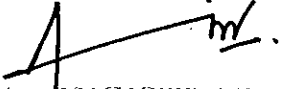


FORM OF ORDER SHEET

Court of _____

Appeal No. 1170 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/05/2023	<p>The appeal of Mr. Hazrat Ali presented today by Mr. Muhammad Rahim Shah Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

AT PESHAWAR

Service Appeal No. 1170 of 2023

Hazrat Ali S/O Fazal Raziq Patwari NTLR office District Swat.

.....APPELLANT

VERSUS

Deputy commissioner, Gulkada District Swat and others.

.....RESPONDENTS

INDEX

S.#	Description	Annexure	Pages No
1.	Service Appeal along with certificate & list of Books	-----	1-4,
2.	Affidavit	-----	5
3.	Addresses of the parties	-----	6
4.	Suspension Application	-----	7,8
5.	Copy of order dated 14-03-2023	"A"	9
6.	Copy of arrival report	"B"	10
7.	Copy of the order dated 29-03-2023	"C"	11
8.	Copy of Departmental representation	"D"	12,13
9.	Copy of Order dated 27-04-2023	"E"	14
10.	Wakalat Nama		15

Appellant Through


Muhammad Rahim Shah

Advocate, High Court

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
AT PESHAWAR

Service Appeal No. _____ of 2023

Hazrat Ali S/O Fazal Raziq Patwari NTLR office district swat.

.....APPELLANT

VERSUS

1. Deputy Commissioner, Gulkada District Swat.
2. Commissioner Malakand, Saidu Sharif Swat.
3. Senior Member Board of Revenue, Peshawar, Civil Secretariat Peshawar.
4. Fazal Haque Halqa Patwari Matta Kharerai. *Tehsil Matta District Swat.*

.....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974 AGAINST THE FINAL ORDER DATED 27-04-2023 PASSED BY RESPONDENT NO.2, WHEREIN THE ORIGINAL TRANSFER OFFICE ORDER DATED 29-03-2023 OF THE RESPONDENT NO.1 WAS UPHELD.

M. N. Khan

Respectfully Sheweth:-

1. That appellant was initially appointment as a Halqa Patwari Sijbanr after completion of codal formalities in 2009.
2. That appellant served the department up-to the mark, and whatsoever no complaint has yet been made against him.
3. That on 08-02-2022 appellant was transfer and posted in the office of Naib Tehsildar Land Reform, wherein he served to entire satisfaction of the high ups.

4. That on 14-03-2023 appellant along with other colleague were transferred and posted as halqa patwari in the patwar circle of matta kharerai by the competent authority. (Copy of the order is attached as Annexure "A").
5. That on 15-03-2023 appellant submitted his arrival report before the revenue officer for joining his official duty. (Copy of arrival report is attached as Annexure "B").
6. That on 29-03-2023 all of a sudden respondent No.1 again prematurely transfer the appellant to the NTLR office. (Copy of the order is attached as Annexur "C").
7. That appellant being aggrieved from the order dated 29-03-2023 filed a departmental representation before respondent No.2. (Copy of departmental representation is attached as Annexure "D").
8. That on 27-04-2023 the respondent No.2 without considering the government policy of posting and transfer, illegally dismissed the representation of appellant for no legal reason. (Copy of order is attached as Annexure "E").

Now the appellant approach this hon'ble tribunal by filing the instant appeal on the following grounds inter-alia:

GROUNDS:

- a) That the order of respondent No.1 & 2 is against law and the result of colorful exercise of the authority of the respondents.
- b) That respondent No.1 & 2 made gross illegality by not following the government policy of posting and transfer available on the subject.
- c) That the all posting and transfer shall be strictly in public interest and shall not be abuse/misuse to victimize the government servant, but here the case of the appellant

transfer was the result to victimize the appellant for no legal reason.

- d) That the normal tenure of posting SHALL BE TWO (02) YEARS, but in the present case appellant was pre-maturely transfer within fifteen (15) days which is against the law and principle laid down by apex court.
- e) That the impugned order is based on *mala fide* and political victimization for the reason that respondent No.4 have ties with the ruling class.

PRAYER:

It is therefore most humbly prayed that on acceptance of this appeal the original order No.830/1/4/DK dated 29-03-2023 of the respondent No.1 and the appellate order dated 27-04-2023 of the respondent No.2 may kindly be declared illegal against law and liable to be set aside.


