

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 56/2019

Date of Institution ... 11.01.2019

Date of Decision ... 09.07.2019

Javed Inam Khan Hoti, Tehsildar, (CCB) (BPS-16),
Presently serving as Reader to Additional Commissioner,
Mardan Division, at Office of the Additional Commissioner, Mardan.

... (Appellant).

VERSUS

Chief Secretary Khyber Pakhtunkhwa Peshawar and three others.

... (Respondents)

Present.

Mr. Rehman Ullah Shah,
Advocate.

... For appellant

MR. HAMID FAROOQ DURRANI,

... CHAIRMAN

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. Learned counsel for the appellant argued that the appellant is essentially aggrieved from the order dated 25.05.2018, whereby, he was repatriated to his parent department with immediate effect. The appellant was working as Tehsildar/Recovery Officer, PESCO, Khyber Circle, Mardan at the relevant time.

2. Learned counsel for the appellant heard and available record gone through.



3. The record suggests that on 04.05.2017 a notification was issued whereby the appellant was posted/transferred as Tehsildar Kalkot (CCB) Dir Upper while working as Assistant, Office of the Commissioner, Mardan. He assumed the charge on 10.05.2017. On 24.10.2017, the appellant was posted/transferred to work as Tehsildar/Recovery Officer (CCB) PESCO, Mardan, while on 25.05.2018, the impugned order was passed.

4. It is not denied that the original position of appellant was of an Office Assistant at the office of Commissioner Mardan when he was firstly transferred as Tehsildar but on current charge basis. Similarly, his transfer and posting as Tehsildar/Recovery officer, PESCO, Mardan was also on current charge basis. The matter of repatriation of civil servants to their parent office while working on current charge basis has been adjudicated upon and decided by this Tribunal in a number of appeals through judgment handed down in appeal No. 1113/18 on 25.01.2018. It was, inter-alia, held that acting charge appointment/posting shall not confer any vested right upon a civil servant.

5. In the instant appeal, the appellant has prayed for cancellation of order dated 25.05.2018 and continuation of his service at the post of Tehsildar/Recovery officer PESCO, Mardan. In the alternative, a request for his posting as Tehsildar on current charge basis to any other station is made through the memorandum of appeal. The posting/transfer of appellant as Tehsildar on current charge basis was due to exigency of service and was by no means a promotion. Having performed his duties as

such the appellant was repatriated to his parent department through the impugned order which was neither in violation of Posting/Transfer policy of the Provincial Government nor to the detriment of any term or condition of service of the appellant. The appeal in hand is, therefore, considered meritless for the purpose of admission for regular hearing and is, accordingly dismissed in limine. File be consigned to the record room.




(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
09.07.2019

20.03.2019

Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 18.04.2019 before S.B.


(Hussain Shah)
Member

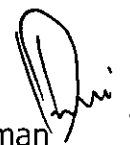
18.04.2019

Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 29.05.2019 before S.B.


Member





29.05.2019

Learned counsel for the appellant requests for adjournment in order to further prepare the brief. Adjourned to 09.07.2019 for preliminary hearing before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 56/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/1/2019	<p>The appeal of Mr. Javed Inam Khan presented today by Mr. Rehman Ullah 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 11/1/2019</p>
2-	16-1-19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13-2-19</u>.</p>
	13.02.2019	<p>Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is not in attendance. Adjourn. To come up for preliminary hearing on 13.02.2019 before S.B.</p> <p style="text-align: right;"> CHAIRMAN</p>
	13.02.2019	<p>Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is busy before Hon'ble Peshawar High Court Peshawar. Adjourn. To come up for preliminary hearing on 13.02.2019 before S.B.</p>
	14.02.2019	<p>Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 20.03.2019 before S.B.</p> <p style="text-align: right;"> Member</p>
		<p style="text-align: right;"> Member</p>

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal No. 56 /2019

Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16)

Presently serving as Reader to Additional Commissioner Mardan Division, Mardan

APPELLANT

VERSUS

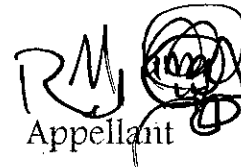
Chief Secretary Khyber Pakhtunkhwa Peshawar & Others

RESPONDENTS

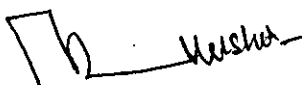
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9.	Wakalatnama		

Dated: 10/01/2019


Appellant

Through


Rehman Ullah Shah
Advocate High Court

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR

Service Appeal No: 56 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 49

Dated 11-01-2019

Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16)
Presently serving as Reader to Additional Commissioner,
Mardan Division, at Office of the Additional Commissioner, Mardan

APPELLANT

VERSUS

- 1 Chief Secretary Khyber Pakhtunkhwa Peshawar
Khyber Pakhtunkhwa at Civil Secretariat, Khyber Road, Peshawar
- 2 Board of Revenue, Khyber Pakhtunkhwa through SMBR
at Jail Road, Civil Secretariat, Peshawar
- 3 Senior Member Board of Revenue Khyber Pakhtunkhwa Peshawar
at Jail Road, Civil Secretariat, Peshawar
- 4 Commissioner Mardan Division, Commissioner House, Mardan

RESPONDENTS

**SERVICE APPEAL U/ S 04 OF THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE INITIAL IMPUGNED OFFICE
ORDER NO. DATED 25/05/2018, AND ESTT. I/ PF/ JAVED INAM/
40012, DATED 20/ 12/ 2018 OF THE OFFICE OF THE MEMBER
BOARD OF REVENUE, KHYBER PAKHTUNKHWA PESHAWAR
WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT WAS
DISMISSED IN CURSORY MANNER VIDE ORDER DATED 20/12/18**

Respectfully Submitted as under;

1. That the appellant was initially appointed as Assistant (BPS-14) in the Commissioner Office Mardan Division, Mardan on dated 29/06/2009 who served the Respondents (department) with full zeal and zest.
2. That in the years 2017 Respondents/ Department faced deficiency of Tehsildars, thereby the appellant being the most senior in his cadre was promoted/ appointed/ adjusted as Tehsildar Kalkot (CCB) Upper Dir, Kohistan vide office order dated 04/05/2017.

