

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 9267//2020

Date of Institution ... 11.08.2020
Date of Decision ... 02.02.2021

Muhammad Iqbal S/o Sarwar Shah R/O Maria, Shahi Bala District Peshawar.
... (Appellant)

VERSUS

Executive Engineer Tubewell, Irrigation, Division Peshawar Warsak Road, Kababiyar,
Peshawar and three others.
... (Respondents)

Present.

Mr. Attaullah Khan,
Advocate. ... For appellant

Mr. Kabirullah Khattak,
Additional Advocate General ... For respondents

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. Instant appeal is preferred against the office order dated 19.09.2019, issued by respondent No.1, whereby the appellant was transferred from Tube Well KFD-49 to PH-11. He is also aggrieved from the order by the same respondent whereby the transfer/posting of appellant, as Tube Well Operator at KPD-49, was cancelled. The relevant facts, as laid in the memorandum of appeal, are that the appellant is working as Tube Well Operator in Tube Well No. KFD-49, for the last thirty (30) years. He was transferred through order dated 27.05.2019 by the concerned respondent to Tube Well PH-11 against which a departmental appeal was preferred on 06.08.2019. Consequently, the impugned transfer order was cancelled on 30.08.2019. As per claim of the appellant, due to involvement of Deputy Speaker Khyber Pakhtunkhwa Assembly the last order dated 23.08.2019 was again cancelled on 19.09.2019. Departmental appeal against the order was preferred on 26.09.2019, which remained un-responded till filing of service appeal in hand.

2. It was the contention of learned counsel that the successive transfer/cancellation orders reflected malafide on the part of respondents. Having conceded that there was no document on record to the effect of Political involvement in the case of appellant, it was asserted that the same was one of the grounds available to him.

Learned Additional Advocate General, appearing on pre-admission notice regarding the maintainability/competence of appeal due to delay, contended that there was significant delay in filing of service appeal. The same not having been explained rendered the appeal as incompetent.

3. I tend to agree with the arguments by learned Additional Advocate General. The record suggests that the last impugned order was passed on 19.09.2019 against which departmental appeal was submitted on 26.09.2019. The appeal was not responded to, therefore, the appellant was obligated to have filed a service appeal within thirty (30) days after having waited for ninety (90) days i.e. sometime in the last week of January 2020. The appellant remained indolent and did not care to observe the period of limitation for the purpose. Resultantly, instant appeal was submitted on 11.08.2020, after more than six (06) months of expiry of period provided for the purpose.

The application for condonation of delay, as submitted alongwith the appeal, also does not contain explanation for each day delay and only general grounds have been pressed into service. The ignorance of appellant has also being agitated in the application. By now it is well settled with such ground is not available to a party seeking condonation of delay.

4. In view of the above the appeal in hand is found meritless for admission to regular hearing. Dismissed in limine. File be consigned to the record room.

ANNOUNCED
02.02.2021



(HAMID FAROOQ DURRANI)
CHAIRMAN

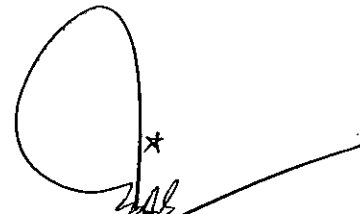
14.01.2021

Appellant alongwith his counsel present. Addl: AG for respondents present. Arguments of the learned counsel for the appellant were heard.

It was contended that the appellant has been appointed as Tubewell Operator (BPS-4) (now falls in BPS-7) on 25.09.1989. Since then he has been performing his duty as Tubewell Operator at KFD-49. However, it was on 22.05.2019 when he was transferred from KFD-49 to PH-11. The appellant filed departmental appeal dated 06.08.2019 against the said office order and which was received on 08.08.2019. His appeal was accordingly accepted and office order dated 22.05.2019 was cancelled on 23.08.2019. However, it is astonished that the same office order i.e 23.08.2019 was again cancelled on 19.09.2019 (after the passage of just 25 days). Second departmental appeal, as is evident from Annexure-E (Page 17-18) was submitted on 19.09.2019 i.e the same day and date when his restoration order was cancelled again, hence, the instant service appeal instituted on 11.08.2020. The learned counsel for the appellant was confronted with the question of limitation to justify the delay for submission of service appeal after the lapse of one year. He put forth the arguments attributing the delay to unavoidable circumstances related to enmity with another family and pandemic of Covid-19. He also relied and produced law cases/authorities i.e 2001 SCMR 1822, 2002 SCMR 155 and 2020 PLC (C.S) 282.

Learned Additional Advocate General on the other hand while referring to Section-4 of the Khyber Pakhtunkhwa Services Tribunal Act, 1974 raised the question of maintainability and opined that the delay has to be explained with plausible reasons by the learned counsel for the appellant. Moreover, the transfer orders were issued under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 keeping in view the public interest as prime objective. However, he requested for adjournment to go through the authorities submitted by the learned counsel for the appellant.

Adjourned to 02.02.2021 before S.B to determine the question of maintainability at pre-admission stage.


(Mian Muhammad)
Member(E)

25.09.2020

Appellant is present in person. He requests that his counsel is not prepare to argue the instant appeal today and requested for adjournment. Adjourned to 20.10.2020 on which to come up for preliminary arguments before S.B.

(Muhammad Jamal Khan)
Member (Judicial)

20.10.2020

The legal fraternity is observing strike today, therefore, the case is adjourned to 01.12.2020 on which to come up for preliminary hearing before S.B.

(Muhammad Jamal Khan)
Member (Judicial)

01.12.2020

Appellant is present alongwith his counsel.

For certain unavoidable reasons I am unable to dispose of the instant service appeal bearing No. 9267/2020 Captioned Muhammad Iqbal Versus Executive Engineer Tubewells and three other respondents, therefore, the instant appeal is submitted before the Hon'ble Chairman of this august Service Tribunal for appropriate order in the matter. The appellant as well as his respective counsel are directed to appear before the worthy Chairman on 14.01.2021 before S.B.

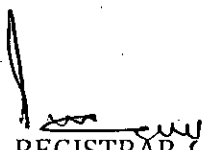

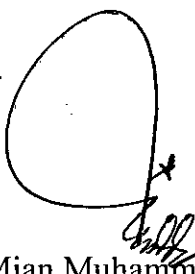
(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 9267 /2020 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/08/2020	<p>The appeal of Mr. Muhammad Iqbal presented today by Mr. Attaullah 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-	20.08.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/08/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the appellant present.</p> <p>Preliminary arguments to some extent heard. Let pre-admission notice be issued to the learned Additional Advocate General to assist the Tribunal regarding the issue of limitation of the instant appeal.</p> <p>Adjourned to 25.09.2020 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member(E)</p>

**BEFORE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

In Re: Service Appeal No. 9257 /2020

Muhammad Iqbal s/o Sarwar Shah

..... Appellant

Versus

Executive Engineer Tubwells, Irrigation, Division Peshawar and others

..... Respondents

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Atta Ullah Khan
AHC

MAK
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④

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Re: Service Appeal No. 9267 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8624

Dated 11/8/2020

Muhammad Iqbal s/o Sarwar Shah
R/O Maria, Shahi Bala, District Peshawar

..... Appellant

Versus

1. **Executive Engineer Tubwells, Irrigation, Division Peshawar**
Warasak Road, Kababiyān, Peshawar
2. **Secretary Irrigation Department , Government Khyber
Pakhtunkhwa**
Police Lane Road, Finance Department, Civil Secretariat, Peshawar
3. **Superintending Engineer Tubwells Irrigation, Division Peshawar**
Warasak Road, Kababiyān, Peshawar
4. **Sub Divisonal Officer, Tubwells Irrigation, Sub-Division Peshawar**
Warasak Road, Kababiyān, Peshawar

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHAWA SERVICE TRIBUNAL ACT 1974,
AGAINST THE IMPUGNED OFFICE ORDER NO.
2735/33-F, DATED 19/09/2019, WHEREAS THE
APPELLANT TRANSFERRED ORDER VIDE NO.
2563/67-M, DATED 23/08/2019, WAS CANCELLED,
LIKEWISE THE DEPARTMENTAL APPEAL FILED BY
THE APPELLANT AGAINST THE SAID IMPUGNED
OFFICE ORDER BEFORE THE RESPONDENT No.03,
WAS NOT REPLIED WITHIN STATUTORY PERIOD.

Filed to-day

Registrar
11/8/2020

Respectfully Sheweth,

Appellant humbly submits as under;

1. That the appellant is permanent resident of Shahi Bala, District Peshawar and he is working as tubwell operator in tubewell no. KFD-49 for last of 30 years and whereas respondents are officials of Irrigation Department of Government of Khyber Pakhtunkhwa.

Copy of appellant CNIC at Annexure-A

2. That the appellant father had donated land for the tubewell no. 49-KFD for a long time ago and initially appellant father was appointed as tubewell operator on the said tubewell. After death of appellant father, he was appointed as tubewell operator on deceased son quota vide order no. 3422/33-B dated 25/09/1989.

Copy of appointment order at Annexure-B

3. That the appellant is honest, hard worker and devoted person and he is performing his duties as tube well ^{operator} at tube well no. 49-KFD with full of zeal and without any kind of complaint from vicinity of the tube well area.
4. That the appellant was transferred by the respondent No.4 on direction of KP Assembly Deputy Speaker, Mr. Muhamood Jan on basis of political victimization and personal political grudges.

Copy of transfer order dated 22.05.2019 at Annexure-G-A

5. That the appellant filed departmental appeal before the respondent-1, against transfer order dated 22.05.2019 and which was allowed and transfer order was cancelled vide order no. 2563/67-M dated 23/08/2019.

Copies of departmental appeal and cancellation transfer order dated 23/08/2019 at Annexure-C

6. That unfortunately, Deputy Speaker Khyber Pakhtunkhwa Assembly, Mr. Muhmood Jan again intervened and directed to the respondent-1 for cancellation of transfer order of appellant and the said officer cancelled transfer order of the appellant vide order no. 2735/33-F dated 19/09/2019.

Copy of cancellation order dated 19/09/2019 at Annexure-D

7. That the appellant again filed department appeal before the respondent No. 3 on 26/09/2019 and still pending.

Copy of departmental appeal before Superintending Engineer Tubewells at Annexure-E

That tubwell operator who was transferred in appellant place has been retired recently and the post of tubewell operator at 49-KFD is vacant. Now, there is no one to operate the Tubewell and a lot of irrigated land changing into barren and colossal lost not only to owners of the land but government exchequer to also.

Copy of retirement of tubewell operator at Annexure-F

8. That the owners of land irrigated from tubwell 49-KFD requested to Executive Engineer, Tubewells, Peshawar for transfer of the appellant to 49-KFD tubwell because due his transfer their land were become barren due to non-availability of water at time.

Copy of letter from land owners to XEN at Annexure-G

9. That ,hence appellant having no other efficacious remedy to avail except to approach this Honourable Tribunal, *inter alia*, on the following:

Grounds

- A. That appellant rendering meritorious services for irrigation department spreading over many years and have earned "outstanding and very good reputation from the department". Similarly Petitioner integrity has never been called into question by any irrigation Officer of the department.
- B. That the impugned action of the official Respondents is also repugnant to Articles 04, 25, 27 and 38 of the Constitution of the Islamic Republic of Pakistan 1973 as the appellant has been treated discriminately by the official Respondents and similarly the appellant has been deprived of his lawful right of future prospects, hence the impugned action of the Respondents is liable to be interfered with on the basis of law laid down by the Superior courts of Pakistan. Departmental Authorities are bound to decide the grievance of their subordinates with application of independent judicial mind, fairly, justly and with reasons and those reasons must be communicated to the concerned, whereas in the instant matter the official Respondents have acted in sheer violation of natural justice and prescribe law.
- C. That the appellant was transferred from one place to another without any reason and justification in a short span of time is against posting and transfer policy.
- D. That as per judgments of the apex courts, repeated transfers in a short span of time are against the law

and rules and the same reduce faith and confidence of a servant.

E. That authority is to be exercised according to rational reasons which means that there be finding of primary facts based on good evidence, decisions about facts be made for reasons which serve the purpose of statute in an intelligent and reasonable manner. Actions which do not meet these threshold requirements are considered arbitrary, mala fide and mis-use of power. It is further submitted that the object of good governance cannot be achieved without application of mind. Such objectives cannot be achieved by exercising discretionary powers unreasonably, mala fide, arbitrarily and without application of mind. Rather it can be achieved by following rules of justness, fairness and openness in consonance with command of Constitution.


F. That the tubwell operator post at 49-KFD, tubwell is vacant recently and the same is going to filled through political intervention.


G. That the appellant is father of five daughters and one son and all of them are attaining education from different educational institutions, Peshawar and the appellant transferred had badly affected to their education because the appellant provide pick and drop facilities to them.

H. That further assistance shall be made at the time of arguments after due permission of the court.

Prayer: Considering the above submissions, it is humbly prayed that on acceptance of the appeal, order no. 2735/33-F dated 19/09/2019 be set as side by restoring order no. 2563/67-M dated 23/08/2019 with all services benefits.

Any other relief deemed appropriate may please also be granted to the appellant.

Appellant 
Through counsel


Atta Ullah Khan
AHC

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**BEFORE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

In Re: Service Appeal No. _____/2020

Muhammad Iqbal s/o Sarwar Shah

..... Applicant

Versus

Executive Engineer Tubwells, Irrigation, Division Peshawar and Others

..... Respondents

APPLICATION FOR INTERIM RELIEF

Respectfully Sheweth,

Applicant humbly submits as:

1. That the applicant filed the subject appeal before this Honourable Tribunal today.
2. That no reason in order of transfer has been given but the same was made within a short span of time which is against posting and transfer policy.
3. That prima facie case exists, balance of convenience lies in favour of applicant and is hopeful of the success of the appeal.
4. That the post of applicant is still lying vacant after retirement of tubewell operator at 49-KFD tubewell.
5. That facts and grounds of the appeal be treated as integral part of this application for granting of interim relief.

It is, therefore, humbly requested that the office order vide order no. 2735/33-F dated 19/09/2019 may be suspended till final decision of this appeal.


Atta Ullah Khan
AHC

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Resp; C.M No. _____/2020

Muhammad Iqbal s/o Sarwar Shah

.....Applicant

Versus

**Executive Engineer Tubwells, Irrigation, Division Peshawar and
Others**

.....Respondents

Application for condonation of delay

Respectfully Sheweth,

Applicant humbly submits as under;

1. That the captioned title case is filed before this honorable court and the date has not been fixed yet.
2. That the applicant filed departmental appeal before the respondent No. 2 dated: 26.09.2019 and the said respondent did not reply within statutory period.
3. That the applicant has not filed departmental appeal before this honorable tribunal within time due to unavoidable circumstances which is neither deliberate nor intentional. Moreover, the appellant is a lucid and simple person and does not know law regarding to file departmental appeal before this honourable court within specified time.
4. That the applicant constrained to file department appeal within time due to pandemic of covid-19 in all over the world at the beginning of this year and affected the Pakistan to a great extent also. The whole life in Pakistan has been effecting and lockdown has observed in the most of area in Pakistan. Khyber Pakhtunkhwa Service Tribunal was also closed during the pandemic.
5. That the applicant family enmity with other family and it is hard for him to freely movement in District Peshawar and his life became miserable and danger when life threat messages were started from beginning of this year and continue till now.

- 6. That the applicant is a destitute person and he was not enough amount to bear fee of counsel for filing his appeal within time before this honourable Court because he is a big family and he is alone earner to feed his family. Now he has engaged a counsel for his case before this honourable court who can appear on his behalf in the court without claiming any kind of fee.
- 7. That there are sufficient and plausible reasons for the acceptance of the present application and condone the delay in filing the appeal.

PRAYER

It is therefore humbly requested that on acceptance of the instant application may be allowed and delay in filing the appeal before this honourable court may kindly be condoned in the interest of justice.

Or

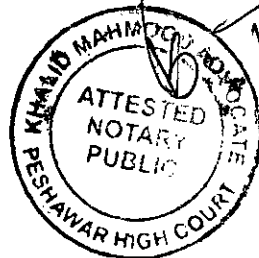
Such other order may also be passed as deemed fit and proper in the facts and circumstances of the case.

Atta Ullah Khan
Atta Ullah Khan
AHC

MAK
Law offices
Liberty Mall, University Road, Peshawar
Mobile: 03499333844
Email: atakhan11@yahoo.co.uk

Affidavit

As per information furnished by my client that the contents of this application are true and correct to the best of his knowledge and belief.



Khaid Mahmood Khan
11-8-20

Atta Ullah Khan
DEPONENT

To

Mrs. Muhammad Iqbal s/o Sarwar Shah (retired / civil coparator),
village Haiza Shahi Bala, P/S Nasir Bagh,
Tehsil and Distt. Peshawar.

Subject:-

APPOINTMENT OF Tube Well Operator

You are hereby offered a post of Tube well operator on 10/10/1989 at Rs. 675/- P.M. in the basic pay scale No. 4 i.e. Rs. 675-22-1115 plus usual allowances as admissible under the rules.

Your appointment is purely temporary and can be terminated on 15 days notice on either side without assigning any reasons irrespective of the facts that you are holding a post other than one to which you are originally recruited or on the payment of 15 days salary in lieu of the notice.

You will also produce the following:-

1. Domicile Certificate.
2. A certificate to the effect that you are not a dismissed Government Servant.
3. Health and Age Certificate.
4. Declaration Form duly signed by you.

You will be governed by such rules and orders that may be issued from time to time for such category of Govt. servants to which you belong. Your services could be terminated without assigning any reasons if you are found guilty of mis-conducts or breach of service rules.

This offer is subject to the conditions that you fulfill necessary service entry requirements and you are not over/underage.

If you accept the offer on the above conditions you should report for duty to the S.D.O. Tubewells Irrigation Sub Division Peshawar and produce all the above documents to him for further necessary action.

This offer will be considered as cancelled if no reply is received within 10 days from the receipt of this offer.

This offer issued with the approval of Departmental Selection Committee.

[Signature]
EXECUTIVE ENGINEER,
TUBEWELLS IRRIGATION DIVISION,
PESHAWAR.

Copy forwarded to the following:-

- 1/ Accountant General NWFP, Peshawar for information.
- 2/ S.D.O./Well Irrigation Sub Division Peshawar for information.
- 3/ P.O. (Local).

[Signature]
ATTESTED EXECUTIVE ENGINEER,
TUBEWELLS IRRIGATION DIVISION,
PESHAWAR.

to be true copy
Advocate.

Transfer No. 1
order

Annexure-e-A

(12)

SUB-DIVISIONAL OFFICER,
TUBEWELLS IRRIGATION,
SUB-DIVISION PESHAWAR.
No. 449 19-E,
Dated Pesh: the 22/05/2019.

OFFICE ORDER.

The following official will perform their duties, Tubewell No noted against each
all further in best interest of Government with immediate effect.

S.No	Name & Designation	From	To
1	Muhammad Iqbal (T/Well Operator)	KFD-49	PH-11
2	Shamsul Qamar (T/Well Operator).	PH-11	KFD-49

Sub-Divisional Officer,
Tubewells Irr:Sub-Division,
Peshawar.

Copy to:-

1. Executive Engineer, Tubewells Irrigation Division Peshawar for information please.
2. Official concerned.

Sub-Divisional Officer,
Tubewells Irr:Sub-Division,
Peshawar.

Jaw
ATTESTED

to be true copy
Advocate

(جو کہ منظر پر تھا) Cancellation of job - OP XEN پی کے آئی

U. NO. 213/67-M Annexure-C
dated = 8/9/2019

**BEFORE THE EXECUTIVE ENGINEER TUBEWELLS
IRRIGATION DIVISION PESHAWAR**

Subject: Departmental Appeal against the office order dated 22.05.2019 communicated to the appellant on 05.08.2019 whereby the appellant has been transferred from Tubewell No. KFD-49 to PH-11 Tubewell.

