

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

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 3899

Dated 27/2/2023

Service Appeal No. 306 /2023

Liaqat Ali Assistant BPS-16,  
P&C Small Dams Division Abbottabad.

...APPELLANT

**VERSUS**

The Secretary to Govt. of KP Irrigation Department, Peshawar & others.

...RESPONDENTS

**COMMENTS ON BEHALF OF RESPONDENT NO. 3**

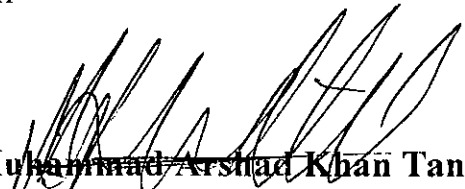
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3.	Wakalatnama		

  
...RESPONDENT NO. 3

Through

Dated: 27/02/2023

  
(Muhammad Arshad Khan Tanoli)  
Advocate Supreme Court of Pakistan  
At Abbottabad

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

Service Appeal No. 306 /2023

Liaqat Ali Assistant BPS-16,  
P&C Small Dams Division Abbottabad.

**...APPELLANT**

**VERSUS**

1. The Secretary to Govt. of KP Irrigation Department, Peshawar.
2. The Chief Engineer (South) Irrigation Department, KP Peshawar.
3. Muhammad Arshad Assistant O/o Chief Engineer Irrigation Office Peshawar.

**...RESPONDENTS**

**COMMENTS ON BEHALF OF RESPONDENT NO. 3**

Respectfully Sheweth:-

**PRELIMINARY OBJECTION**

1. That, the appellant has concealed material facts from this Honourable Tribunal.
2. That, the appellant has no locus standi to agitate the matter before this Honourable Tribunal.

3. That, the matter of transfer is the prerogative of the respondents' department and the department issue transfer of the employees according to the exigencies of service in the public interest. Respondent No.3, on acceptance of his departmental appeal, the department withdrew illegal posting order dated 28/10/2022 vide withdrawal order dated 08/11/2022.
4. That the appeal of the appellant is miserably, time barred.

**REPLY ON FACTS:-**

1. Para No. 1 to the extent of service of the appellant as Assistant in P&C Small Dams Division Abbottabad at present is correct rest of the para need proofs.
2. Para No.2 is correct. It is further submitted that respondent No.3 was illegally transferred from Abbottabad to Peshawar vide illegal transfer order dated 28/10/2022. Beside, the transfer of respondent No.3 was premature, therefore, respondent No.3 filed a departmental appeal inter-alia on the same

grounds against the transfer order dated 28/10/2022 which was withdrawn vide order dated 08/11/2022 due to the reasons that the transfer order dated 28/10/2022 of respondent No.3 was premature as illegal. Copy of departmental appeal and withdrawal order dated 08/11/2022 of respondent No.3 are annexed as Annexure "A"& "B".

3. Para No.3 to the extent of transfer order dated 28/10/2022 and its withdrawal order dated 08/11/2022 is correct and rest of the para is incorrect and denied being mis-conceived.
4. Para No.4 is incorrect that appellant has not filed departmental appeal to the respondents' department, because appellant has not produced registered receipts through which the departmental appeal was dispatched.

**REPLY ON GROUDS:**

- a. Para "a' is incorrect and denied.

- b. Para "b" is incorrect because respondent No.3 was prematurely transferred from Abbottabad to Peshawar on 28/10/2022. Therefore, on acceptance of departmental appeal of respondent No.3, posting order dated 28/10/2022 was withdrawn vide order dated 08/11/2022.
- c. Para "c" is incorrect and denied.
- d. Para "d" is incorrect and denied.
- e. Para "e" is also incorrect and denied. It is submitted that the case of "Anita Turab" has no nexus with this case, therefore, the appeal of the appellant is liable to be set-aside.
- f. Para "f" is incorrect and denied.
- g. Para "g" is incorrect and misreading. It is submitted that every case before service tribunal is of different nature.
- h. Para "h" is incorrect and denied.
- i. Para "i" is legal. The Honourable Tribunal has jurisdiction to entertain any matters

relating to the terms and condition of service.

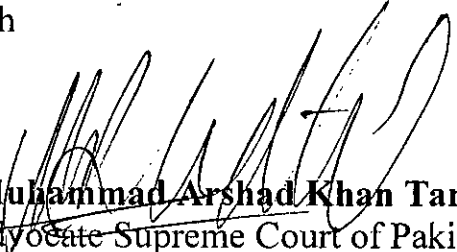
- j. In reply of para "J", it is submitted that the appellate authority has not violated any provision of laws.
- k. That the proposition discussed in para "k" is not applicable in the instant appeal. It is submitted that, when an order is illegal, the authority concerned has power to undue that illegal order.
- l. Para "l" the respondent No.3 has been retained vide withdrawal order dated 08/11/2022 as per law as well as in the public interest.