[Copy of Order is Annexure A]

Filed to-day

Registrar
11/1/19

3. That the appellant assumed the charge as Tehsildar, and discharged his professional liabilities without any interruption. It is worth to mention here that the service of the appellant was remarkable therefore; he was further transfer/posted as Recovery Officer (CCB) PESCO vides order dated 24/10/2017.

[Copy of Charge Report and transfer order is annexure B-C]

4. That after about 06 months therein, the appellant was repatriated without any reason to the parent department/Commissioner Office Mardan Vide the impugned dated 25/05/2018.

[Copy of Impugned Order is attached as Annexure D]

5. 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.

6. That this was the background that yet another, herein impugned Notification dated 25/05/2018 was illegally issued whereby the Appellant were repatriated to his parent office in an illegal, discriminatory, void, and unwarranted manner.

7. That before passing on to the grounds of the instant Petition, it is pertinent to mention that the Appellant is holding the substantive pay scale of Assistants (BPS-16), but having the ability and potential, otherwise eligible as well, have been transferred and posted as Tehsildar on Current Charge Basis (CCB), wherein his rights is protected and governed by Rule-9 of the Transfer, Promotion and Appointment Rules 1989.

[Copy of the rule 9 is annexed as annexure "E"]

8. That feeling aggrieved the appellant preferred departmental appeal but that was dismissed even without any reason and without speaking order. [Copy of the Departmental appeal and Order is annexed as annexure "F & F -1")

9. That the Appellant was repatriated to his parent office while the favorites and blue eyed were simply transferred and posted to other field duties at the same time in sheer discrimination.

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.-

GROUNDS.

- 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 repatriating of the Appellant to his parent department 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 reshuffling 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 without going in to minute details it would be suffice to mention here that persons who is holding same positions of responsibility on Current Charge Basis to other field offices instead of repatriating all the officials working on CCB to the parent department and thus only the Appellant were subject to unfettered discrimination and even only on this score both 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 on Current Charge Basis 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 repatriated to parent department 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 dismissed 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 notification dated 25/05/2018 and of the office of Senior Member Board of Revenue may graciously be cancelled and set aside and appellant may please be allowed to keep continue his service at his original post i-e Tehsildar / OR Recovery Officer, PESCO, Mardan and if the same is not feasible then the Appellant be posted and transferred in the same capacity of Tehsildar on Current Charge Basis to any other station or vacant post 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: 10/01/2019


Appellant

Through


Rehman Ullah Shah
Advocate High Court

5

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal No. _____/2019

Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16)

Presently serving as Reader to Additional Commissioner Mardan Division,
Mardan

APPELLANT

VERSUS

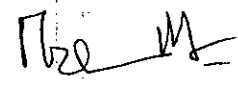
Chief Secretary Khyber Pakhtunkhwa Peshawar & Others

RESPONDENTS


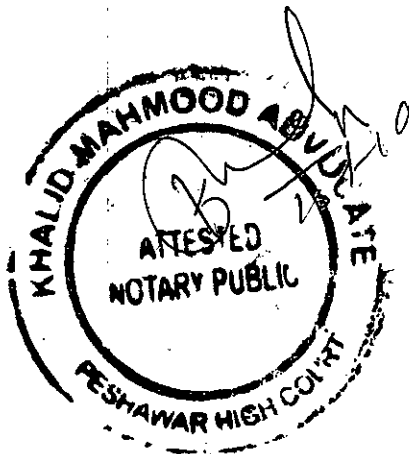
AFFIDAVIT

I, Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16) 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 :



Rehman Ullah Shah
Advocate High Court



Deponent

6

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal No. _____/2019

Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16)

Presently serving as Reader to Additional Commissioner Mardan Division,
Mardan

APPELLANT

VERSUS

Chief Secretary Khyber Pakhtunkhwa Peshawar & Others

RESPONDENTS

**APPLICATION FOR SUSPENSION OF THE IMPUGNED OFFICE ORDER
DATED. 20/12/2018 OF THE BOARD OF REVENUE, REVENUE &
ESTATE DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR
WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT
AGAINST THE IMPUGNED NOTIFICATION DATED 25/05/2018
WAS DISMISSED.**

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 notifications are indispensable.

7

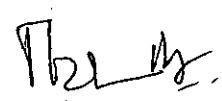
It is, therefore, most humbly prayed that on acceptance of the instant petition the operation of the impugned notification for as mentioned above may kindly be suspended till the final disposal of the accompanying appeal.

