

BEFORE THE HON'BLE SERVICE
TRIBUNAL, PESHAWAR

S.A No. 1461/2022

Nawaz Hassan Abbasi Niab Tehsildar Settlement
Havelian District Abbottabad.

Applicant

Versus

1. Senior Member Board of Revenue KPK.
2. Ijaz Ur Rehman Director Land Record KPK.
3. Chanzeb Khan Kanungo District Abbottabad.
4. Mr. Irshad Khan Settlement Kanungo Mansehra.
5. Mehboob Settlement Naib Tehsildar ~~KPK~~ Havelian.

Respondents

APPLICATION FOR IMPLEMENTATION UNDER
PROVISION OF CPC OF THE ORDER DATED 07-
11-2022 PASSED BY THIS HON'BLE TRIBUNAL
IN SERVICE APPEAL NO. 1461/22 AND
SUSPENSION OF ORDER NO. 2891-97 DATED 26-
02-2023 TILL DISPOSAL OF MAIN APPEAL.

Respectfully Submitted:-

1. That the above noted service appeal was pending adjudication in this Hon'ble Tribunal and was judgment and order dated: 07-11-2022.

2. That vide judgment and order dated: 07-11-2022 this Hon'ble Tribunal admitted the appeal no. 1461/22 un the in the following manner:

Appellant alongwith his counsel Mr. Muhammed Musadiqe Zahid. Advocate present. Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant who is basically Kanungo and was posted as Settlement Naib Tehsildar (OPS) Tehsil Havelian against the vacant post vide office order dated 09.12.2021. He was again transferred as Niab Tehsildar (OPS) Settlement operation Abbottabad vide Notification dated 04.02.2022. Subsequently, the appellant was once again transferred as Settlement Naib Tehsildar (OPS) Havelian against the vacant post vide yet another Notification dated 18.03.2022 from where he was repatriated to the office of Deputy Commissioner, Abbottabad vide office order dated 21.09.2022 and private respondent No. 3 (Mr. Chanzeb, Khan) was now posted against the post vacated by the appellant. Later on, even private respondent No. 3 (Mr. Chanzeb Khan was repatriated to the office of Deputy Commissioner Abbottabad and now private respondent No. 4 (Irshad Khan) was posted as Settlement Naib Tehsildar Havelian (OPS) vide office order dated 05.10.2022. It was, vehemently argued that the appellant has been made rolling stone and transferred for 4 times within a short span of 9 months, His

departmental appeal submitted through Settlement Officer Abbottabad was regretted on 06.10.2022 by respondent No. 2. The appellant has been targeted and made scapegoat without any fault on his part. The frequent transfers particularly of private respondents have been made on political grounds and consideration due to which the appellant has suffered. His frequent posting/transfer is a clear and blatant violation of provision I & IV of Posting Transfer Policy of the

Provincial Government. Tenure of a civil servant has been ensured as held in PLD 2013, Supreme Court 195 which has to be observed by the respondent department in letter and spirit. To strengthen his arguments, learned counsel for the appellant relied on 2011 PLC (C.S) 935, 2016 PLC (C.S) 526 and PLD 2013 Supreme Court 195.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days Thereafter. notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 25.11.2022. Alongwith the service appeal, an application for suspension of the operation of impugned orders dated 21.09.2022, 05.10.2022 and 06.10.2022 has been submitted which is placed on file. Operation of the impugned orders dated 21.09,2022, 05.10.2022 and 06.10.2022 are suspended till further order. Notice of the said application be also issued to the respondents for

submission of reply/comments on the date fixed.
(copy of order dated 07-11-2022 is attached as
annexure "A")

3. That respondent No. 2 in flagrant violation and disregard of the stay order issued by this Honourable Court, issued order of transfer of one Mr. Mehboob as Naib Tehsildar Settlement Tehsil Havelian District Abbottabad in place of applicant/appellant vide office order bearing No. LR-V/SNT/Promotion/2891-97 dated 24/02/2023. Copy of order dated 24/02/2023 is attached as Annexure "B".
4. That respondent No. 1 & 2 has not yet submitted their comments despite repeated directions by this Honourable Tribunal." Copy of order dated 07-02-2023 is attached is annexure "C"
5. That when a competent court issues a status quo order, same is binding upon every citizen irrespective of his status and position. Issuance of order in existence of status quo depicts disregard and disobedience on the part of respondent No. 2 even otherwise, posting of Naib Tehsildar in its own Tehsil is not permissible under the law, Copy of notification No.1013-55 & Transfer Policy dated 19/01/2020 s attached as Annexure "D", Besides, Election commission of Pakistan has also imposed ban on posting / transfer in the province of KPK.