Respected Sir,

1. That the appellant had donated land for the Tubewell No. (KFD-49) since long and was accordingly appointed as Tubewell Operator in the year 1989.
2. That since appointment, the appellant performed his duties with honesty and full devotion and to the entire satisfaction of high ups.
3. That the appellant has been transferred vide office order dated 22.05.2019, however, copy of impugned order was obtained by the appellant on 05.08.2019. (Copy of office order is enclosed as Annexure "A").
4. That the impugned order dated 22.05.2019 is illegal, unlawful and liable to be set aside on the grounds inter alia as follows:

GROUND S


- A. That the impugned order is illegal and void ab initio.

Amir
ATTESTED
to be true copy
Advocate


Received
8/8/19

- B. That the impugned order is not in consonance with law and rules governing the matter.
- C. That the post of Tubewell Operator being local one, the transfer order is as such not maintainable.
- D. That the transfer order is based on malafide as the same has been made on political basis.
- E. That the appellant is appointed in the Tubewell for which he has donated land and as such he cannot be transferred.
- F. That there is no complaint whatsoever against the appellant during his long service career and as such entitled to perform his duties at his old place of duty.

It is, therefore, prayed that on acceptance of this appeal, the impugned office order dated 22.05.2019 may kindly be set aside and the appellant may kindly be allowed to perform his duties at Tubewell No. (KFD-49).


Mohammad Iqbal
S/o Sarwar Shah (R) Subedar (Pak Army)
Tubewell Operator Mera Shahi Bala,
Tehsil & District Peshawar.
Cell # 0345-8854709

Dated: 06.08.2019


ATTESTED
to be true copy,
Advocate

Cancellation of transfer No-1 by XEN

15

EXECUTIVE ENGINEER
TUBEWELLS IRR: DIVISION
PESHAWAR.
No. 2583/67-M,
Dated Pesh: the 23/08/2019.

OFFICE ORDER.

Office-order issued vide S.D.O Tubewells Irrigation Sub Division Peshawar vide his No.449/19-E dated: 22/05/2019 is hereby cancelled.

The official Muhammad Iqbal Tubewell Operator is hereby directed to perform his duty on Tubewell No. KFD-49.

EXECUTIVE ENGINEER
TUBEWELLS IRR: DIVISION
PESHAWAR.

Copy to the:-

1. S.D.O Tubewells Irrigation Sub Division Peshawar with reference to the above for information and necessary action please.
2. Sub Engineer incharge for information.
3. Official Concerned.

EXECUTIVE ENGINEER
TUBEWELLS IRR: DIVISION
PESHAWAR.

ATTESTED

to be true copy
Advocate

Transfer No. 2

Annexure-D

16



OFFICE OF THE EXECUTIVE ENGINEER
TUBEWELLS IRRIGATION DIVISION PESHAWAR.

Phone No. 091-9222731

Email: tidpeshawar001@gmail.com

Twitter: Tubewells Irrigation Divn Peshawar

Facebook: Tubewells Irrigation Peshawar

No. 2735/33-F

Dated Peshawar the 15/09/2019

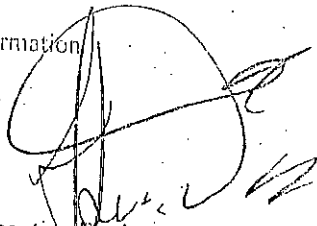
OFFICE ORDER.

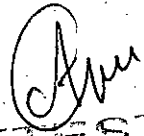
In response to this office order No. 2563/67-M dated ~~23/08/2019~~ regarding posting/transfer of Mr. Muhammad Iqbal T/Well Operator at KFD-49 is hereby cancelled with immediate effect in the best public interest.

Executive Engineer,
Tubewells Irr: Division,
Peshawar.

Copy of the above is forwarded to the

1. SDO T/Well Irrigation Sub Division Peshawar for information
2. Head Clerk (local)
3. Official Concerned


Executive Engineer,
Tubewells Irr: Division,
Peshawar.


ATTESTED

to be true copy
Advocate


Before the Superintending Engineer, Tubewells Irrigation
Division Peshawar.

Subject

DEPARTMENTAL APPEAL AGAINST THE OFFICE ORDER
NO. 2735/33-E DATED 19.09.2019 COMMUNICATED TO
THE APPELLANT ON 19.9.2019 WHEREBY THE
APPELLANT HAS BEEN TRANSFERRED FROM TUBEWELL
NO. KFD- 49 TO PH- 11 TUBEWELL.

Respectfully Sheweth:

1. That the appellant had donated land for the Tube well No. KFD 49 since long and was accordingly appointed as Tube well Operator in the year 1989.
2. That since appointment the appellant performed his duties with honesty and full devotion and to the entire satisfaction of high ups.
3. That appellant filed an complaint against the chowkidar Salahudin Tube Well No. KFD- 49 on which explanation of the Chowkidar Salahudin was called by SDO Tube Wells Irrigation Sub Division Peshawar on 08.05.2019. **Copy of compliant and explanation letter dated 08.05.2019 is attached herewith.**
4. That astonishingly SDO Tube Wells Irrigation Sub Division Peshawar issued the transferred order of appellant from KFD 49 to PH- II dated 22.5.2019. **copy of order is attached here with.**
5. That against the said order appellant filed an appeal which was accepted and the appellant was Transferred to previous position vide office order dated **23.8.2019. Copy of the order attached herewith.**
6. That the appellant has been again transferred vide office order dated 19.9.2019. **copy of office order is enclosed as annex "A".**


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7. That the impugned order dated 19.9.2019 is illegal unlawful and liable to be set aside on the grounds inter alia as follows:

GROUNDS

- A. That the impugned order is not consonance with law and rules governing the matter.
- B. That the post of Tube well Operator being local one the transfer order is as such not maintainable.
- C. That the transfer order is based on malafide as the same has been made on political basis.
- D. That the appellant is appointed in the Tube well for which he has donated land and as such he cannot be transferred.
- E. That there is no complaint whatsoever against the appellant during his long service career and as such entitled to perform his duties at his old place of duty.

It is therefore, humbly prayed that on acceptance of this appeal the impugned office order dated 19.9.2019 may kindly be set aside and the appellant may kindly be allowed to perform his duties at Tube Well No. KFD-49.

Yours Sincerely

Muhammad Iqbal

S/o Sarwar Shah
Subedar (Pak Army) Tube Well Operator Mera Shahi Bala, Tehsil and District Peshawar.

Cell No. 0345 8854709

Received

SEP 22

With H-007 o/k
(2019/2019)

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Advocate



OFFICE OF THE EXECUTIVE ENGINEER
TUBEWELLS IRRIGATION DIVISION PESHAWAR.

Phone No. 091-9222731

Email: tidpeshawar001@gmail.com

Twitter: Tubewells Irrigation Divn Peshawar

Facebook: Tubewells Irrigation Peshawar

No. 6.11 133-E

Dated Peshawar the 02/06/2020

OFFICE ORDER

Mr. Shamsul Qamar T/Well Operator BPS-07 his date of birth 16/05/1960 attached to this Division shall stand retired from service with effect from 15/5/2020 (A.N) on completion of qualifying 40years 02 months and 6 days service on superannuation of 60 years of age.

Sanction is also accorded to the grant of 365 days lump sum payment in lieu of LPR in favour of the above named official, subject, to the provision that such leave is available i.e 1920 days at his credit, under Khyber Pakhunkhwa Civil Servants Revised Leave Rule 1981 Amended) read with Finance Department Notification NO SO (FR)/FD/5-92/2005/Vol-V dated 13/12/2012.

Executive Engineer,
Tubewells Irr: Division,
Peshawar.

Copy to the:

1. Accountant General Khyber Pakhtunkhwa Peshawar for information Please.
2. All Sub-Divisional Officers in T/wells Irr: Division Peshawar for information and informing the official accordingly.
3. D.A.O/HC/Pay Clerk (Local) for information and necessary action. The pay of the above named official may be stopped from 31/5/2019 accordingly.

ATTESTED

Executive Engineer,
Tubewells Irr: Division,
Peshawar.

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Advocate

Annexure - G

محکمہ خراج - ایئر بیئر ڈیویژن - یو۔ پی۔ ایئر بیئر ڈیویژن سب ڈویژن لیٹا اور

ضابطہ عالی 1

موجودہ التماس یہ ہے کہ یہ علاقہ کے صدر زمینداروں کے ملکوں جاگیردار/ زمینداران ٹیوب ویل 49-KFD سے باقاعدہ وار بندی کے تحت اپنے اپنے اوقات میں اپنی فصلوں کے لیے پانی حاصل کرتے ہیں اور مستفید ہو رہے ہیں۔

لیکن بد قسمتی سے مذکورہ ٹیوب ویل 49-KFD کے ایئر بیئر محمد اقبال کو ایک سال پہلے ٹیوب ویل 11-PH کو ٹرانسفر کر دیا گیا تھا۔ جس پر ہم سب کو ناراضگی اور

آفسوس ہے۔ کیونکہ ایئر بیئر محمد اقبال سے ہم مطمئن تھے اور صحیح ڈیویژن دے رہا تھا۔ اور تعاون کرتا تھا۔ اور یہاں کا مکانی رہنے والا بھی ہے۔

لہذا ہم علاقے کے جملہ زمینداران/ ملکوں جاگیردار ایضا جہاں سے پُر زور مطالبہ کرتے ہیں کہ ہمارے فصلوں اور ہم سب اچھے مفاد کے خاطر ایئر بیئر محمد اقبال کا

ٹرانسفر اردو نمرے 2735/33-E کی فی الفور منسوخ کر کے ایئر بیئر محمد اقبال کو دوبار ٹیوب ویل 49-KFD پر ڈیویژن کرنے کے احکامات صادر فرمائیں۔
19-9-2019

موضوع: 2/04-2020

ہم سب کے مشترکہ دستخط

درخواست دینے والے ملکوں جاگیردار

Khanilair
3/04/2020

ذرائع 1/10-2020

محمد طاہر

آثار جان

حاجی جانشان

صوبہ راجستھان

محمد عظیم خان

3.4.2020

27-4-2020

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POWER OF ATTORNEY

**BEFORE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

In Re: Service Appeal No. _____/2020

Muhammad Iqbal s/o Sarwar Shah

..... *Appellant*

Versus

**Executive Engineer Tubwells, Irrigation, Division Peshawar
and Others**

.....*Respondents*

By this, power-of-attorney I/we, the said **Muhammad Iqbal, appellant,** undersigned, do hereby nominate and appoint **Atta Ullah Khan AHC** to be counsel/s in the above matter for me/us and on my/our behalf as agree to appear plead act and answer in the above Court/Authority/Tribunal or any appellate court or any other court to which the business in transferred in the above matter as and is agreed to sign the file Petitions, Appeals, Statement, Accounts, Exhibits, Compromises or other documents whatsoever, in connection with the said matter or any matter arising therefore and also to apply for receive all documents or copies of documents, depositions etc. and to apply for and issue summons and other writes or sub poena and to apply for and get issued any arrest attachments or other execution, warrants or order and to conduct any proceedings that may arise there out; and reply for and receive payment of any or all sums or submit for the above matter arbitration, and to employ and other legal practitioner, authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so, any other lawyer may be appointed by may said counsel to conduct the case who shall have the same persons.

And to do all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may by proper and expedient.


And I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of these powers or as is the usual practice in such matters.

Provide always, that I/we under that at the time of calling case by the court if the case may be dismissed in default, if it be proceeded *ex-parte* the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right IN WITNESS WHEREOF I/WE has hereto signed at **Peshayar** ___ day of **August** in the year **2020**.



Signature
(Executant/Executants)

Accepted subject to the terms regarding fee.


Atta Ullah Khan
AHC
BC No. bc-11-2201
MAK

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