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

Dated: 07/09/2018


Appellant

Through


Rehman Ullah Shah
Advocate High Court

8

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal No. _____/2019

Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16)

Presently serving as Reader to Additional Commissioner Mardan Division,
Mardan

_____ **APPELLANT**

VERSUS

Chief Secretary Khyber Pakhtunkhwa Peshawar & Others

_____ **RESPONDENTS**

AFFIDAVIT

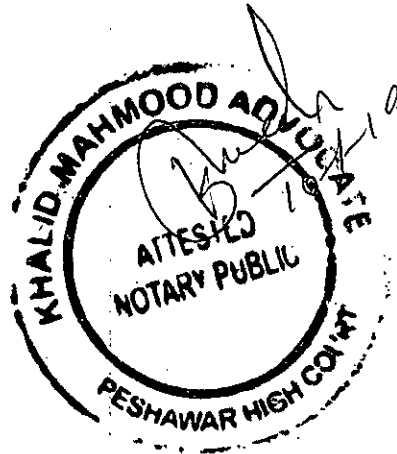
I, Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16) do hereby solemnly affirm and declare that all the contents of the accompanied application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Identified By :



Rehman Ullah Shah
Advocate High Court


Deponent



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal No. _____/2019

Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16)
Presently serving as Reader to Additional Commissioner Mardan Division,
Mardan

APPELLANT

VERSUS

Chief Secretary Khyber Pakhtunkhwa Peshawar & Others

RESPONDENTS

ADDRESSES OF PARTIES

APPELLANT

Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16)
Presently serving as Reader to Additional Commissioner Mardan Division,
Mardan

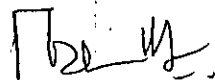
RESPONDENTS.

1. Chief Secretary Khyber Pakhtunkhwa Peshawar R/o Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Board of Revenue Khyber Pakhtunkhwa through Senior Member Board of Revenue Khyber Pakhtunkhwa Peshawar.
3. Senior Member Board of Revenue Khyber Pakhtunkhwa Peshawar.
4. Commissioner Peshawar Division Peshawar.

Dated: 08/01/2019


Appellant

Through



Rehman Ullah Shah
Advocate High Court



(10) "A" 4-mkt/6

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Dated Peshawar dated the 04 May, 2017

NOTIFICATION:

No. Estt: V/PI/M. Shoaib/

The following posting/transfer amongst the Tehsildar/Naib Tehsildars is hereby ordered with immediate effect in public interest.

	Name of Tehsildar/ Naib Tehsildar	From	To
1.	Mr. Javed Inam, Assistant.	Assistant, Office of the Commissioner Mardan.	Tehsildar Kalkot (CCB) Dir Upper against the vacant post.
2.	Mr. Muhammad Shoaib	Naib Tehsildar Hangu.	Tehsildar Swabi (CCB)
3.	Mr. Gul Ghazi Khan,	Tehsildar Swabi	Tehsildar Dargai against the vacant post.
4.	Mr. Gul Shahzad	Naib Tehsildar Abbottabad.	Report to Board Revenue.
5.	Mr. Shaukat Iqbal.	Naib Tehsildar Prova, DI Khan.	Tehsildar/Recovery Officer PESCO Circle Bannu. (CCB)
6.	Mr. Ajmal Shah	Kanungo, office of the Deputy Commissioner, Charsadda.	Naib Tehsildar Prova (CCB), DI Khan.
7.	Mr. Muhammad Saleem	Settlement Naib Tehsildar, Mansehra.	Naib Tehsildar Abbottabad.
8.	Mr. Muhammad Younas, Naib Tehsildar.	Awaiting posting in Board of Revenue	Services placed at the disposal of FATA Secretariat.

By Order of
Senior Member

No. Estt: V/PI/M. Shoaib/

9173-94

Copy forwarded to the:-

1. Additional Chief Secretary FATA, FATA Secretariat, Peshawar.
2. Commissioners of the respective Divisions.
3. Deputy Commissioners of the respective districts.
4. Superintending Engineer WAPDA, Circle Bannu.
5. Section Officer (Law & Order), FATA Secretariat, Peshawar/
6. District Accounts Officers of the respective districts.
7. Private Secretary to Senior Member, Board of Revenue.
8. Officials concerned.
9. Personal Files.


Attested
i.e

Assistant Secretary (Estt.)

11
"8"
Amoket

CHARGE ASSUMPTION REPORT

In compliance of Notification issued by the Senior Member, Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa Peshawar vide No.Estt:V/PF/M-Shoaib/9173-94 dated 04-05-2017, I Javed Inam Khan Hoti Tehsildar is hereby assumed the charge of the post of Tehsildar, Kalkot Dir Upper today on 10 May 2017 (FN).



(Javed Inam Khan Hoti)
Tehsildar, Kalkot

No. 137-43 /

Dated, the 10 /05/2017

Copy forwarded for information & necessary action to:-

- ✓ 1. Assistant Secretary, (Estt), Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa Peshawar w/r to his Notification referred above.
- ✓ 2. Commissioner, Malakand Division, Malakand at Shaidu Sharif.
3. Deputy Commissioner, Dir Upper
- ✓ 4. Addl: Assistant Commissioner, Dir Upper.
- ✓ 5. District Accounts Officers, Mardan/Upper Dir.
- ✓ 6. PS to Senior Member, Board of Revenue, Peshawar.
7. Personal file.


(Javed Inam Khan Hoti)
Tehsildar, Kalkot.

Attested
T.C

Copy forwarded to Mr. Javed Inam Khan Hoti, Tehsildar Kalkot Upper Dir for information.


