

CNIC No: 17101-0353056-7
BC No. 09-1902
Cell No: 0332-7397004
F/Name: Abdul Rehman

BEFORE THE KHYBER PAKHUNKHWA SERVICE TRIBUNAL
PESHAWAR

Reply No _____/2023
in
Service Appeal No.577/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4982

Dated 26/4/2023

Abdul karim.....**Petitioner**

Versus

Govt. of Khyber Pakhtunkhwa through its secretary and
others.....**Respondents**

I N D E X

S#	Description of Documents	Annex	Pages
1.	Written reply		1-4
2.	Affidavit		05
3.	Copy of NOC for posting transfer order	"A"	06
4.	Copy of Assumption of Charge	"B"	07-08
5.	Copy of relevant documents	"C"	09-16
6.	Copy of letter dated 28-02-2023	"D"	17

Through


Petitioner/Respondent no. 04

Farman Ullah Khan  Abdul-Rehman

&

Shahbaz

Advocate

High Court Peshawar

Office Add:

Opposite to PS Faqirabad,
Charsadda Road, Peshawar

BEFORE THE KHYBER PAKHUNKHWA SERVICE TRIBUNAL
PESHAWAR

Reply No _____/2023
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REPLY ON BEHALF OF RESPONDENT NO. 04

Preliminary objections

1. That the appellant has got no cause of action.
2. That appeal is bad for Mis-joinder and Non-Joinder of necessary parties.
3. That appellant has been estopped by his own conduct to file the appeal.
4. That appeal is badly time barred.
5. That appeal is not maintainable in its present form.
6. That a civil servant had no vested right to claim posting transfer to any particular post at particular place of his choice, nor did he has any right to continue to hold a particular post at particular place.
7. That the competent authority transfers the appellant in public interest and for administrative reasons. Government servant holding a transferable post had no vested right to remain posted at one place of his choice for unlimited period.

8. That transfer of an employ/public servant fell within the ambit of terms and conditions of service which include transfer and posting and the same is the part of service. It was for the authority to determine where services of any staff member was required.
9. That appellant neither agitated any element of Malafide on the part of competent nor any right has been infringed.
10. That proper sanction has been obtained from the KP election commission in the case of replying respondent by the senior member board of revenue.

ON FACTS

1. **Para No. 01** of the appeal Pertains to record
2. **Para No. 02** is Correct to the extent of posting of appellant as a Tehsildar Tangi of District Charsadda dated 17-10-2022 and he was transferred through general order and report to commissioner office on dated 03-03-2023. Similarly replying respondent assumed the charge of the post of Tehsildar Tangi on dated 07-03-2023 and performing his official duties till date. It is pertinent mentioned here that replying respondent attested various mutations. Rest of the Para of the appeal is incorrect. It is pertinent to mentioned here that on dated 18-01-2023, Khyber Pakhtunkhwa Assembly was dissolved and care-taker set up was installed. As per article 218 of constitution of Pakistan read with 224 of constitution, it is the constitutional requirement of election commission to conduct free, fair and transparent elections and for this purpose care-taker

Govt has the mandate to done necessary posting transfers with prior permission of election commission and the same is done in the instant case so the plea of appellant that he was pre-maturely transferred is imprudent and not seem genuine to appealable mind. Appellant was transferred on administrative reasons by the competent authority in public interest. **(Copy of NOC for posting transfer order, assumption of charge and relevant documents are annexed as A, B & C respectively)**

3. **Para No. 03** needs no reply
4. **Para No. 04** is legal.

GROUND S:-

- A. **Para No. A** of the ground is incorrect. Posting/transfer order has been issued in accordance with the rules by the competent authority in public interest on administrative reasons. Civil servant had no vested right to be posted to any particular place to any length of time.
- B. **Para No. B** of the ground is incorrect, election commission of Pakistan vide letter dated 28-02-2023 empowered the care taker Government Of Khyber Pakhtunkhwa to done postings/transfer up to BPS-16 and competent authority after receiving permission order postings transfers as per its mandate. **(Copy of letter dated 28-02-2023 is annexed as D).**
- C. **Para No. C** of the ground is Incorrect. Posting transfers are included in the terms and conditions of service and the competent authority has power to transfer any civil

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servant to any place and instant posting transfer was made in public interest.

- D. **Para No. D, E & F** of the ground are not related to replying respondent.
- E. **Para No. G** of the ground is Incorrect. Replying respondent is regular Naib Tehsildar and the same is evident from the posting transfer order.
- F. **Para No. H** of the ground is Incorrect. Replying respondent has been performing duty as a Regular Naib Tehsildar for the last one and half years.
- G. **Para No I & J** of the ground are incorrect. Facts and circumstances of the said judgments i. e 2018 SCMR 1411 is altogether different from instant case.
- H. **Para No K** of the ground is legal.

In view of the above, appeal of appellant having no legal ground may kindly be dismissed with heavy cost.

Dated 21-04-2023

Through


Petitioner/Respondent no. 04

Farman Ullah khan

&

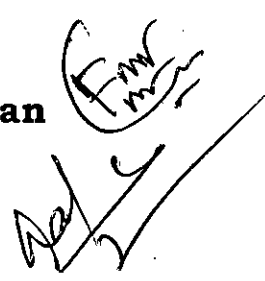
Shahbaz

Advocate

High Court Peshawar

Office Add:

Opposite to PS Faqirabad,
Charsadda Road, Peshawar



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BEFORE THE KHYBER PAKHUNKHWA SERVICE TRIBUNAL
PESHAWAR

Reply No _____/2023
in
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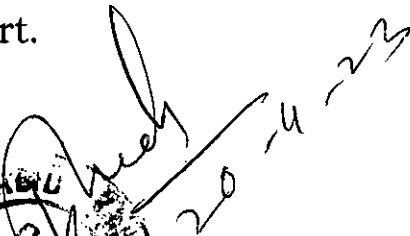
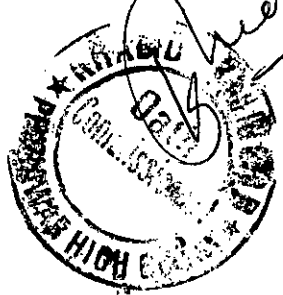
Abdul karim.....**Petitioner**

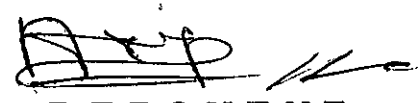
Versus

Govt. of Khyber Pakhtunkhwa through its secretary and
others.....**Respondents**

AFFIDAVIT

I, Arshad Iqbal Son of Khurshid Khan R/o Tehsil Pabbi
District Nowshera (**Respondent No.4**), do hereby solemnly
affirm and declare on oath that the contents of the
accompanying **Reply** are true and correct to the best of my
knowledge and belief and nothing has been concealed from
this Hon'ble Court.



DEPONENT
CNIC No.17201-2723966-3
Cell No.0311-1476660

Annex-A

②

OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR



No. 6/7/EA/2023/1/315
Dated: 02.03.2023

To

The Senior Member,
Board of Revenue,
Khyber Pakhtunkhwa.

Subject: NOC FOR POSTING / TRANSFER.

Dear Sir,

I am directed to refer to the subject cited above and to request that Provincial Election Commissioner Khyber Pakhtunkhwa may kindly be approached for posting / transfers of Tehsildars (BPS-16) in Peshawar Division on following posts please:-

1. Tehsildar Saddar District Peshawar.
2. Tehsildar Shabqadar District Charsadda.
3. Tehsildar Tangi District Charsadda.

ASSISTANT TO COMMISSIONER (Rev/GA)
PESHAWAR DIVISION PESHAWAR

No. 6/7/EA/2023/1/316

Copy forwarded to PS to Commissioner Peshawar Division.

ASSISTANT TO COMMISSIONER (Rev/GA)
PESHAWAR DIVISION PESHAWAR

ATTESTED

Annex-B

(7)

CHARGE ASSUMPTION REPORT

In compliance with the Worthy Commissioner, Peshawar Division, Peshawar Office Order No. 07FA/2023/13172-78 dated 03-03-2023. I, Mr. Arshid Iqbal hereby assumes the charge of the Post of Tehsildar Tangi today on 07-03-2023 (A.N)


ARSHID IQBAL
TEHSILDAR TANGI

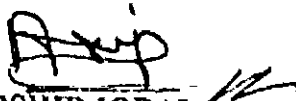
88-94

Endstt: No. 88-94 /Tehsildar Tangi

Dated: 07-03-2023

Copy forwarded for information to the:-

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
2. Deputy Commissioner, Charsadda.
3. Assistant to Commissioner (Rev/GA) Peshawar.
4. Assistant Commissioner, Tangi.
5. District Nazir, DC Office, Charsadda.
6. Office File


ARSHID IQBAL
TEHSILDAR TANGI



07-03-2023

CHARGE ASSUMPTION REPORT
SENIOR member Box
of REVENUES KPR.

88

88-94
7-3-2023

[Signature]

- 1 Deputy Commissioner. Chd.
- 2 Assistant to Commissioner (REV 1944) PESHAWAR.
- 3 Assistant Commissioner, Tangi
- 4 District Nazir, DC office. CHD.
- 5 office file.

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8-3-2023

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Siyah...
O.K. tangi

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8-3-2023

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A-C tangi

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15-2-2023

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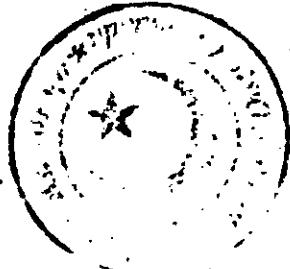
[Signature]

Annex-C

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Handwritten signature and name: O.K. Tang

12/6/2023



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اندرج جمعہ کی گذشتہ یا آخری واقعہ انتقال جس کی ترمیم مطلوب ہے	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
نام کھاتہ جمعہ کی سابق	132	353	423													
نام طرف یا جاہ																
نام مالک و احوال	(27678) محمد عثمان علی خان	صدر علی خان	عماد علی خان (2492)	صدر علی خان (25186)	محمد عثمان علی خان	محمد عثمان علی خان	محمد عثمان علی خان									
نام کاشت کار و احوال		بدر علی														
نمبر نام کھیت و رقبہ		87	1383-18	729-15	26-6	534-1	3-5	90-18								
قسم زمین		سائمن			جائی	بارائی	میدان	غیر کاشت								
معاہدہ و لگان				شامی												
نمبر کھاتہ جمعہ کی جدید																
نام مالک و احوال	(27678) محمد عثمان علی خان	محمد عثمان علی خان	محمد عثمان علی خان	محمد عثمان علی خان	(2400) محمد عثمان علی خان	محمد عثمان علی خان (25278)	محمد عثمان علی خان	محمد عثمان علی خان								
نام کاشت کار و احوال		بدر علی														
نمبر نام کھیت و رقبہ		اندرج خانہ	7													
قسم زمین		اندرج خانہ														
معاہدہ و لگان																
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فیس داخل خارج																
رپورٹ پٹواری																
تقدیق کردار																
تازگیوں																

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حساب لفظی و حساب عددی
صبر و حلال عملت دفعہ