Furthermore, the order No.643/1/4/DK of respondent No.1 dated 14-03-2023 may kindly be restored.

Appellant



Hazrat Ali

Appellant through



Muhammad Rahim Shah
Advocate High Court

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
AT PESHAWAR

Service Appeal No. _____ of 2023

Hazrat Ali S/O Fazal Raziq Patwari NTLR office District Swat.

.....APPELLANT

VERSUS

Deputy commissioner, Gulkada District Swat and others.

.....RESPONDENTS

MR

CERTIFICATE:

Certified that no such like service appeal had been earlier filed by the Petitioners before this Service Tribunal as per instruction of our client.

LIST OF BOOKS:

1. Civil service Act 1973.
2. Constitution of Islamic Republic of Pakistan, 1973.
3. Law / Books as per need.

Appellant through

MR

Muhammad Rahim Shah

Advocate High court

5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

AT PESHAWAR

Service Appeal No. _____ of 2023

Hazrat Ali S/O Fazal Raziq Patwari NTLR office District Swat.

.....APPELLANT

VERSUS

Deputy commissioner, Gulkada District Swat and others.

.....RESPONDENTS

AFFIDAVIT:

I, Hazrat Ali S/O Fazal Raziq R/O Kota, Tehsil Barikot, District Swat, do hereby affirm and declare that all the contents of this service appeal are true and correct to the best of my knowledge and nothing has been kept Concealed before this Honorable Court.

Muhammad Ilyas
Muhammad Ilyas
ADVOCATE
OATH COMMISSIONER
District Courts Swat
No. 60 Date 17-05-2023

DEPONENT _____

Hazrat Ali S/O Fazal Raziq

CNIC# 15602-0317399-7

(6)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
AT PESHAWAR

Service Appeal No. _____ of 2023

Hazrat Ali S/O Fazal Raziq Patwari NTLR office District Swat.

.....**APPELLANT**

VERSUS

Deputy commissioner, Gulkada District Swat and others.

.....**RESPONDENTS**

ADDRESSES OF THE PARTIES

APPELLANT

Hazrat Ali S/O Fazal Raziq R/O Kota, Tehsil Barikot, District Swat.

Mob: 03442128188

CNIC: 15602-0317399-7

RESPONDENTS

1. Deputy commissioner, Gulkada District Swat.
2. Commissioner Malakand, Saidu Sharif Swat.
3. Senior Member Board of Revenue, Peshawar, Civil Secretariat Peshawar.
4. Fazal Haque Halqa Patwari Matta Kharerai.

Appellant Through



Muhammad Rahim Shah

Advocate, High Court

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
AT PESHAWAR

CM _____ of 2023

In

Appeal No. _____ of 2023

Hazrat Ali S/O Fazal Raziq Patwari NTLR office District Swat.

.....APPELLANT

.VERSUS.

Deputy Commissioner, Gulkada District Swat and others.

.....RESPONDENTS

APPLICATION FOR THE SUSPENSION OF THE OPERATION OF THE
IMPUGNED TRANSFER ORDER DATED 29-03-2023 AND APPELLATE
DATED 27-04-2023 MAY KINDLY BE SUSPENDED.

Respectfully Sheweth;

1. That the above title grievance appeal has been filed before this honorable tribunal, which is yet to be fixed.
2. That strong prima facie case exist in favor of appellant because the impugned order is illegal void abenitio and liable to be set aside.
3. That appellant has rendered long service to the department and there is strong case exist in favor of appellant if interim relief is not granted to appellant then appellant would suffer an irreparable loss which cannot be compensated through any other means.

It is therefore most humbly prayed that on acceptance of this application the operation of the impugned transfer order dated 29-04-2023 and appellate order dated 27-04-2023 may kindly be suspended till the final disposal of instant appeal.

Petitioner

Through



Muhammad Rahim Shah
Advocate high court

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

AT PESHAWAR

CM _____ of 2023

In

Appeal No. _____ of 2023

Hazrat Ali S/O Fazal Raziq Patwari NTLR office District Swat.

.....APPELLANT

VERSUS

Deputy Commissioner, Gulkada District Swat and others.

.....RESPONDENTS

AFFIDAVIT

I, Hazrat Ali S/O Fazal Raziq R/O Kota, Tehsil Barikot, District Swat, do hereby affirm and declare that all the contents of this suspension application are true and correct to the best of my knowledge and nothing has been kept Concealed before this Honorable Court.

