

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
**AT CAMP COURT, SWAT**

Service Appeal No.407/2022

Date of Institution	...	21.03.2022
Date of Decision	...	03.05.2023

Asif Safdar S/O Safdar Ali R/O Lasht Booni P.O Booni, Tehsil Mastuj  
District Upper Chitral, Naib Qasid (BPS-03) District Director  
Agriculture Officer, Chitral Upper at Booni.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Agriculture  
Extension Government of Khyber Pakhtunkhwa, Civil Secretariat,  
Peshawar and two others.

... (Respondents)

Saif Ulláh Mangol,  
Advocate ... For appellant.

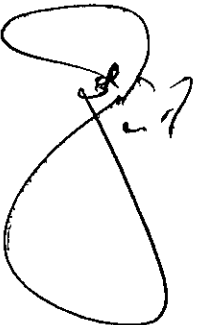
Fazal Shah Mohmand,  
Additional Advocate General ... For respondents.

Mrs. Rozina Rehman	...	Member (J)
Miss Fareeha Paul	...	Member (E)

**JUDGMENT**

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction of  
this Tribunal through above titled appeal with the prayer as copied below:

**“On acceptance of the instant appeal, the appropriate  
order may graciously be issued against the respondents  
not to interfere in the continuation of job of the appellant  
and permanently restrain the respondents not to take any  
adverse action against the appellant without any prior  
notice etc.”.**

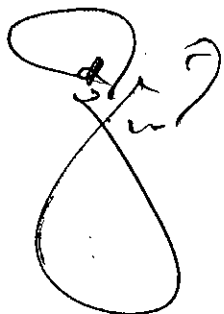


2. Brief facts leading to filing of the instant appeal are that the respondent No.3 advertised different posts including the post of Naib Qasid (BPS-03). The appellant being eligible applied for the post of Naib Qasid and accordingly he appeared before the Departmental Selection Committee. His appointment letter was accordingly issued on 05.11.2021 and he was appointed as Naib Qasid (BPS-03) on regular basis against the post in the office of District Director Agriculture Extension Khyber Pakhtunkhwa, Peshawar. After fulfillment of all codal formalities, he assumed the charge of his post on 05.11.2021. It was on 13.12.2021 when he was verbally restrained by the respondent No.3 from performance of his duty. Feeling aggrieved, he submitted departmental appeal which was not responded to, hence the present service appeal.

3. The respondents were summoned but they did not appear and failed to submit comments, therefore, they were placed ex-parte and their right to file reply was struck off.

4. We have heard Saif Ullah Mangol Advocate, learned counsel for the appellant and Fazal Shah Mohmand, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

5. Saif Ullah Mangol Advocate, learned counsel for appellant, inter-alia, argued that the appellant, after fulfillment of all codal formalities, was appointed as Naib Qasid who performed his duty for more than one month in the office of respondent No.3 with zeal and zest, therefore, the act of the respondents is against law and facts who



verbally restrained the appellant from performance of his duty. He contended that the order of respondent is based on malafide, against the norms of justice as well as the vested rights of the appellant being guaranteed by the Constitution of Islamic Republic of Pakistan, 1973. He, therefore, requested for acceptance of the instant service appeal.

6. Conversely learned AAG submitted that the appellant did not apply for the post of Naib Qasid nor was he called for interview and that the list of candidates who had applied for the post of Naib Qasid does not show his name. He submitted that the Departmental Selection Committee held by the District Director Agriculture Chitral Upper did not recommend the name of the appellant nor issued any call letter to the appellant for attending interview for the post of Naib Qasid. He submitted that Ex-District Director Agriculture Upper Chitral requested the respondent No.2 for transfer of one Rehmat Ghazi Naib Qasid against vacant post in the office of District Director Agriculture Chitral Lower, therefore, transfer order of Rehmat Ghazi against the post of Chowkidar was issued and ex-respondent No.3 after a lapse of five months of test/interview for the post of Naib Qasid illegally appointed the appellant as Naib Qasid against the post vacated by Rehmat Ghazi vide order dated 05.11.2021 without applying codal formalities prescribed for appointment by the Government of Khyber Pakhtunkhwa.

7. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that a meeting of the Departmental Selection Committee at district level was held on

08.06.2021 under the Chairmanship of District Director Agriculture Chitral Upper in his office for recruitment of the following newly created posts:

1. Field Assistant (BPS-09) = 01
2. Budder (BPS-07) = 01
3. Driver (BPSS-06) = 01
4. Naib Qasid (BPS-03) = 02
5. Field Worker (BPS-03) = 04


For the purpose, advertisement had already been issued in the newspaper. Name of the present appellant is not available in the list of candidates who applied for the post of Naib Qasid and duly recorded their attendance. The appellant failed to bring on record his application form for the post of Naib Qasid. Admittedly, two posts of Naib Qasid (BPS-03) were available and after proper examination and fulfilling of all codal formalities, Mr. Asad Ullah and Mr. Rehmat Ghazi were appointed as Naib Qasid. Minutes of the meeting of Departmental Selection Committee are available on record. The office orders in respect of Asad Ullah and Rehmat Ghazi are also available which were issued. Rehmat Ghazi was appointed on 14.07.2021 and transferred and posted against the vacant post of Chowkidar in the office of District Director Agriculture Lower Chitral vide office order dated 04.11.2021 and on the next following day i.e. 05.11.2021, District Director Agriculture Chitral Upper issued the appointment order of the present appellant despite the fact that there was no post of Naib Qasid rather Rehmat Ghazi who had been properly appointed, had been transferred and just after his transfer the present appellant was accommodated

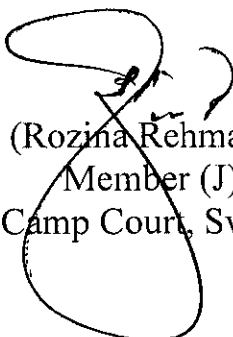
without fulfillment of any codal formalities. His application form is not available. The list of candidates for the post of Naib Qasid is silent in respect of the present appellant. No meeting of Departmental Selection Committee was convened in respect of the appointment of the appellant. Relevant law and rules were violated and office order was issued on 05.11.2021 and again it was on 20.11.2021 when another office order was issued by the same District Director Agriculture Chitral Upper vide which not only the transfer order of Rehmat Ghazi Naib Qasid was cancelled but also the appointment order of the present appellant was withdrawn/cancelled due to non-availability of the vacant post. The ex-respondent No.3 after a lapse of five months of the test/interview for the post of Naib Qasid illegally appointed the appellant as Naib Qasid without completing codal formalities prescribed for the appointment by the Government of Khyber Pakhtunkhwa and that is why his order of appointment was subsequently withdrawn by the same officer through order dated 20.11.2021.

8. In view of the circumstances of the case, we do not find any viable reason to interfere in the impugned order. Resultantly, this appeal having no substance is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

03.05.2023

  
(Fareeha Paul)  
Member (E)  
Camp Court, Swat

  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat