2021 VIDE WHICH  
APPELLANT HAS BEEN TRANSFERRED TO  
IRRIGATION SUB-DIVISION ABBOTTABAD  
(MANSHERA SECTION) FROM IRRIGATION SUB-  
DIVISION HARIPUR.

Prayer:

ON THE ACCEPTANCE OF INSTANT APPEAL, THE  
IMPUGNED OFFICE ORDER NO.1093/10-E DATED  
21/12/2021 MAY GRACIOUSLY BE SET ASIDE AND THE  
APPELLANT MAY KINDLY BE ORDERED TO CONTINUE  
HIS SERVICES AS A BELDAR AT IRRIGATION SUB-  
DIVISION HARIPUR, AND ANY OTHER RELIEF WHICH  
WOULD BE DEEMED FIT AND PROPER IN THE  
CIRCUMSTANCES OF THE CASE MAY ALSO BE  
GRANTED TO APPELLANT.

Filed to-day

Registrar

24/11/2022

**RESPECTFULLY SHEWETH:**

1. That, the appellant is serving as a "Beldar" at Sub-Division Haripur to the entire satisfaction of high ups of the department without any stigma of any sort through out as service.
2. That, without any rhyme and reasons the appellant has been transferred to irrigation Sub-Division Abbottabad (Manshera Section) from irrigation Sub-Division Haripur, vide office order No. 1093/10-E dated 21/12/2021. **(Copy of office order is attached herewith as annexure "A")**
3. That, being not satisfied of impugned office order, the appellant immediately filed an appeal before the Respondent No. 4, but in vain. **(Copy of memo of appeal & TCS receipt are attached as annexure "B & C")**

Feeling aggrieved from the impugned office order the appellant has come to this Honourable tribunal on the following inter-alia amongst many other:-

**GROUND:-**

- a. That, the impugned order is illegal, unlawful, perverse, unilateral & against the norms of natural justice and fair play, hence, liable to be set aside.
- b. That, the appellant has been serving with the complete satisfaction of his high ups without any even a single complaint of any sort against him, in



this respect the service record of appellant could be perused.

- c. That, the appellant is a permanent resident of District Haripur and it would be not only difficult but impossible to come to District Abbottabad on daily basis with in limited amount of salary, especially when appellant have no residence what so ever at Abbottabad.
- d. That, most of the time of appellant would be consumed during travelling between two Districts.
- e. That, the impugned office order would be nothing but to corner the Appellant.
- f. That, there is no allegation of any discipline against the Appellant.
- g. That, other points would be raised at the time of arguments.

it is, therefore, humbly prayed that on the acceptance of instant appeal, the impugned office order no.1093/10-e dated 21/12/2021 may graciously be set aside and the appellant may kindly be ordered to continue his services as a "Beldar" at irrigation sub-division haripur, and any other relief which would be deemed fit and proper in the circumstances of the case may also be granted to appellant.

  
APPELLANT

Through 

Date: 23/01 /2022

(Faiza Ahmed Nizami)  
Advocate High Court

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL CAMP COURT, ABBOTTABAD**

**Service Appeal No. /2022**

**Baber Khan, Beldar, Irrigation Sub-Division Haripur.**

**APPELLANT**

**Versus**

**Government of KPK through Secretary Irrigation,  
Secretariat Peshawar & others**

**RESPONDENTS**

**SERVICE APPEAL**  
**AFFIDAVIT**

I, Baber Khan, Beldar, Irrigation Sub-Division Haripur.  
***Appellant***, do hereby solemnly affirm and declare on Oath  
that the contents of instant ***Appeal*** are true and correct to the  
best of my knowledge and belief and that nothing has been  
concealed from this Hon'ble Court.



Dated: - 23/01/2022

**DEPONENT**



5

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL CAMP COURT, ABBOTTABAD**

**Service Appeal No. /2022**

**Baber Khan, Beldar, Irrigation Sub-Division Haripur.**

**APPELLANT/APPLICANT**

**VERSUS**

1. Government of KPK through Secretary Irrigation, Secretariat Peshawar.
2. Chief Engineer, Irrigation Khyber Pakhtunkhwa, Swabi
3. Executive Engineer, Hazara Irrigation Division, supply Abbottabad.

**RESPONDENTS**

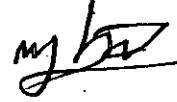
**SERVICE APPEAL**

**APPLICATION FOR SUSPENSION OF OPERATION OF  
IMPUGNED OFFICE ORDER NO.1093/10-E DATED  
21/12/2021 AND MAINTENANCE OF STATUS-QUO  
TILL THE FINAL DISPOSAL OF MAIN APPEAL .**

**Respect fully Sheweth:-**

1. That, the main appeal is being submitted in this Honourable tribunal which may graciously be treated as a integral part of the same.
2. That, the appellant has brought good Prima-Facia case in this honourable trubinal in which the appellant is hopeful of his success.
3. That, balance of convenience also tiltes in favour of appellant.


it is therefore most humbly prayed that on acceptance of instant application operation of impugned office order no.1093/10-e dated 21/12/2021 and maintenance of status-quo till the final disposal of main appeal, be ordered.



APPELLANT/APPLICANT

Through

Dated: 24/01/2022

  
(Faiza Ahmed Nizami)  
Advocate High Court

AFFIDAVIT

I, Baber Khan, Beldar, Irrigation Sub-Division Haripur. **Appellant**, do hereby solemnly affirm and declare on Oath that the contents of instant **Application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Dated:- 23/01/2022



DEPONENT



OFFICE OF THE EXECUTIVE ENGINEER  
HAZARA IRRIGATION DIVISION ABBOTTABAD  
Phone & Fax 0992-9310246.

Amr A  
③

No. 1073 / 10-E

Dated Abbottabad the 21 / 12 / 2021.

OFFICE ORDER:

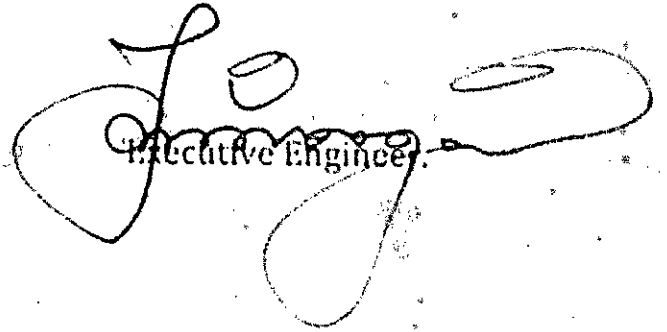
The following postings/ transfers of the following staff of this Division is hereby ordered with immediate effect in the best public interest.

S/1	Name of official	Designation	From	To	Remarks
1	Rehmat Khan	Guage Reader	Irr: S/ Divn: Haripur.	Irr: S/ Divn: Abbottabad (Shinkiari Section).	
2	Baber Khan	Beldar	Irr: S/ Divn: Haripur.	Irr: S/ Divn: Abbottabad (Mansehra Section).	

Executive Engineer.

1. Sub Divisional Officer Irrigation Sub Division Haripur for information and necessary action.
2. Sub Divisional Officer Irrigation Sub Division Abbottabad for information and necessary action. He is directed to report the attendance of officials on daily basis.

Attested  
By  
Advocate W.C.

  
Executive Engineer.

خدمت جناب سرپرست خانہ اعلیٰ، ایف آئی اے (K.P.A)

عذرت: اسلئے نظر ثانی فرمائے جانے پر حکم تیار کیا اور ڈرننگ E-1093/16  
مورثہ 21/12/2021