حاصل نمونہ و حاصل امتحان
محلہ نمونہ و حاصل امتحان

تعمیر و اصلاح و اصلاح
تعمیر و اصلاح و اصلاح

2405 حصہ نمبر 1383-18
27678 حصہ نمبر 87

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O.K. Jang
12/2/2023



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12/11/2023
O.K. Tangi

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حوالہ انتقال
مکتبہ اسلامیہ

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

نام مالک و احوال	نام کاشت کار و احوال	نمبر نام کھیت و رقبہ و قسم زمین	معاملہ و لگان	نمبر کھاد جمعہ کی جدید	نام مالک و احوال	نام کاشت کار و احوال	نمبر نام کھیت و رقبہ و تقسیم زمین	معاملہ و لگان	قسم اور تاریخ انتقال معدر پینچہ رو زمین	فیس داخل خارج	رپورٹ پٹواری و تصدیق کردار و قانوگوئے
132 353 423 2896	نام کھاد جمعہ کی سابق نام طرف یا جاہ	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896	سلاو کا سجاد علی خان ولہ عثمان علی خان 2896

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تعمیرات
 خانہ نمبر 87

خانہ نمبر 87
 رقم 132
 383

120-0
 رقم 423

منقولہ رقم
 رقم 110

R.O

تعمیرات
 خانہ نمبر 87

خانہ نمبر 87
 رقم 132
 383

120-0
 رقم 423

منقولہ رقم
 رقم 110

12/3/2023

تعمیرات
 خانہ نمبر 87

خانہ نمبر 87
 رقم 132
 383

120-0
 رقم 423

منقولہ رقم
 رقم 110

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بجائے انتقال بخیر

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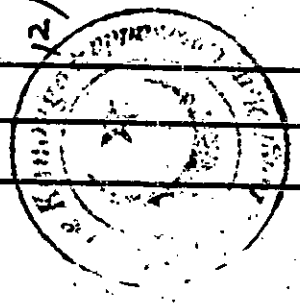
بجائے انتقال بخیر

بجائے انتقال بخیر

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O.K. Tamang

12/4/2023



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رپورٹ پٹواری و تصدیق کردار قانونگوئے	فیس داخل خارج	قسم اور تاریخ انتقال معدر بیچہ زرد پین	معاملہ دلگان	نمبر نام کھیت درجہ و تقسیم زمین	نام کاشت کار و احوال	نمبر نام مالک و احوال	نمبر کھانہ جمعہ کی جدید	نام مالک و احوال	نام کاشت کار و احوال	نمبر نام کھیت درجہ و تقسیم زمین	نام کاشت کار و احوال	نام مالک و احوال	نام طرف یا جاہ	نام کھانہ جمعہ کی سابق
خدا علی واقعہ طرہ الملوکہ خانہ درجہ اولیٰ و ثانیہ اشعار و بیس کھنڈہ اولیٰ		واقعہ خدا خدا		انوار 7-6 بیلوڑ	بیلوڑ	(27678) معہ ماہ نور خالہ دختر خالہ خان زوجه بیجا علی خان (2400) دکٹر بیرو (25278) شیمان خداری سلفہ علی		(27678) معہ ماہ نور خالہ دختر خالہ خان بیلوڑ	بیلوڑ	87 383-18 729-15 26-4 534-1 3-5 90-18	بیلوڑ	(27678) بیلوڑ	132 352 423	

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Annex - D

(17)

No. F.10(1)/2023-Elec-II
ELECTION COMMISSION OF PAKISTAN



"Secretariat"
Constitution Avenue, G-5/2,
Islamabad, the 28th February, 2023.
E-Mail: assistantdirectorelec2@gmail.com

To,

The Provincial Election Commissioner,
Khyber Pakhtunkhwa.
Peshawar.

Subject: NOC FOR TRANSFER/POSTING.

Dear Sir,

Reference to your letter No. F.3 (1)/2023-Els(PEC) Vol-IV(9) dated 23rd February, 2023 on the subject cited above and to state that the Hon'ble Commission has decided vide letter No F. 10(1)/2023-Elec-II dated 28th February, 2023 that the transfer/posting up to BPS-16 may be done by the Care taker Government of Khyber Pakhtunkhwa, as per the law. The relevant department/persons be informed to approach the appropriate forum, please.

Yours sincerely,

Rizwana Latif
(Rizwana Latif)
Assistant Director (Elec-II)

For
ATTESTED