

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1461/2022

1. Mr. Nawaz Hasan Abbasi, Settlement Naib Tehsildar Settlement Operation Havelian District Abbottabad **Appellant**

V E R S U S

1. The Senior Member, Board of Revenue, Government of Khyber Pakhtunkhwa.
2. The Director Land Records/Chief Settlement Officer, Khyber Pakhtunkhwa, Peshawar.
3. Mr. Chanzeb Khan, Kanungo, District Abbottabad.
4. Mr. Irshad Khan, Settlement Kanungo, Peshi Kanungo Settlement Operation Mansehra
..... **Respondents**

I N D E X

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Deponent

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 1461/2022

Diary No. 4757

Date 6/4/23

1. Mr. Nawaz Hasan Abbasi, Settlement Naib Tehsildar Settlement Operation Havelian District
Abbottabad **Appellant**

V E R S U S

1. The Senior Member, Board of Revenue, Government of Khyber Pakhtunkhwa.
2. The Director Land Records/Chief Settlement Officer, Khyber Pakhtunkhwa, Peshawar.
3. Mr. Chanzeb Khan, Kanungo, District Abbottabad.
4. Mr. Irshad Khan, Settlement Kanungo, Peshi Kanungo Settlement Operation Mansehra
..... **Respondents**

AFFIDAVIT

I, Mohsin Ali, Assistant Director Land Records (BS-17), Directorate of Land Records, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm on Oath that the contents of the attached reply in Service Appeal No. 1461/2022 are true and correct to the best of my knowledge and nothing has been concealed or withheld from this Honourable Court.



Deponent

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Identified by

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1461/2022

Nawaz Hassan Abbasi, Naib Tehsildar Settlement (OPS), Havelian.....**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, District Abbottabad.
4. Mr. Irshad Khan, Settlement Peshi Kanungo, Settlement Operation, Mansehra.....**Respondents**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action.
2. That the appeal is not maintainable in its present form.
3. That the appellant has not come to this Honourable Tribunal with clean hands.
4. That the appellant is estopped by his own conduct.
5. That the appeal is barred by law.

FACTS:

1. Incorrect, as the appellant was a regular employee of District Administration of District Abbottabad (Revenue side) and was serving as Kanungo (BPS-11), while Settlement Operations are a separate cadre as per KP Settlement Employees Regularization Act, 2022 and rules framed in the year 2015.
2. Since, the Settlement Operation is time bound activities, therefore, in order to complete the Settlement Operation in given timeline, the appellant was placed at the disposal of Settlement Officer, Abbottabad to carry out responsibilities of Kanungo and to expedite the progress of Settlement operation. While serving in Settlement Operation, he was posted as Settlement Naib Tehsildar (OPS) as a stop gap arrangement for the time being to carry Settlement activities smoothly.
3. Since, the already posted revenue Officer in Settlement Operation Mansehra was suspended, therefore, the appellant was posted there in order to carry the pace of work till proper arrangement.
4. The appellant was repatriated to previous post upon the recommendation of Settlement Officer, Abbottabad as the work he started there were kept pending/uncompleted due to his transfer.
5. In pursuance of Khyber Pakhtunkhwa Settlement Employees Regularization, Act 2022, the employees of Re-Settlement Operation has been declared a separate cadre, thus the services of the appellant was repatriated to parent office (district administration), while Settlement Kanungo was posted as Settlement Naib Tehsildar. The appellant was promoted against the post of Kanungo in 11.10.2019, while respondent No.4 being a regular Settlement official was promoted against the Settlement Kanungo post in 25.07.2019 being senior than the appellant. Besides, the appellant has not cleared Departmental Examination of Naib Tehsildar.
6. The rules notified in 2015 for Settlement Operation reveals that the post of Settlement Naib Tehsildar may be filled from amongst Settlement Kanungos having five years experience,

01/02




in case of non-availability of suitable person, than by transfer from amongst Naib Tehsildar having requisite experience. However, there is no provision for posting of Revenue Kanungo as Settlement Naib Tehsildar.

7. Since, there was no provision under the rules for posting of Revenue Kanungo as Settlement Naib Tehsildar, therefore, his departmental appeal was regretted.
8. Incorrect as per Para – 6 above.

GROUNDS:

- a. Incorrect. As per Para-06 of facts.
- b. Incorrect. The posting order was made as a stop gap arrangement for the time being in the interest of Settlement Operation.
- c. Incorrect. The respondent department acted upon the service rules of Settlement employees notified in the year 2015 by posting of employee of Settlement Operation.
- d. Incorrect, the normal tenure is prescribed for regular employees of district administration, while Settlement is a special Operation for revision and preparation of record of rights through settlement knowing and experience staff.
- e. No comments.
- f. Incorrect. The appellant has been treated as per requirement for Settlement Operation under Settlement Manual and Land Records Manual. Which states that Settlement Operation shall be carried out through Settlement knowing personal.
- g. The posting was made for smooth function of field activities for the time being.
- h. As replied above.
- i. As per Para – f.
- j. Incorrect, as per Para – c.
- k. Incorrect, as per Para – 6 of facts.
- l. No. comments. The respondents may be allowed for additional grounds at the time of hearing.

Keeping in view the above explained position, the instant service appeal being having no force of law/legal ground may very kindly be dismissed with cost.


Senior Member Board of Revenue
Khyber Pakhtunkhwa

(Respondent No. 01)


Director Land Records
Khyber Pakhtunkhwa

(Respondent No. 02)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1461/2022


1. Mr. Nawaz Hasan Abbasi, Settlement Naib Tehsildar Settlement Operation Havelian District
Abbottabad Appellant

V E R S U S

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2. The Director Land Records/Chief Settlement Officer, Khyber Pakhtunkhwa, Peshawar.
3. Mr. Chanzeb Khan, Kanungo, District Abbottabad.
4. Mr. Irshad Khan, Settlement Kanungo, Peshi Kanungo Settlement Operation Mansehra
..... Respondents

AUTHORITY LETTER

Mr. Mohsin Ali, Assistant Director Land Records (BS-17),
Directorate of Land Records, Khyber Pakhtunkhwa is hereby authorized to file para wise
comments in Service Appeal No. 1461/2022 on behalf of the respondents before the honorable
Khyber Pakhtunkhwa Service Tribunal, Peshawar.


Director Land Records
Khyber Pakhtunkhwa
(Respondent No. 2)