It is prayed that on acceptance of the implementation application, suspend the order No LR-V/SNT/Promotion/2891-97 dated 24/02/2023. And

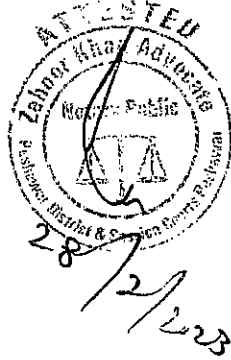
the respondent No. 2 may graciously be directed to forthwith withdraw the office order bearing No. and submit compliance report before this Honourable Tribunal and further directed not to disturbed the applicant from his place of posting as per order dated: 07-11-2022 till disposal of main appeal.

Dated:28-02-2023

Nawaz
..Appellant/Applicant
Nawaz Hassan Abbasi

AFFIDAVIT

I, Nawaz Hassan Abbasi Niab Tehsildar Settlement Havelian District Abbottabad, do hereby solemnly affirm and declare that all the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.



Nawaz
DEPONENT

CA



07.11.2022

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ATTESTED

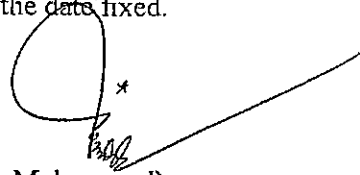
Khanzab Khan
Secretary, Government of Punjab

"A"

MINCHWA

Provincial Government. Tenure of a civil servant has been ensured as held in PLD 2013, Supreme Court 195 which has to be observed by the respondent department in letter and spirit. To strengthen his arguments, learned counsel for the appellant relied on 2011 PLC (C.S) 935, 2016 PLC (C.S) 526 and PLD 2013 Supreme Court 195.

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(Mian Muhammad)
Member (E)

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of presentation of appeal
Number of pages
Fees
Date of delivery of copy

08/11/22

08/11/22
08/11/22

1200
14/-
5/-
18/-

'B'



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF LAND RECORDS
REVENUE AND ESTATE DEPARTMENT

E-Mail: landrecord.kpk@gmail.com

Phone: 091-9210057

@LandrecordKP
Facebook/landrecordkpk

Peshawar dated the 24/02/2023.

OFFICE ORDER:

No. LR-V/SNT/Promotion/ 2891-97 In pursuance of this office order No. LR-V/SNT/Promotion/9430-12 dated 24-01-2023 regarding promotion of Settlement Naib Tehsildar Mr. Mehboob newly promoted Settlement Naib Tehsildar is hereby posted as SNT Javelian District Abbottabad for actualization of promotion, with immediate effect in the public interest.

Consequently Mr. Nawaz Hassan Abbasi SNT (OFS) is hereby repatriated to his parent office, Deputy Commissioner Office Abbottabad as Kanungo.

Director Land Records
Khyber Pakhtunkhwa

NDST NO & DATE EVEN

Copy is forwarded to the;

1. Commissioner, Hazara Division, Abbottabad.
2. Deputy Commissioner, Abbottabad.
- ✓ 3. Settlement Officer, Abbottabad.
4. District Accounts Officer, Abbottabad.
5. Senior PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
6. PA to Director Land Records, Khyber Pakhtunkhwa.

Director Land Records
Khyber Pakhtunkhwa

Scanned with CamScanner

2. PS to Member Board of Revenue, Khyber Pakhtunkhwa.
6. PA to Member Board of Revenue, Khyber Pakhtunkhwa.

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

(1)

APPEAL NO. 1461 /2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1556

Dated 11-10-2022

Mr Nawaz Hassan Abbasi Naib Tehsildar.
Settlement Havelian District Abbottabad.

..... Appellant

VERSUS



- 1- The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
- 2- The Director Land records Khyber Pakhtunkhwa Peshawar.
- 3- Mr. Chanzeb Khan, kanungo, kanungo, District Abbottabad.
- 4- Mr. Irshad Khan, Settlement Kanungo, Peshi Kanungo, settlement operation Mansehra.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 AGAINST THE TRANSFER ORDER DATED 21/09/2022 and 05/10/2022 WHEREBY THE APPELLANT WAS PREMATURELY TRANSFERRED AND AGAINST REJECTION ORDER DATED 06/10/2022 WITHOUT SHOWING ANY REASON.

Filed to-day
Registrar
11/10/2022

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 21/09/2022 and 05/10/2022 MAY BE SET ASIDE BEING, PASSED PREMATURELY AND VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY AND POLITICALLY MOTIVATED. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY

Verified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

25.11.2022

Appellant present through counsel. Kabir Ullah Khattak, learned Additional Advocate General for respondents present.



SCANNED
KPST
Peshawar

Written reply not submitted. Learned AAG requested for time to submit written reply. Adjourned. To come up for written reply/comments on 23.01.2023 before S.B. The operation of impugned orders dated 21.09.2022, 05.10.2022 and 06.10.2022 stands suspended till the date fixed.

(Rozina Rehman)
Member (J)

23.01.2023

Clerk to learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned Assistant Advocate General seeks further time to contact the respondents for submission of reply/comments on the next date. Adjourned. To come up for submission of reply/comments on 07.02.2023 before the S.B. The operation of impugned orders dated 21.09.2022, 05.10.2022 and 06.10.2022 shall remain suspended till the date fixed.

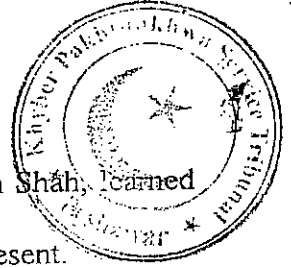
(Mian Muhammad)
Member (Executive)

Certified true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

07.02.2023

Appellant present in person. Naseer Ud Din Shah, Learned

Assistant Advocate General for the respondents present.



Written reply on behalf of respondents not submitted. Learned AAG requested for time to submit reply. Last chance is given on payment of cost of Rs.1000/-. To come up for written reply as well as cost on 28.02.2023 before S.B. Operation of impugned order dated 21.09.2022, 05.10.2022 and 06.10.2022 shall remain suspended till the date fixed.


(Rozina Rehman)
Member (J)

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 28/2/23
Number of Pages 3
Copying Fee 15/-
Urgent 87/-
Total 20/-
Name of C.A. _____
Date of Completion of Copy 28/2/23
Date of Delivery of Copy 28/2/23

GOVERNMENT OF KHYBER PAKHTUNKHWA,
 BOARD OF REVENUE,
 REVENUE & ESTATE DEPARTMENT,
 Fax No: 091,921,089,
 No. Post: posting / transfer policy / 1013-55
 Peshawar dated the 09/01/2020



21

TO

1. All the Commissioners, In Khyber Pakhtunkhwa.

2. All the Deputy Commissioners, In Khyber Pakhtunkhwa.

SUBJECT: POSTING / TRANSFER OF REVENUE STAFF IN THEIR DISTRICT OF DOMICILE.

Dept. Sec.

I am directed to refer to the subject and to state that the Competent Authority in consultation with Chief Secretary, Khyber Pakhtunkhwa has been pleased to direct that posting / transfer of the Revenue Staff in the Province shall be made in the following manner:-

- a. Tehsildar shall not be posted in the District of his domicile.
- b. Naib Tehsildar shall not be posted in his home Tehsil.
- c. Patwar shall not be posted in Patwar Taluqa to which he belongs.

I am further directed to request you to submit details of those revenue staff who were posted in their district of domicile, their home tehsil and Patwar Taluqa to which they belongs, for further necessary action within 15 days positively please.

[Handwritten Signature]
 Assistant Secretary (Estt.)

No. Estt/posting / transfer/policy

Copy forwarded to the:-

- 1. PSO to Chief Secretary Khyber Pakhtunkhwa.
- 2. PS to Chief Secretary Khyber Pakhtunkhwa.
- 3. PS to Secretary Establishment Khyber Pakhtunkhwa.
- 4. PS to Senior Member Board of Revenue.
- 5. PS to Member - III Board of Revenue.
- 6. PA to Secretary - I Board of Revenue.

Assistant Secretary (Estt.)