District Commissioner

(12)

Amexed

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 24 /10/2017

NOTIFICATION

No.Estt:I/PF/Javed/_____ The Competent Authority is pleased to order the following posting /transfer amongst Tehsildars with immediate effect and in public interest: -

S.No	Name of Tehsildar	From	To
1.	Mr. Javed Inam	Tehsildar (CCB) Kalkot	Tehsildar / Recovery Officer (CCB) PESCO Mardan
2.	Mr. Hamayun	Tehsildar / RO PESCO Mardan	Report to Board of Revenue
3.	Mr. Zardad Khan	Assistant, office of the Deputy Commissioner Peshawar	Tehsildar (CCB) Kandia Kohistan against the vacant post

By order of
Senior Member

No.Estt:I/PF/Javed/ 23027-37

Copy forwarded to the:-

1. Commissioners of the respective Divisions.
2. Deputy Commissioner of the respective Districts.
3. District Account Officer of the respective Districts/Agency.
4. Superintendent Engineer R.O PESCO Mardan.
5. Officers concerned.
6. Bill Assistant, Board of Revenue.
7. Office Order file.


Assistant Secretary (Estt.)

Attested
T. C



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 25/05/2018

NOTIFICATION

No.Estt:V/PF/Javed Inam/_____ The Competent Authority is pleased to repatriate Mr. Javed Inam, Assistant, presently working as Tehsildar / Recovery Officer PESCO Khyber Circle Mardan to his parent department i.e Commissioner Office, Mardan with immediate effect.

By order of
Senior Member

No.Estt:V/PF/Javed Inam/ 23111-16

Copy forwarded to the:-

1. Commissioner Mardan Division Mardan
2. Deputy Commissioner, Mardan.
3. Superintendent Engineer Operation PESCO circle Mardan
4. P.S to Senior Member Board of Revenue
5. Official concerned.
6. Personal File.

~~Assistant Secretary (Estt.)~~

E-A

4/06



Attested
T.C

To,

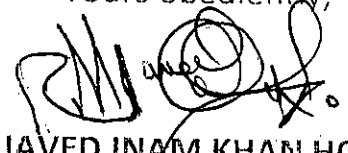
The Commissioner,
Mardan Division, Mardan.

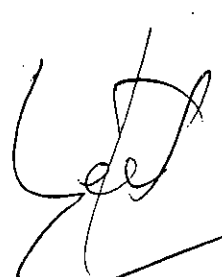
Subject:- ARRIVAL REPORT.

R/Sir,

In compliance with Notification issued by Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa Peshawar vide No.Estt:V/PF/Javed Inam/23111-16 dated 25-05-2018, I Javed Inam Khan Hoti, Assistant (BPS-16), is hereby submit my arrival report today i.e 14-06-2018 (F.N).

Yours obediently,


(JAVED INAM KHAN HOTI)
Office Assistant (BPS-16).



Aul
14/6/18

E.A

Mubob

4752.
14/6/2018

Attested
T.C

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2-1
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2-5

CHARGE ASSUMPTION


In compliance with the office order of Commissioner office Mardan No.1461/ACR/EA/1-5 dated 17/07/2018 I Mr. Javed Inam Khan Hoti (BS-16) assumed the charge as Reader to Addl: Commissioner Mardan Division Mardan today on 18/07/2018.


Javed Inam Khan Hoti,
Assistant
Commissioner Office
Mardan Division, Mardan

No. 547 /Addl:Commr(M) dated Mardan the 19/07/2018.

Copy to

1. Assistant to Commissioner (Rev) Mardan Division Mardan.
2. PS to Commissioner Mardan Division Mardan.


Javed Inam Khan Hoti,
Assistant
Commissioner Office
Mardan Division, Mardan

Self
23/7

E.A

A 24/6

Office of the Commissioner
5866
23/7/18

Attested
T.C

16

"E"
Annex 6

**THE ¹KHYBER PAKHTUNKHWA CIVIL SERVANTS
(APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989**

PART-I

GENERAL

1. **Short title and commencement:** - (1) These rules may be called the ²[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(2) They shall come into force at once.

2. **Definitions:-**(1) In these rules, unless the context otherwise requires:-

(a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;

(b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;

(c) "Commission" means the ³[Khyber Pakhtunkhwa] Public Service Commission;

⁴(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;

⁵(dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:

Provided that more than one such committees may be constituted for civil servants holding different scales of pay".

(e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];

(f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades ; and

¹ For the words "NWFP" or "North-West Frontier Province", wherever occurred, the words "Khyber Pakhtunkhwa" substituted by the Khyber Pakhtunkhwa Laws (Amendment) Act, 2011 (Khyber Pakhtunkhwa Act No. IV of 2011) published in the Khyber Pakhtunkhwa Government Gazette Extraordinary dated 2nd April, 2011

² Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

³ Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

⁵ Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

⁶(g) "Provincial Selection Board" means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister and shall consist of such persons as may be appointed to it by Government from time to time.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the ⁷[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (⁸[Khyber Pakhtunkhwa] Act XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. **Method of Appointment:-** (1) Appointment to posts shall be made by any of the following methods, namely:-

- (a) by promotion or transfer in accordance with the provisions contained in Part-II of these rules; and
- (b) by initial recruitment in accordance with the provisions contained in Part-III of these rules.

(2) The method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the ⁹Establishment and Administration Department and the Finance Department.

4. **Appointing Authority:-** The authorities competent to make appointment to posts in various basic pay scales shall be as follows:-

S.No. !	Posts !	Appointing Authority
¹⁰ 1. (a)	Posts in Basic Pay Scale 18 and above including posts in Basic Pay Scale 17 borne on any of the following services; (i) Former Provincial Civil Service (Executive Branch); (ii) Former Provincial Civil Service (Judicial Branch); and (iii) Provincial Civil Secretariat Service.	Chief Minister
¹¹ (b)	Posts in Basic Pay Scale 17	Chief Secretary

⁶ Clause (g) substituted by Notification No. SOR-I(S&GAD) 4-1/80/II, dated 14-01-1992.

⁷ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁸ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁹ For the words "Services and General Administration" wherever occurred, substituted with the words "Establishment and Administration" by Notification No. SO(O&M) E&AD/8-6/2001 dated 30-05-2001.

¹⁰ Substituted by Notification No. SOR-I(S&GAD)4-1/75/Vol-I, dated 22-08-1991.

¹¹ Substituted by Notification No. SOR-III(E&AD)2(144)03 dated 16-09-2003.

other than those covered by
(a) above and the post of
Deputy Superintendent of
Police; and.

- ¹²(c) Posts of Deputy Superintendents of Police. Provincial Police Officer/
Inspector General of Police.
2. Posts in Basic Pay Scale 16. (a) In the case of Secretariat of the
Government of ¹³[Khyber Pakhtunkhwa],
the Chief Secretary.

¹² Inserted by Notification No. SOR-II|(E&AD)2(144)03 dated 16-09-2003.

¹³ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (b) In case of High Court, the Chief Justice; and
- (c) In the case of Attached Department:

- (i) the Head of Attached Department concerned; and
- (ii) In any other case the Secretary of the Department concerned.

3. Posts in Basic Pay Scales 3 to 15.

- (a) In the case of civil Servants borne on ministerial establishment of Civil Courts subordinate to High Court, the officer authorized as such by the Chief Justice; and
- (b) In other cases
 - (i) an officer declared under the relevant Delegation of Powers Rules, which shall to this extent be deemed as operative; or
 - (ii) Where no such appointing authority has been declared, the Secretary to Government or the Head of an Attached Department/ Office, as the case may be.

4. posts in Basic pay Scale 1 and 2.	Deputy Secretary incharge of Administration or office, , as the care may be
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5. ¹⁴Departmental Promotion & Selection Committee/Board- (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee ¹⁵(or, as the case may be, Departmental Selection Board), the composition of which shall be determined by the Establishment and Administration Department or the Department in consultation with the Establishment and Administration Department.

(2) Each such Committee (or the Board, as the case may be), shall consist of at least three members, one of whom shall be appointed as Chairman.

¹⁴ The heading of rule 5 substituted by Notification No. SOR-I(S&GAD)2-7/86, dated 8-12-1994.

¹⁵ The words inserted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

¹⁶6. **Procedure when recommendation is not accepted:-** When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain order of the next higher authority.

PART-II

APPOINTMENT BY PROMOTION OR TRANSFER

7. **Appointment by Promotion or Transfer.** ¹⁷(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee".

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exist.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time.

¹⁸(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following order.

Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion.

8. **Inter-Provincial Transfer:-**(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;

¹⁶ Rule-6 substituted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

¹⁷ Sub rule (1) substituted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 14-01-1992.

¹⁸ Sub rule (5) inserted by Notification No. SOR-VII(E&AD)1-3/2009/Vol-VIII, dated 22-10-2011.

- (iv) the person concerned is a bona fide resident of the ¹⁹[Khyber Pakhtunkhwa].
- (v) a vacancy exists to accommodate the request for such a transfer; and:
- (vi) Provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purpose of determining his seniority vis-à-vis other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request for transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. **Appointment on Acting Charge or current Charge Basis.** (1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis;

²⁰Provided that no such appointment shall be made, if the prescribed length of service is short by more than ²¹[three years].

²²[(2)].

(3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.

(4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge appointment may be made according to the orders issued from time to time.

(5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.

(6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

PART-III

INITIAL APPOINTMENT

¹⁹ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

²⁰ Full stop at the end of Rule 9 (1) replaced with colon and proviso added by Notification No. SOR-I (S&GAD)4-1/80/Vol-II, dated 20-10-1993.

²¹ The words one year substituted by Notification No. SOR-I(S&GAD)4-1/80/III, dated 14.3.96.

²²Sub rule (2) of rule-9 deleted vide by Notification No. SOR-VI(E&AD)1-3/2009/Vol-VIII, dated 22-10-2011.

10. **Appointment by Initial Recruitment :-**(1) Initial appointment to posts ²³[in various basic pay scales] shall be made-

- (a) if the post falls within the purview of the Commission, on the basis of Examination or test to be conducted by the Commission; or
- (b) if the post does not fall within the purview of the Commission, in the manner as may be determined by Government.

²⁴(2) Initial recruitment to posts which do not fall within the purview of the Commission shall be made on the recommendation of the Departmental Selection Committee, after vacancies have been advertised in newspapers.

²⁵Provided that nothing contained in this sub-rule shall apply to the household staff of the Chief Minister House Peshawar, ²⁶[Khyber Pakhtunkhwa] House Islamabad, ²⁷[Khyber Pakhtunkhwa] Rest Houses Bannu, Swat and Abbottabad, ²⁸[Khyber Pakhtunkhwa] House Nathia Galli and Shahi Mehman Khana, Peshawar and any other House to be established by the Government:

²⁹Provided further that the appointment in Basic Pay Scale-1 to 4 shall be made on the recommendations of the Departmental Selection Committee through the District Employment Exchange concerned, ³⁰[or, where in a District, the office of the Employment Exchange does not exist, after advertising the posts in the leading newspapers] ³¹[]

(3) A candidate for initial appointment to a post must possess the educational qualification or technical qualifications and experience and except as provided in the rules framed for the purpose of relaxation of age limit, must be within the age limit as laid down for the post, provided that-

- (i) ³²where recruitment is to be made on the basis of written examination, then, notwithstanding anything to the contrary contained in any other rules for the time being in force, age shall be reckoned on 1st January of the year in which the examination is proposed to be held;
- (ii) in other cases as on the last date fixed for submission of applications for appointment.