In view of above, it is prayed that the appeal of appellant may be dismissed with cost throughout.

  
...RESPONDENT NO. 3

Through

Dated: \_\_\_\_\_/2023

  
(Muhammad Arshad Khan Tanoli)  
Advocate Supreme Court of Pakistan  
At Abbottabad

**BEFORE THE SERVICE TRIBUNAL, KHYBER  
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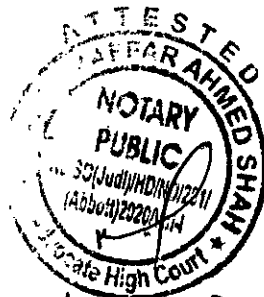
...RESPONDENTS/ CONTEMNORS

**COMMENTS ON BEHALF OF RESPONDENT NO. 3**

**AFFIDAVIT**

I, Muhammad Arshad Assistant (respondent No.3), do hereby affirm and declare that the contents of foregoing comments are true and correct to the best of my knowledge and belief and nothing has been suppressed therein.

  
DEPONENT



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

Service Appeal No. 306 /2023

Liaqat Ali Assistant BPS-16,  
P&C Small Dams Division Abbottabad.

**...APPELLANT**

**VERSUS**

The Secretary to Govt. of KP Irrigation Department, Peshawar & others.

**...RESPONDENTS**

**REPLY OF STAY APPLICATION ON BEHALF OF  
RESPONDENT NO. 3**

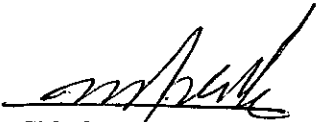
Respectfully Sheweth;

1. Para No.1 is incorrect.
2. Para No.2 as composed is incorrect and the appellant is not entitled to get status quo or suspension order dated 08/11/2022.
3. Para No.3 is incorrect and denied.
4. Para No.4 is incorrect and denied. It is submitted that the transfer order dated 08/11/2022 of respondent No.3 is according to the transfer policy.
5. Para No.5 is incorrect and denied.



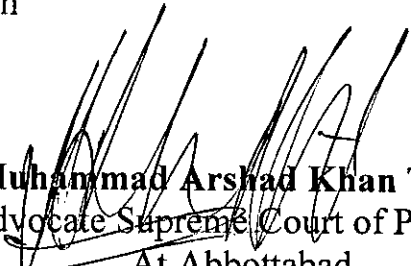
6. Para No.6 is incorrect and denied.

It is prayed that application of appellant may be dismissed.

  
...RESPONDENT NO. 3

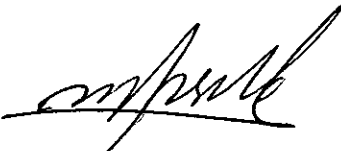
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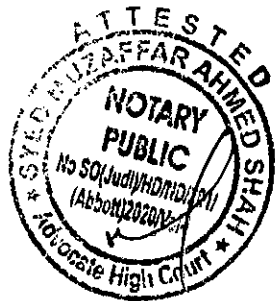
Through

  
(Muhammad Arshad Khan Tanoli)  
Advocate Supreme Court of Pakistan  
At Abbottabad

**AFFIDAVIT**

I, Muhammad Arshad Assistant (respondent No.3), do hereby affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been suppressed therein.

  
DEPONENT



21/2/23

کورٹ فیس

وکالت نامہ

بعدالت  
عنوان: لیاقت علی بیگم حکومت و غیرہ  
منجانب: Respondent No. 3  
نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے اسے پیروی و جواب دہی کل کارروائی متعلقہ آل مقام  
محمد ارشد خان تنوی ایڈووکیٹ کے ایک کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب  
موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء  
وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور  
کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار  
بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و  
قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔  
نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف  
پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف  
مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست براد استجارت نالاش بصیغہ مفلسی کے دائرہ کرنے اور اس کے  
پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقوم:

Accepted

بمقام

ال

ال

By Muhammad Asghar  
Assistant

To

The Secretary Govt. of Khyber Pakhtunkhwa  
Irrigation Department, Peshawar

Subject:

**DEPARTMENTAL APPEAL AGAINST THE ORDER  
NO. 5714/NORTH/A-1/7-E(ii) DATED 28/10/2022.**

Respected Sir,

The appellant humbly submit as under:-

1. That the appellant is serving under your kind control as Assistant (BPS-16) in Irrigation Department Abbottabad.
2. That the appellant was transferred from Office of Chief Engineer (North) Irrigation Department Peshawar to Deputy Director Small Dams (P&C) Division Abbottabad vide Office order dated 17/09/2021. Copy of office order dated 17/09/2021 is attached herewith.
3. That the appellant submits his arrival report against the said office order on 24/09/2021. Copy of arrival report is attached herewith.
4. That the appellant has served the department with zeal & best for the satisfaction of his high-ups.
5. That vide office order No. 5714/North/A-1/7-E(ii) dated 28/10/2022 the services of appellant were transferred from the office of Deputy Director Small Dams (P&C) Division Abbottabad to the Office of Chief Engineer (South) Irrigation Peshawar and Mr. Liaqat Ali Assistant (EPS-16) was posted against the post of present appellant. Copy of impugned office order dated 28/10/2022 is attached herewith for ready reference.
6. That the impugned office order dated 28/10/2022 is premature due to the reason that the appellant has not completed his term of service at the said station and his

services were transferred within a period of about 01 year, therefore, the impugned office order is liable to be set aside on this score only.

7. That it is pertinent to mention here that the appellant has rendered his entire service (28 years) out of station in the office of Chief Engineer Irrigation Office Peshawar and Executive Engineer Hydrology Irrigation Division Peshawar.
8. That the impugned office order dated 28/10/2022 is the result of illegal exercise of powers and was issued under political motivation just to facilitate the person of their choice by the department, hence the same is not maintainable in the eye of law.
9. That the appellant is permanent resident of District Abbottabad and is more suitable for the department to serve at his home station instead of Mr. Liaqat Assistant (EPS-16) is permanent resident of District Peshawar.
10. That the appellant is suffering from multifarious diseases and is unable to travel such a long distance from Abbottabad to Peshawar & Peshawar to Abbottabad, hence the office order dated 28/10/2022 is liable to be cancelled.
11. That it is worth to mention here that the appellant is only male person in his home to look after the female school going children and other related matters of the family. In view of the said fact, the services of appellant may not be transferred from District Abbottabad to District Peshawar on the ground of humanity.
12. That the appellant was transferred from District Abbottabad vide the impugned office order without allowing him to complete his tenure which is highly

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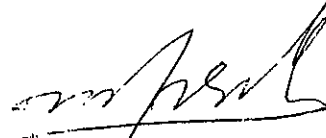


unjust, unfair and unwarranted at law and policy on the subject.

13. That the department has issued the transferred order of appellant without assigning any reasons. If the department was desirous to facilitate Mr. Liaqat Assistant (BPS-16) the department could have adjusted Mr. Liaqat to some other District/ Division.
14. That the office order dated 28/10/2022 is against the rules, law and transfer posting policy hence, liable to be cancelled.

It is therefore, humbly prayed that on acceptance of instant departmental appeal/ representation, the office order dated 28/10/2022 may graciously be set aside/ cancelled in the interest of justice.

Dated: 31/10/2022



(MUFAMMAD ARSHAD)

Assistant (BPS-16)

Office of the Deputy Director (P&C)

Small Dams Division

Abbottabad

**COPY TO:**

1. Chief Engineer (North), Irrigation Department, Peshawar.
2. Chief Engineer (South), Irrigation Department, Peshawar.
3. Deputy Secretary (Admin) Govt. of Khyber Pakhtunkhwa Irrigation Department Peshawar.
4. Deputy Director (P&C) Small Dams Division, Abbottabad.



OFFICE OF THE CHIEF ENGINEER (NORTH) B  
IRRIGATION DEPARTMENT PESHAWAR

Phone & Fax No. 091-921217 Email: chiefnorthir@peshawar.gov.pk (c.cell)

No. 5214 North//A 1/7-E(ii)

Dated: 28 /10/2022

OFFICE ORDER:

The following posting/transfer amongst the Assistant BS-16 of Irrigation Department is hereby ordered in relaxation of bond, with immediate effect in the public interest:

S.NO	NAME	FROM	TO	REMARKS
1	Abbotabad	Chief Engineer (South) Irrigation Office Peshawar	P&C Small Dams Division Abbotabad	Vice No. 02
	Abbotabad	P&C Small Dams Division Abbotabad	Chief Engineer (South) Irrigation Office Peshawar	Vice No. 01

Copy forwarded to:

1. Accountant General, Khyber Pakhtunkhwa.
  2. Chief Engineer (South) Irrigation Department Peshawar
  3. Director General Small Dams Directorate Irrigation Department Peshawar
  4. Deputy Director, P&C Small Dams Division Abbotabad.
  5. Deputy Secretary (Admin) Govt. of Khyber Pakhtunkhwa Irrigation Department Peshawar.
  6. PS to Minister, Govt. of Khyber Pakhtunkhwa Irrigation Department Peshawar.
  7. PS to Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Department Peshawar.
  8. Official concerned.
  9. Personnel files of the Official (Chief Engineer (South) Irrigation Department Peshawar)
- For information and necessary action please.

CHIEF ENGINEER

CHIEF ENGINEER



OFFICE OF THE CHIEF ENGINEER (NORTH)  
IRRIGATION DEPARTMENT PESHAWAR

Phone & Fax No. 091-9212123 Email: chiefnorthir@ymail.com (c.cell)

No. 5906 /North//A-1/7-E(ii)

Dated: 08 /11/2022

**OFFICE ORDER:**

The office order in respect of M/S Liaqat Ali and Muhammad Arshad Assistants, issued vide this office order No. 5714/North/A-1/7-E(ii), dated: 28-10-2022 is hereby withdrawn.

CHIEF ENGINEER

**Copy forwarded to:**

1. Accountant General Khyber Pakhtunkhwa.
2. Chief Engineer (South) Irrigation Department Peshawar
3. Director General Smalls Dams Directorate Irrigation Department Peshawar
4. Deputy Director P&C Small Dams Division Abbotabad.
5. Deputy Secretary (Admn.) Govt. of Khyber Pakhtunkhwa Irrigation Department Peshawar.
6. PS to Minister to Govt. of Khyber Pakhtunkhwa Irrigation Department Peshawar.
7. PS to Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Department Peshawar.
8. Officials concerned.
9. Personal Files of the Official (Chief Engineer (South) Irrigation Department Peshawar)

For information and necessary action please.

CHIEF ENGINEER





OFFICE OF THE CHIEF ENGINEER (NORTH)  
IRRIGATION DEPARTMENT PESHAWAR

Phone and Fax No 091-9212123 E-Mail: chiefnorthir@pmail.com(ce.ell)

No. 5906 North/A-17-E (ii)

Dated Peshawar 26 /02/2023

**OFFICE ORDER**

In pursuance of the order dated 07-02-2023 of the Khyber Pakhtunkhwa Service Tribunal Peshawar in Appeal No.306/2023 filed by Mr. Liaqat Ali Assistant Versus Government of Khyber Pakhtunkhwa, the cancellation of Transfer order in respect of M/S Mohammad Arshad and Liaqat Ali Assistants issued vide this office order No.5906/North/A-17-E (ii), dated 8-11-2022 is hereby held in abeyance.

CHIEF ENGINEER

CC

1. Accountant General Khyber Pakhtunkhwa.
2. Director General Small Dams Irrigation Department Peshawar.
3. Chief Engineer (South) Irrigation Department Peshawar.
4. Deputy Secretary (Administration) Govt. of Khyber Pakhtunkhwa Irrigation Department Peshawar.
5. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
6. Deputy Director Small Dams (P&C) Division A/Abad.
7. District Accounts Officer A/Abad.
8. Officials concerned.

CHIEF ENGINEER



OFFICE OF THE CHIEF ENGINEER (SOUTH)  
GOVERNMENT OF PUNJAB  
HYDERABAD  
IRRIGATION DEPARTMENT PESHAWAR

Ph: 091-9212116 Fax No. 91-9212652 E-Mail: chiefoffice@yahoo.com

No. 67 (B/A/3-E)

Dated Peshawar 17/09/2021

**SECTION**

Following postings/transfers among the Assistants BS-16  
of the Irrigation Department is hereby ordered with immediate  
effect in the public interest.

S.NO.	NAME	FROM	TO	REMARKS
1	Mr. Khair Gul Assistant BS-16	Small Dams (P&C) Division A/Abad	Small Dams (P&C) Division Mardan	Vice No.2
2	Mr. Naair Shah Assistant BS-16	Small Dams (P&C) Division Mardan	Chief Engineer (North) Office Irrigation Deptt: Peshawar	Vice No.3
3	Mr. Muhammad A. Ishaq Assistant BS-16	Chief Engineer (North) Office Irrigation Deptt:	Small Dams (P&C) Division A/Abad	Vice No.1

CHIEF ENGINEER

Chief Engineer (North) Irrigation Department Peshawar  
Director General Small Dams (P&C) Irrigation Department Peshawar  
Assistant General Khyber Pakhtunkhwa  
Secretary (Administration) Government of Khyber Pakhtunkhwa  
Department

Director Small Dams (P&C) Division A/Abad/Mardan  
Units Officer A/Abad

*(This section contains several handwritten signatures and stamps, which are mostly illegible due to the quality of the scan. Some words like 'Received' and 'Date' are faintly visible.)*

To :

The Deputy Director  
P&C, Small Dams Division,  
Peshawar

Subject: **ARRIVAL REPORT.**

In compliance of the Chief Engineer (South) Irrigation Department Peshawar  
office order No.4876/E/A/3-E, dated 17/09/21, I hereby submit my Arrival Report today on  
24.09.2021. (A.N.)

  
Muhammad Arshad  
Assistant.

5/6  
24/09/2021