

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**FAREEHA PAUL ... MEMBER (Executive)**

*Service Appeal No.1461/2022*

Date of presentation of appeal .....11.10.2022  
Dates of Hearing.....08.05.2023  
Date of Decision.....08.05.2023

**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 Record, Khyber Pakhtunkhwa, Peshawar.**
3. **Mr. Chanzeb Khan, Kanungo, District Abbottabad.**
4. **Mr. Irshad Khan, Settlement Kanungo, Peshi Kanungo, Settlement Operation Mansehra.**
5. **Meboob, Settlement Naib Tehsildar Havelian.**

.....(*Respondent*)

Present:

Syed Noman Ali Bukhari, Advocate.....For appellant.

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

Mr. Muhammad Arshad Khan Tanoli,  
Advocate.....For respondent No.5.

.....  
**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE ORDER DATED 21.09.2022, 05.10.2022 AND 24.02.2023  
WHEREBY THE APPELLANT WAS PREMATURELY  
TRANSFERRED AND AGAINST REJECTION ORDER DATED  
06.10.2022 WITHOUT SHOWING ANY REASON.**

-----  


## JUDGMENT

**KALIM ARSHAD KHAN CHAIRMAN:** According to the facts gathered from the memorandum and grounds of appeal, the appellant was serving the respondent/department as Naib Tehsildar; that the appellant was transferred vide order dated 09.12.2021 from Settlement Operation Abbottabad to Tehsil Havelian, Settlement Operation Abbottabad; that just after two months, the appellant was transferred vide order dated 04.02.2022 from Tehsil Havelian, Settlement Operation Abbottabad to Settlement Operation Mansehra; that on 18.03.2022 after one month the appellant was transferred from Settlement Operation Mansehra to Settlement Operation Tehsil Havelian, Abbottabad; that after six months, the appellant was again transfer vide impugned order dated 21.09.2022 from Settlement Operation Tehsil Havelian, Abbottabad to the office of the Deputy Commissioner, Abbottabad; that feeling aggrieved, the appellant filed departmental appeal; that during the pendency of departmental appeal the respondent/department passed another transfer order dated 05.10.2022, whereby respondent No.3 was transferred from the place of appellant and respondent No.4 was posted at the place from where the appellant was transferred; that the appellant filed departmental appeal against the order dated 05.10.2022 on the same very day, wherein the appellant clearly stated that the said order had been passed during the pendency of departmental appeal, filed against an earlier transfer order dated 21.09.2022; the said departmental appeal was rejected on the next date i.e. on 06.10.2022; that the appellant filed the instant service



appeal; that during pendency of the instant appeal, the respondent/department passed another order dated 24.02.2023.


2. On receipt of the appeal and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant, learned Additional Advocate General for the official respondents and counsel for private respondent No.5.

4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and rules. The impugned order dated 21.09.2022, 05.10.2022, 06.10.2022 and 24.02.2023 is against the law, policy, rules and norms of natural justice. He further argued that the transfer order dated 21.09.2022 is premature. He requested that the appeal might be accepted.

5. On the other hand learned Additional Advocate General for the respondents argued that the appellant has been treated in accordance with law and rule. He further argued that a civil servant may be posted anywhere under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, as it is competency of the Competent Authority to utilize services of the appellant. He requested that the appeal might be dismissed.

6. The appellant is stated to be employee of the Revenue Staff under the Deputy Commissioner, Abbottabad, who was working in the Settlement



Operation, Abbottabad against the post of Settlement Naib Tehsildar in his own pay and scale in Tehsil Havelian, Settlement Operation, Abbottabad vide office order dated 09.12.2021. From where he was transferred vide notification dated 04.02.2022 and posted as Settlement Naib Tehsildar (OPS) Settlement Operation, Abbottabad. Similarly vide order dated 18.03.2022, the appellant was transferred and posted as Settlement Naib Tehsildar (OPS) Havelian Abbottabad vide the impugned order dated 21.09.2022, he was repatriated to his parent office i.e. the Deputy Commissioner, Abbottabad and private respondent No.4 was posted against his post.

7. It is contended in the memo and grounds of appeal that the appellant was transferred prematurely. The appellant has filed this service appeal against the order dated 21.09.2022, 05.10.2022 and 24.02.2023.

8. Vide order dated 05.10.2022, the private respondent No.4 was given the assignment of Settlement Naib Tehsildar, Havelian, Abbottabad (OPS). Claim of the appellant is that private respondent had been transferred to the post vide order dated 02.10.2022, which post was his right to be posted against. Similarly vide order dated 24.02.2023 Mr. Mehboob, private respondent No.5, newly promoted Settlement Naib Tehsildar, was posted as Settlement Naib Tehsildar, Havelian, District Abbottabad for actualization of his post again repatriating the appellant to his parent department i.e. office of the Deputy Commissioner, Abbottabad. Vide order dated 28.02.2023 passed in C.M No. 113/2023, the operation of order dated 24.02.2023 was suspended. The appellant contended that the orders subsequent to the order



dated 21.09.2022, were passed during the sustenance of the suspension order, therefore, those have no legal backing. Such contention would have been maintained provided otherwise the case of the appellant was strong enough but as against that, admittedly, the appellant is originally employee of the Revenue Field Staff working in the office of the Deputy Commissioner Abbottabad and was Kanungo/Girdawar, whereas, on promotion of the Settlement Kanungo (private respondent No.5) to the post of Settlement Naib Tehsildar, the department had the choice of posting a relevant person against the post and there remained no need to post an inferior officer to a senior slot nor that would be in the fitness of things, public interest or the exigency, therefore, while following the right man for the right job, we find that the order dated 24.02.2023 should sustain. The result of appeal should accordingly follow. We direct that cost of this appeal shall abide by the result. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 8<sup>th</sup> day of May, 2023.*



**KALIM ARSHAD KHAN**  
Chairman



**FAREEHA PAUL**  
Member (Executive)

\*Adnan Shah, PA\*