²³ The words in basic pay scale-16 to 21 substituted by Notification No. SOR-I(S&GAD)1-117/91 (C), dated 12-10-1993.

²⁴ Sub rule (2) of Rule-10 substituted by Notification No. SOR-I(S&GAD) 1-117/91 (C), dated 12-10-1993.

²⁵ Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 03-07-2003.

²⁶ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

²⁷ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

²⁸ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

²⁹ Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 16-03-2004

³⁰ Sentence added in the Proviso vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 23-01-2006.

³¹ 2nd Proviso in sub- rule (2) of Rule: 10 was deleted vide Notification No. SOR-VI(E&AD)1-3/2008 dated 09-05-2008 and added again vide Notification No. SOR-VI(E&AD)1-3/2008 dated 03-11-2008.

³² Clause (i) substituted vide Notification No. SOR-I(S&GAD)4-1/80, dated 17-5-1989.

³³(4) Where a civil servant dies or is rendered incapacitated/invalidated permanently during service then notwithstanding the procedure provided for in sub-rule (2), the appointing authority may appoint one of the children of such civil servant, or if the child has not attained the age prescribed for appointment in Government Service, the widow/wife of such civil servant, to a post in any of the Basic Pay Scales 1-10:

Provided that the child or the widow/wife as the case may be, possesses the minimum qualification prescribed for appointment to the post:

Provided further that if there are two widows/wives of the deceased civil servant, preference shall be given to the elder widow/wife.

Provided also that the appointment under this sub rule is subject to availability of a vacancy and if more than one vacancies in different pay scales are available at a time, and the child or the widow/wife, as the case may be, possesses the qualifications making him or her eligible for appointment in more than one post, he /she shall ordinarily be appointed to the post carrying higher pay scale.

Provided further that this shall not apply to any post in BPS-1-10 falling in the purview of the ³⁴[Khyber Pakhtunkhwa] Public Service Commission.

³⁵(5) Notwithstanding anything contained in any rule for the time being in force, two percent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for disabled candidates and ten percent of all posts meant for initial recruitment shall be reserved for female candidates:

Explanation-I---For the purpose of reservation under this sub-rule "disability" does not include such disability which hampers in the smooth performance of the duties required of a disabled candidate.

Explanation-II---Ten per cent quota reserved above shall be in addition to the posts exclusively reserved for female candidates.

³⁶(6) Notwithstanding anything contained in any rule for the time being in force, five per cent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates hailing from earthquake affected areas of District Mansehra, Battagram, Shangla, Kohistan and Abbottabad (Calamity hit area) for a period of three years commencing from 1st February, 2006.

³⁷(7) Notwithstanding anything contained in any rule for the time being in force, ³⁸[three] percent of all the posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates belonging to minorities in addition to their participation in the open merit:

Provided that, the reservation shall not apply to---

³³ Sub rule (4) substituted vide Notification No. SOR-VI (E&AD)1-3/2011/Vol-VIII, dated 31-08-2012.

³⁴ Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

³⁵ Sub rule (5) substituted vide Notification No. SOR-VI (E&AD)1-10/03 (VI), dated 04-12-2007.

³⁶ Sub rule (6) inserted vide Notification No. SOR-VI(E&AD)1-3/03 (VI), dated 01-02-2006

³⁷ Sub rule (7) added vide Notification No. SOR-VI(E&AD)1-3/08, dated 06-01-2009

³⁸ Subs. vide Notification No. SORIV/E&AD/1-10(Minority)/2008, dated 08.01.2014.

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- (i) the percentage of vacancies reserved for recruitment on merit;
- (ii) short term vacancies likely to last for less than one year; and
- (iii) isolated posts in which vacancies occur only occasionally.

11. **Eligibility.** (1) A candidate for appointment shall be a citizen of Pakistan and bona fide resident of the ³⁹[Khyber Pakhtunkhwa].

Provided that for reasons to be recorded in writing, Government may, in a particular case, relax this restriction.

⁴⁰[(2)]

(3) No person, not already in Government service, shall be appointed to a post unless he produces a certificate of character from the principal, academic officer of the academic institution last attended and also certificates of character from two responsible persons, not being his relatives, who are well acquainted with his character and antecedents.

(4) Notwithstanding anything contained in sub-rule (3), an appointment by initial recruitment shall be subject to the verification of character and antecedents of the candidate or the person appointed, to the satisfaction of appointing authority.

(5) No candidate shall be appointed to a post unless he is found, after such medical examination as Government may prescribe, to be in good mental and bodily health and free from physical defect likely to interfere in the efficient discharge of his duties.

12. **Zonal and Divisional representation:** - (1) Except as otherwise specifically provided in any rule for the time being in force, initial recruitment to posts in Basic Pay Scales 16 and 17 and other posts in Basic Pay Scales 3 to 15 borne on Provincial cadre shall be made in accordance with the Zonal quota specified by Government from time to time:

⁴¹Provided that initial recruitment to the post of Civil Judge/Judicial Magistrate/Allaqa Qazi (BPS-18) shall also be made in accordance with the zonal quota specified by the Government from time to time.

(2) Initial recruitment to posts in Basic Pay Scales 3 to 15 borne on divisional or district cadre shall be made from amongst bona fide residents of the division or district concerned, as the case may be.

(3) Initial recruitment to posts in Basic Pay Scales 1 and 2 or equivalent shall ordinarily be made on local basis.

PART-IV

AD HOC APPOINTMENT

13. **Requisition to Commission:-**When under any rule for the time being in force, a post is

³⁹ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴⁰ Sub rule (2) of rule-11 deleted vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-06-2008

⁴¹ Proviso to rule-12 added vide Notification No. SOR-VI(E&AD)1-27/08, dated 03-07-2008

required to be filled in through the Commission, the appointing authority shall forward a requisition on the prescribed form to the Commission immediately after it is decided to fill in the post, or if that is not practicable and the post is filled on ad hoc basis as provided in rule 14, within two months of the filling of the post.

14. **Ad hoc Appointment:-**(1) When the appointing authority considers it to be in the public interest to fill in a post falling within the purview of the Commission urgently, it may, pending nomination of a candidate by the Commission, proceed to fill in such post on ad hoc basis for a period not exceeding ⁴²[one year] by advertising the same in accordance with the procedure laid down for initial appointment in Part-III of these rules.

(2) Short term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of creation of temporary posts for a period not exceeding ⁴³[one year], may be filled in by appointing authority otherwise than through the Commission on a purely temporary basis after advertising the vacancy.

PART-V

PROBATION AND CONFIRMATION

⁴⁴15. **Probation.** ----- (1) Persons appointed to posts by initial recruitment, promotion or transfer shall be on probation for a period of one year.

(2) The appointing authority, if considers necessary, may extend the probation period for one year as may be specified at the time of appointment.

⁴⁵(3) On the successful completion of probation period, the appointing authority shall, by specific order terminate the probation of the officer or official concerned within two months after the expiry of probation period prescribed in sub-rule(1):

Provided that if no specific order regarding termination of the probation period of the official or officer concerned is issued within two months, the period of probation shall be deemed to have been extended under sub-rule (2):

Provided further that if no specific order is issued on the expiry of the extended period of probation, the period of probation shall be deemed to have been successfully completed.”

16. **Confirmation:-**After satisfactory completion of the probationary period, a civil servant shall be confirmed; provided that he holds a substantive post, provided further that a civil servant shall not be deemed to have satisfactorily completed his period of probation, if he has failed to pass an examination, test or course or has failed to complete successfully a training prescribed within the meaning of sub-section (3) of Section 6 of the ⁴⁶[Khyber Pakhtunkhwa] Civil Servants Act, 1973.

⁴² The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

⁴³ The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

⁴⁴ Rule-15 substituted vide Notification No. SOR-VI/E&AD/1-3/2009/Vol-VIII dated 16-2-2010.

⁴⁵ Sub rule (3) substituted vide Notification No. SOR-VI (E&AD)1-3/2012 dated 28-12-2012.

⁴⁶ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

PART-VI

SENIORITY

17. **Seniority :-**(1) the seniority inter se of civil servants ⁴⁷(appointed to a service, cadre or post) shall be determined:-

- (a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission ⁴⁸[or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and
- (b) in the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

Explanation-I:- If a junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incomplete record or for any other reason not attributing to his fault or demerit.

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

⁴⁹(3) In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.

⁵⁰(4) The inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.

Provided that if the date of regular appointment of two or more civil servants in the

⁴⁷ Substituted for the words appointment to a post in the same basic pay scale in a cadre by Notification No. SOR-I(S&GAD)4-1/80, dated 17-05-1989.

⁴⁸ The words inserted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 04-02-1996.

⁴⁹ Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(E&AD)4-1/80/IV, dated 28-5-2002.

⁵⁰ Sub-rule (4) of Rule 17 added vide Notification No.SOR-VI (E&AD) 1-3/2008 dated 19-11- 2009.

lower post is the same, the civil servant older in age, shall be treated senior.

18. General Rules: - In all matters not expressly provided for in these rules, civil servants shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

19. Repeal:- The ⁵¹[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

(Authority; No. SORI(S&GAD)4-1/80, dated 13th May, 1989)

⁵¹ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

(28)

" F "
Annexed

Before the Worthy Chief Secretary, Khyber Pakhtunkhwa Peshawar

Javed Inam Khan Hoti, Tehsildar (CCB) (BPS-16)
Presently serving as Reader to Additional Commissioner Mardan Division,
Mardan. (Appellant)

Versus

Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
(Respondent)

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER OF
RESPONDENT DATED 25/05/2018, WHEREBY THE
APPELLANT WAS REPATRIATED TO THE OFFICE OF
COMMISSIONER MARDAN, WHICH IS ILLEGAL AGAINST
LAW AND FACTS.

Respectfully Sheweth,

Respectfully it is stated that the appellant was appointed as Assistant
(BPS-14) in the Commissioner Office Mardan Division Mardan on 29/06/2009.

1. That appellant was posted as Office Assistant in Revenue Branch of the Commissioner Office Mardan.
2. That due to the shortage of Tehsildars, the appellant being senior most, was appointed/adjusted as a Tehsildar Kalkot (CCB) Upper Dir, Kohistan vide office order dated 04/05/2017. (copy of order is attached as Annex A).
3. That appellant had taken over the charge and performed his duties with the entire satisfaction of his superiors. (Copy of charge report is attached as Annex B).
4. That due to the best performance and better knowledge of revenue matters and Revenue law, the appellant was again transferred from the post of Tehsildar Kalkot Upper Dir, Kohistan to the post of Tehsildar/Recovery Officer (CCB) PESCO, Mardan vide order dated 24/10/2017. (Copy of the said order is attached as Annex C).
5. That appellant had taken over the charge and performed his duty with the entire satisfaction of his superiors therein also.
6. That after completion of 06 months therein, the appellant was repatriated without any reason to the Commissioner Office Mardan. Vide the impugned order dated 25/05/2018 by Worthy SMBR, KPK, Peshawar. (copy of repatriation order is attached as Annex D).

