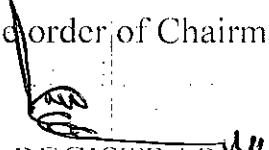


FORM OF ORDER SHEET

Court of _____

Case No. - 569 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
	15/03/2023	<p>The appeal of Pir Matiullah Shah submitted today by Mr. Ikram Ullah Khan Marwat Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

IN THE PESHAWAR HIGH COURT BANNU BENCH

Service Appeal No. 569 of 2023

Pir Mati Ullah Shah-----Appellant

VS

SMBR- Peshawar & other-----RESPONDENTS

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Appellant

Through Counsel


Ikram Ullah Khan Marwat
Advocate High Court, at Bannu

BEFORE THE KHYBER PAKTHOONKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. 569 of 2023

Pir Mati ullah Shah S/O Pir Manzoor Ali Shah, R/o Village Bazar Ahmed
Khan, Tehsil & District Bannu ----- (Appellant)

VS

1. Senior Member Board of Revenue (SMBR), KPK- Peshawar
2. Commissioner Bannu Division, Bannu ----- (Respondents)

SERVICES APPEAL U/S 4 OF KHYBER PAKTHOONKHWA

SERVICE TRIBUNALN ACT, 1974 AGAINST THE IMUGNED

NOTIFICATION # 138/PO/Estab-23 DATED 09 MARCH,2023.

WHERE BY THE APPELLANT WAS TRANSFERRED TO

IRRIGATION DEPARTMENT BANNU, DEPRIVE THE

APPELLANT FROM THE SAID POST PREMATURLLY WHERE

THE APPELLANT HAS NOT COMPLETED HIS NORMAL

TENURE AND ALSO THE VOILATION OF NOTIFICATION # 5948-

92 DATED 02-03-2023 ISSUED BY BOARD OF REVENUE.

PRAYER IN APPEAL:

It is, therefore humbly prayed that acceptance of this service appeal,

- a) That the impugned Notification # 138/PO/Estab-23 Dated
09.03.2023 being illegal and unlawful, without lawful authority and

thus is of no legal effect and hence liable to be set aside and reversed.

- b) An appropriate direction be issued to the Respondents to with draw/recall the impugned notification # 138/PO/Estab-23 Dated 09.03.2023.
- c) The Respondents be directed to restore back the appellant to his previous post along with back benefits occurred to the Appellant.
- d) Any other relief not specifically prayed for in the circumstances of the case may also be passed in favor of the Appellant.

Respectfully Sheweth:

That the Appellant very implore for permission to plead his grievances at the hands of Respondents and seeks solace thereto as follows,

- 1) That the Appellant joined the Revenue department in the year 1987 as a village officer and thereafter started career with zeal and dedication and has served public at large and department on various Posts/Positions to the best of his abilities and full satisfaction of Superior since appointment, it is also pertinent to mention here that since the appointment of the Appellant, he had never given any

chance even to minor complaint to his high-ups and has rendered his services with passion and commitment.

2) That the Appellant being a BPS-14, civil servant and presently working as a Naib Tehsildar, Tehsil Domail, District Bannu.

3. That the Appellant was transferred and posted as a Naib Tehsildar, Tehsil Domail, District Bannu vide Notification # 1858-63/AE/F20 Dated 14-07-2022.

Copy of Notification, Dated 14.07.2022 is annexed as "A"

4. That the Appellant is now transferred and posted as a Naib Tehsildar, Naib Tehsildar Irrigation Department, District Bannu vide Notification # 138/PO/Estab-23 Dated 09-03-2023.

Copy of Notification, Dated 09.03.2023 is annexed as "B"

5) That frequent transfer & Postings are discriminating & disgusting for a government servant who served the said department for the last **35 years without any blemish and fault**, There is no complaint and no allegation against the Appellant. Thus the Appellant filed an appeal to the Respondent #01 on dated **13 .03.2023** for **cancellation of transfer order dated 09-03-2023** but Respondent #01 filed/Rejected the Appeal of Appellant on dated **14. 03.2023**.

Copy of the Appellant Appeal dated 13 .03.2023 is annexed as "C"

6. That the Appeal of the Appellant is rejected/Turndown by the Respondent # 01, thus the Appellant is constrained to approach this Hon'ble Tribunal while having no other adequate remedy, Hence this service Appeal on the following grounds inter alia;

GROUNDS

1. That the impugned transfer order dated **09.03.2023** of the Appellant is based on Malafide intentions, without cogent reasons, based on political handedness and fundamental rights of the Appellant, hence liable to be struck down and reversed.
2. That the rapid transfer orders of the Appellant are purely based on personal ill will & interest and the Appellant is made a rolling stone by Respondent #02. The Conduct & behavior of Respondent #02 is dictatorial and not like a good government officer. Thus the said transfer orders are unlawful discriminative and unconstitutional.
3. That the establishment of Board of Revenue recently issued a directive/notification # 5948-92 dated 02-03-2023 that
 - 1) **Proposal** for re-shuffling of officers/officials who have completed **2 years** tenure on their present seat be prepared and send to this office for perusal/approval. 2) **No**

Transfer/Postings orders of officers/officials should be issued without prior approval of the Minister for Revenue. Thus in the current case, the Appellant hardly completed 6 months at present post, in addition to that not taken prior permission from the Minister concerned, which is sheer violation of the directive/notification issued on dated 02.03.2023. Thus the transfer order must be reversed as it is purely made on malafide and intervention of the local politicians whereas it is high time that the trend of seeking interference of such like political figures be discouraged in line with the dictum so laid down by the superior judiciary.

4. That the transfer and Posting policy approved by the competent authority says that all postings/transfer shall be strictly in public interest for **Three Years** and shall not be abused and misused to victimize the government servant however, most unfortunately, the government servants are always been made scapegoat so as to please the ruling party figures. It is important to mention that the Appellant hardly completed **6 months** tenure on the present post whilst transferred on the behest of the political leaders.

5. That the impugned notification dated 09.03.2023 has resulted in visible injustice to the Appellant, as the impugned transfer order dated 09.03.2023 is passed without any legal

plausible justification, hence liable to be reversed and set aside on the aforementioned grounds.

6. That the question of transfer/posting fell within the domain of competent authority, but such discretion must not be exercised in an arbitrary & fanciful manner. Discretion had to be exercised judiciously and in accordance with settled norms of justice, equity and fair play. In addition to that when transfer is made contrary to the relevant rules and against the public interest and without allowing the officer to complete his tenure, the court is empowered to examine such administrative action by applying the Principal of Judicial review.

7. That the August Supreme Court of Pakistan has held in the case of **SM Akther Naqvi etc Vs Federation of Pakistan & others**, reported in PLD 2013, P 195 that matter of posting and Transfer of civil servants cannot be allowed to be dealt with in arbitrary manner.

8. That the Respondents are travelling way beyond the scope & approach adopted for others, thus the approach adopted for the Appellant is in violation of **Article 10-A and Article 25** of the Constitution of Islamic Republic of Pakistan, 1973.

9. That even, otherwise, this Hon'ble Tribunal being the Constitutional Court of the Province is vested with the authority and Jurisdiction to provide efficacious and appropriate remedy to the Appellant.
10. That the learned counsel for the Appellant may kindly be allowed to raise additional grounds at the time of hearing of this Service Appeal.

Therefore, it is most humbly prayed that on acceptance of this Service Appeal,

E) The impugned transfer order dated **09.03.2023** issued by the Respondent #.02 may kindly be declared as illegal, unlawful, without lawful authority and thus of no legal effect and hence liable to be set aside and reversed.

F) An appropriate direction be issued to the Respondents to with draw/recall the impugned Notification #138/PO/Estab-23 dated 09.03.2023.

G) The Respondents be directed to restore back the Appellant at his previous post along with back benefits occurred to the Appellant.

H) Any other relief not specifically prayed for in the circumstance of the case may also be passed in favor of Appellant.


Appellant

Dated: 15-03-2023

Through Counsel


Ikram Ullah Khan Marwat
Advocate High Court Bannu

BEFORE THE KHYBER PAKHTHUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. _____ of 2023

Pir Mati ullah Shah S/O Pir Manzoor Ali Shah, R/o Village Bazar Ahmed
Khan, Tehsil & District Bannu ----- (Appellant)

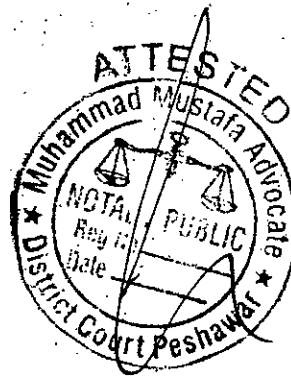
VS

1. Senior Member Board of Revenue (SMBR), KPK- Peshawar
2. Commissioner Bannu Division, Bannu ----- (Respondents)

AFFIDAVIT:-

I, Pir Mati ullah Shah S/o Pir Manzoor Ali Shah
R/O Bannu city do hereby solemnly affirm and declare that all the
contents of this service Appeal are true & correct to the best of my
knowledge and belief and nothing has been concealed from this
Honorable Court.


Deponent



15 MAR 2023

Identified By 

**Ikram Ullah Khan Marwat
Advocate High Court at Bannu**

BEFORE THE KHYBER PAKTHOONKHWA SERVICE
- TRIBUNAL, PESHAWAR.

CM # _____ 2023
Service Appeal No. _____ of 2023

Pir Mati ullah Shah----- (Appellant)

VS

1. Senior Member Board of Revenue (SMBR) & Others---- (Respondents)

**APPLICATION FOR SUSPENDING THE OPERATION OF THE
IMUGNED NOTIFICATION # 138/PO/Estab-23 DATED 09 MARCH,
2023, AND THE RESPONDENTS MAY ALSO BE RESTRAINED
FROM TAKING ANY KIND OF ADVERSE ACTION AGAINST THE
APPELLANT, TILL THE FINAL DISPOSAL OF THE MAIN
SERVICE APPEAL.**

Respectfully Sheweth

- a) That the titled service Appeal being filed before this Honorable Tribunal in which no date of hearing is fixed.
- b) That the grounds of Appeal may be considered as the integral part of this Appeal.
- c) That the balance of convenience also lies in favour of the Appellant.
- d) That the Appellant has a good prima facie case and all the three ingredients are in favour of the Appellant.

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e) That if the operation of impugned Notification # 138/PO/Estab-23 dated 09.03.2023 is not suspended then the Appellant would suffer irreparable loss.

It is therefore most humbly prayed that by accepting of this application, the interim relief prayed for in the instant application may kindly be passed in favour of the Appellant against the Respondents.

Dated: 15-03-2023


Appellant

Through Counsel


Ikram Ullah Khan Marwat
Advocate High Court Bannu



12

COMMISSIONER BANNU DIVISION

P.O. Box. 12, Postal Code 28100, Bannu.
Phone: 0928-9270044 & 621144
Fax: 0928-9270041
E-mail: acr.bannu@yehoo.com

No. 1031-36-E.A/R-20

Dated: 14.07.2022

Amex. (A)

OFFICE ORDER

Following Posting/Transfer amongst Tehsildars/Naib Tehsildars of Bannu Division is hereby ordered with immediate effect in the public interest:

S	Name	From	To	Remarks
1	Farid Ullah Shah Tehsildar (BPS-16) ACB	Tehsildar WAPDA	Tehsildar Bannu	Against the vacant post. In light of Posting/Transfer policy of the Provincial Government Notified vide No. SOR-II (E&AD) 1-1/85(VOL-II), dated 15 th February, 2003.
2	Farid Ullah Tehsildar (BPS-16)	Tehsildar Mir Ali	Stamp Inspector Bannu Division	
3	Murad Ali, Tehsildar (BPS-16)	Stamp Inspector Bannu Division	Tehsildar Lakki Marwat	
4	Farid Ullah Khan, Tehsildar (BPS-16)	Waiting for posting	Tehsildar Bakka Khel	Against the vacant post
5	Taib Ullah Naib Tehsildar (BPS-14) ACB	Waiting for posting	Naib Tehsildar Miryan	Services placed by BOR
6	Sajid Ali, Naib Tehsildar (BPS-14)	Naib Tehsildar Miryan	Tehsildar Miryan (OPS)	By relieving Tehsildar Domei from the locker charge.
7	Sher Ali, Kanungo (BPS-11)	Tehsildar Shawal (OPS)	Naib Tehsildar Bhettani	Against the vacant post
8	Mati Ullah Shah, Naib Tehsildar (BPS-14) ACB	Tehsildar Lakki Marwat (OPS)	Report to Commissioner Office	
9	Atiq Ullah, Kanungo (BPS-11)	DK Lakki Marwat	Naib Tehsildar Tajori	
10	Asghar Khan, Naib Tehsildar (BPS-14) ACB	Naib Tehsildar Tajori	District Kanungo Lakki Marwat	
11	Habib-Ur-Rehman, J/C cum-Political Muharrir (BPS-11)	Tehsildar Spinwam	Naib Tehsildar Ghulam Khan	Against the vacant post.
12	Sher Bahadar, J/C cum-Political Muharrir (BPS-11)	DC Office NWTD	Naib Tehsildar, Razmak	Against the vacant post
13	Ghani-Ur-rehman, J/C cum Political Muharrir. (BPS-11)	DC Office NWTD	Tehsildar Mir Ali	

-sd-
Commissioner
Bannu Division

Even no. & date:
Copy forwarded to the

1. Deputy Commissioner, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. Deputy Commissioner, North Waziristan Tribal District.
4. Assistant Secretary (Estt.), Board of Revenue, Peshawar.
5. PS to Commissioner Bannu.
6. Officials concerned for compliance.



(13)

**OFFICE OF THE
COMMISSIONER
BANNU DIVISION**

F.O. Box-12, Postal code 28100, Bannu
NO 138 /PO/Estab-23.
Dated: 09 /March, 2023
Phone: 0928 - 9270044 & 621144
Fax: 0928 - 9270041
E-mail: commissioner@bannu.gov.pk

Amir: (13)

ORDER

Mr. Matullah Shah Naib Tehsildar (BS-14) currently working as Naib Tehsildar Domain, District Bannu, is hereby transferred with immediate effect and posted as Naib Tehsildar Irrigation Department, Bannu.

The above Naib Tehsildar shall be deemed to have reported at his new place of posting forthwith.

Sd/-
Commissioner
Bannu Division

Even No & date

Copy to

- 1 The Deputy Commissioner Bannu.
- 2 The Secretary-1, Board of Revenue, Khyber Pakhtunkhwa.
- 3 The District Comptroller of Accounts Bannu.
- 4 Naib Tehsildar concerned for compliance.
- 5 PS to Commissioner Bannu Division.


Secretary to Commissioner
Bannu Division

A

0333 576 1001

PS to SMBR
Dairy No: 38 Date: 12/2

**IN THE COURT OF HONRABLE SENIOR MEMBER BOARD OF
REVENUE KHYBER PAKHTUNKHWA PESHAWAR**

Pir Matti Ullah Shah Naib Tehsildar Domail Bannu.....Appellant

Versus

Commissioner Bannu Division Bannu.....Respondent

**DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER BEARING
NO.138/PO/ESTAB-23 DATED 09-03-2023 PASSED BY COMMISSIONER
BANNU DIVISION BANNU WHEREBY THE APPELLANT HAS BEEN
TRANSFERRED PRE-MATURELY BEFORE THE COMPLETION OF TWO (2)
YEARS OF MANDATORY PERIOD UNLAWFULLY, MALAFIDE AND
AGAINST THE JUSTICE**

PRAYER

On acceptance of this departmental appeal the impugned notification may please be set aside.

Respectfully Sheweth.

With due respect it is humbly prayed that the petitioner has been transferred vide notification no.138/PO/ESTAB-23 dated 09-03-2023, it is also worth mentioning here that petitioner hardly completed six (6) months at Naib Tehsildar Domail District Bannu, that suddenly the petitioner has been transferred by the Political Mafia, who are the

S-I

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MBR

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ETA: ✓

14.3.23

master of black and white at Bannu. It is also bringing in your notice, that the petitioner is not transferred on complaint nothing is against, the petitioner is very dutiful, hard worker and committed civil servant and has performed his duty the best of his abilities.

It is therefore requested your honorable Sir, that the transferred order dated 09-03-2023, may please be set aside.

I shall be very thankful to you.





Pir Matti Ullah Shah

Naib-Tehsildar

Domail District

Bannu

0333-5761001


	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT. (Establishment Section)		
091- 9213989	No. Estt: V/Matti Ullah NT/ 7038 Peshawar Dated the 14/03/2023		091-9214208

To

Mr. Matti Ullah Shah,
Naib Tehsildar Domail - Bannu

SUBJECT: DEPARTMENTAL APPEAL

I am directed to refer to the subject noted above and to inform you that your appeal has been examined and filed by the competent authority.


Noor Khan
Assistant Secretary (Estt:)

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GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.	
Ref: G.O. 271/2023	991-9214208
Subject: Transfer 2023 5948-92	Peshawar Dated the 02/03/2023

Amma: Ds

1. All the Divisional Commissioners, in Khyber Pakhtunkhwa
2. The Director Land Records, Khyber Pakhtunkhwa.
3. All the Deputy Commissioners, in Khyber Pakhtunkhwa

SUBJECT TRANSFER / POSTINGS.

I am directed to refer to the subject and to enclosed herewith a copy of letter No. PS/MINISTERED & Revenue/20203, dated 02.03.2023 received from Private Secretary to Minister for Industries, Commerce and Technical Education and Revenue & Estate Khyber Pakhtunkhwa and to state that:-

1. Proposals for re-shuffling of officers / officials who have completed two years tenure in their present post be prepared and send to this office for perusal / approval.
2. No transfers / Postings order of officers / officials should be issued without prior approval of the Minister for Revenue.

In view of the above, it is, therefore, requested to kindly ensure implementation of the above directives of the honorable Minister for Industries, Commerce and Technical Education and Revenue & Estate Khyber Pakhtunkhwa and submit report within two days please.

(NOOR KHAN)
Assistant Secretary (Estt.)
Board of Revenue

Encl: No. & Date Even:

Copy forwarded to PS to Minister for Industries, Commerce and technical education and Revenue & Estate Khyber Pakhtunkhwa for information w/r to his letter quoted above please.

(NOOR KHAN)
Assistant Secretary (Estt.)
Board of Revenue

بعدالت حج حیدر مختوخواہ سردس سرپوش مشور



مورخہ 2023-23-13
 مقدمہ میر سید اسلم شاہ بنام SMAR وغیرہ
 دعویٰ سرسوس اپیل
 جرم

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ ان مقام سرسوس کے لئے ارکلم اللہ خان سردس سرپوش کے مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو راضی نامہ و مقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق ذرا اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہوگا تھانہ باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی مقدمہ مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

13 ماہ مارچ 2023

گواہ شد

العبد المرقوم

میر سید اسلم شاہ
(Appellant)

العبد المرقوم
 133-982
 1107-118577-7