جناب عالی: جو عبات اسلئے ذیل ہے۔

- 1۔ یہ اسلئے ایڈیشن بطور بلڈ، گلاس فور ولڈم اور ایڈیشن ڈرننگ  
ہر ایک بلڈ بلڈ ایف عبات پر انجام دیا گیا ہے۔
  - 2۔ یہ اسلئے اسلئے ڈرننگ 2021 ہے۔ عبات میں بمشکل گزراؤں  
نہیں آتے۔ ڈرننگ کوئی ذریعہ آمدت نہ ہے۔
  - 3۔ یہ اسلئے اسلئے ڈرننگ 2021 ہے۔ عبات میں بچوں کی لگام تربیت اسلئے  
مشکل ہے۔ اور اسلئے اسلئے ڈرننگ بمشکل حکم  
عذرت اور ایڈیشن ڈرننگ اسلئے ڈرننگ اسلئے ڈرننگ  
سب ڈرننگ اسلئے ڈرننگ اسلئے ڈرننگ اسلئے ڈرننگ  
گرفت باشندے ہیں۔ گزرنے والے اسلئے ڈرننگ اسلئے ڈرننگ  
4۔ یہ اسلئے اسلئے ڈرننگ اسلئے ڈرننگ اسلئے ڈرننگ  
ڈرننگ اسلئے ڈرننگ اسلئے ڈرننگ اسلئے ڈرننگ  
نہیں ہے۔
- اسلئے اسلئے ڈرننگ اسلئے ڈرننگ اسلئے ڈرننگ  
اسلئے اسلئے ڈرننگ اسلئے ڈرننگ اسلئے ڈرننگ

نظر ثانی فرمائے جانے پر حکم تیار کیا اور ڈرننگ E-1093/16 مورثہ 21/12/2021

23/12/2021

باہر خان بیلدار (ایڈیشن)  
ایف آئی اے اسلئے ڈرننگ اسلئے ڈرننگ



Aux 2"  
9



CN: 1007012722

2021 11 23 16:11

Staff: 50436 Route: X2614

Name: ...  
Phone: 0321126214  
Address: VIII BERTAN IKA KHAMPUR

Name: ...  
Phone: 585835836033  
Address: ARTRATION KIP NEAR POLICE STATIONS  
WABI

Service Chg	0.0
Other Amount	0.0
VAS	0
Insurance Chg	0
GSI	2
Proration	

Attested  
Ez Advocates B.C.

For use of ...  
Head of ...  
UGM

HCBA Reg No. 2 4 0 - A

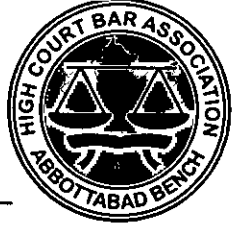
BC No. 3 10 - 3 2 3 9

Place of Practice الہ آباد

Name of Advocate صفیہ احمد لکھنوی

23509

S. No. \_\_\_\_\_



وکالت نامہ

بعدالت: صفیہ احمد لکھنوی  
 عنوان: بار کالی  
 منجانب: ایڈووکیٹ  
 نوعیت مقدمہ: سروس ایجمنٹ  
 باعث تحریر آنکھ: \_\_\_\_\_

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام سید کے لیے

نفسہ احمد لکھنوی ایڈووکیٹ یا ٹی کوڈٹ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوئے گا نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا پروڈیوٹ (تظہر) کی پیروی کرنے کے ذمہ دار نہ ہوئے گا اور مقدمہ کچہری کے علاوہ کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات میں آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا بختانہ کے واپس کرانے میں صاحب موصوف ذمہ دار نہ ہوئے گا۔ مجھ کو کل ساختہ پر دائرہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجرائے ڈگری و نظر ثانی اپیل وغیرہ درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور قائل کرنے اور ہر قسم کے بیان دینے اور اس پر ثانی و راضی نامہ و فیصلہ بر حلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے پیر و نجات از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کٹ طرفہ درخواست حکم استماعی یا ترقی یا گرفتاری قبل از گرفتاری و اجرائے ڈگری بھی صاحب موصوف کو بشرط ادا سنگی علیحدہ محتانہ پیروی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار حاصل ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے جگے یا اسے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانب سے ہوتا ہے اسے گاہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔  
 دن مہینہ سال

مضمون وکالت نامہ من لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔  
 نوٹ: اس وکالت نامہ کی نوٹ کو کاپی ناقابل قبول ہوگی۔

Accepted  
 Pige

صفیہ احمد لکھنوی