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Attested
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Contd.....P/2

7. The appellant was repatriated to the office of Commissioner Mardan and submitted his arrival report on 14/06/2018 and the appellant was adjusted again as Tehsildar/Reader to Additional Commissioner Mardan Division Mardan vide order dated 17/07/2018, being a Tehsildar. (copy of the said order is attached annex E).
8. That it is strange enough that the appellant is repatriated to the post of Assistant vide the impugned order dated 25/05/2018 but still the appellant is performing his duty as a Tehsildar/Reader to Additional Commissioner Mardan so the impugned order dated 25/05/2018 is liable to be set aside.
9. That the impugned order dated 25/05/2018 is illegal against the law and facts and liable to be set aside on the following grounds.

GROUNDS:-

- A. The appellant was repatriated to the office of Commissioner Mardan and submitted his arrival report on 14/06/2018 wherein the appellant was adjusted again as Tehsildar/Reader to Additional Commissioner Mardan Division Mardan vide order dated 17/07/2018, being a Tehsildar.
- B. That it is strange enough that the appellant is repatriated to the post of Assistant Vide the impugned order dated 25/05/2018 but still the appellant is performing his duty as a Tehsildar/Reader to Additional Commissioner Mardan so the impugned order dated 25/05/2018 is liable to be set aside.
- C. That appellant has joint respondent department/revenue department as Assistant on 29/06/2009.
- D. During the period of service no complaint has been received against the appellant till today.
- E. While appellant posted as Tehsildar Kalkot Upper Dir, the appellant had faced with so much hurdles because Upper Dir, Kohistan is situated on a long distance from the local station of the appellant i.e. Mardan. The appellant used to travel/drive for more than 10 hours from the local station to the Upper Dir, Kohistan for duty.
- F. That due to the long traveling from Mardan to District Upper Dir, Kohistan about 10 hours travelling in the hard area, appellant was suffered from serious disease.
- G. That the impugned order of respondent dated 25/05/2018 is illegal, against law, facts and void abinitio and without lawful authority.

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- H. That tenure of the appellant has not been completed because appellant was transferred to the post of Tehsildar/Recovery Officer, PESCO, Mardan vide office order dated 24/10/2017.
- I. That appellant has been transferred forth times within 13 months and as per the reported judgment of Apex Supreme Court of Pakistan (P.L.J 1995, SC 629) like this transfer repatriation Apex Supreme Court of Pakistan has declared frequent transfer, which is depreciated like this practice of the department.
- J. That appellant being senior most assistant as well as having best knowledge regarding revenue matters and revenue laws has served about 10 years in the Revenue Department and is legally eligible for promotion/posting as Tehsildar but the appellant was repatriated to the parent department which is illegal against law and facts and liable to be set aside.
- K. That the impugned repatriation order has been passed on the political influences and mala fide intention as well as in the contraction of BOR order dated 25/05/2018 which is illegal and against the law and facts and liable to be set aside.
- L. That competent authority has not used his independent mind for passing the impugned repatriation order.
- M. That as per the notification of Worthy SMBR, KPK, Peshawar, revenue staff should not be transferred to that very post from where he was already transferred, hence, repatriation of the appellant is violation of notification of Worthy SMBR, KPK, Peshawar, therefore, the impugned repatriation order is liable to be set aside.

It is therefore, humbly prayed that on acceptance of this appeal, the impugned order of respondent dated 25/05/2018 may please be set aside and the appellant may please be allowed to keep continue his service at his original post i.e. Tehsildar/Recovery Officer, PESCO, Mardan. Any other relief deemed fit may also be graciously awarded.

Appellant

Javed Inam Khan Hoti

Through Counsel
SHAHED USMAN KHAN
ADVOCATE SESSIONS COURTS
AND HIGH COURTS
AT MARDAN.

Usman
Khan.

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"F1"



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE AND ESTATE DEPARTMENT

No. Estt: I/PF/Javed Inam/ 40012
Peshawar dated the 20/12/2018.

To

Mr. Javed Inam Khan Hoti,
Assistant, of the office of
Commissioner Mardan Division.

SUBJECT: **DEPARTMENTAL APPEAL AGAINST THE ORDER OF RESPONDENT DATED 25.05.2018, WHEREBY THE APPELLANT WAS SEPATRIATED TO THE OFFICE OF COMMISSIONER MARDAN, WHICH IS ILLEGAL AGAINST LAW AND FACTS.**

Your Departmental appeal has been examined and rejected by the Competent Authority.

[Signature]
Assistant Secretary (Estt:)

No. Estt-I/PF/Javed Inam/ _____

Copy forwarded to the Commissioner Mardan Division Mardan.

App for Mardan concerned
E.A. *A. Inam*

Assistant Secretary (Estt:)

Attested
T.C





57920
 ایدوکیٹ: Rehman Ullah Shah
 بار کونسل ایسوسی ایشن نمبر: BC-10-0541
 رابطہ نمبر: 03335493948

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: Before The Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar

Appellant مخائب:	دعوی:
Javed Iqbal بنام Chief Secretary etc	Service Appeal علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آئکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 کو دیکھ کر
 Rehman Ullah Shah Peshawar
 Atiq ur Rehman MA, LL.M.
 کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق
 زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کیلئے یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 المرقوم:

المرقوم: Peshawar کے لیے منظور ہے

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Atiq ur Rehman
 Advocate

Attested & accepted
 Peshawar

Javed Iqbal Khan Hoti
 16101-0871779-5