Muhammad Ilyas
Muhammad Ilyas
ADVOCATE
OATH COMMISSIONER
District Courts Swat.

No. 60 Date 17-05-2023

DEPONENT *Hazrat Ali*
Hazrat Ali S/O Fazal Raziq

A 9



OFFICE OF THE DEPUTY COMMISSIONER, SWAT.

Tel No: 0996-0240318
Fax No: 0996-0240329
E-mail: Deputycommissioner.swat1@gmail.com

No. 643 /11/14/DK
Date: 14/03/2023

ORDER:

The following posting/transfer amongst Patwaris of this office is hereby ordered with immediate effect in the public interest:-

S.No	Name of Patwar	From (Halqa)	To (Halqa)	Remarks
1-	Mr. Khalid Khan	Chinglatal	Baldara	Vice S.No. 05.
2-	Mr. Murad Khan	Shangwatal	Chinglatal	Vice S.No. 01
3-	Mr. Hazrat Ali	NTLR (Court Attendance)	Matta Kharirai	Vice S.No. 07
4-	Mr. Ihsan Ali	Land Acquisition Branch (Court Attendance)	Darushkhela	Vice S.No. 06
5-	Mr. Fazal Haque	Baldara	Report to Main Office till further orders	
6-	Mr. Muhammad Tahir	Darushkhela	-do-	
7-	Mr. Muhammad Israr	Matta Kharirai	-do-	

All the officials are hereby directed to submit arrival report/assume charge of the new stations immediately.

[Signature]
DEPUTY COMMISSIONER SWAT.
14-DK/S

No. 644-50 /11/14/DK

Copy forwarded to:-

1. The Assistant Commissioner, Matta for information, please.
2. The Tehsildar, Matta Shamezal for information & necessary action.
3. The Naib-Tehsildar, Matta Sibujni for information & necessary action.
4. The Naib-Tehsildar Land Reforms, Swat for information.
5. The Incharge Land Acquisition Branch (Local Office) for information.
6. The officials concerned for compliance.
7. Personal file.

[Signature]
DEPUTY COMMISSIONER SWAT.
14-DK/S

[Signature]
Advocate

حکومت جنرل - قصبہ دار صاحب منہ شہسبزی صلح سوات

صافر راجورٹ

جن عالی

سیری تلمیسی کی محنت - نواری صلوہ منہ شہسبزی سروریک

حکم نمبر 643/1/4/DK ٹورنہ 14/3/23 بجائے دفتر

ڈپٹی کمشنر سوات پوٹی - 2 - لہرا 12 ٹورنہ 15/3/23 لاندہ از

صافر راجورٹ لیت صدمت - 2

15/03/23

Approved
M. R.
Associate



OFFICE OF THE DEPUTY COMMISSIONER, SWAT.

Tel No: 0946-9240336
Fax No: 0946-9240329
E-mail: Deputycommissionerswat1@gmail.com

No. 830 /1/4/DK

Dated: 29/03/2023

ORDER:

The following posting/transfer amongst Patwaries of this office is hereby ordered with immediate effect in the public interest:-

S.No	Name of Patwari	From (Halqa)	To (Halqa)	Remarks
1-	Mr. Fazal Haque	Main Office	Matta Kharirrai	Vice S.No. 02
2-	Mr. Hazrat Ali	Matta Kharirrai	NTLR (Court Attendance)	
3-	Mr. Ihsan Ali	Darushkhela	RRC (Court Attendance)	
4-	Mr. Muhammad Tahir	Main Office	Darushkhela	Vice S.No. 03

No. 831-36 /1/4/DK

DEPUTY COMMISSIONER SWAT.

Copy forwarded to:-

1. The Assistant Commissioner, Matta for information, please
2. The Tehsildar, Matta for information & necessary action.
3. The District Kanungo/Incharge RRC, Swat for information, please.
4. The Naib-Tehsildar Land Reforms, Swat for information.
5. The officials concerned for compliance.
6. Personal file.

DEPUTY COMMISSIONER SWAT.

Attested
MP
Advocate

Scanned with CamScanner

TO

D, 1
① ②
**THE COMMISSIONER MALAKAND
DIVISION, SAIDU SHARIF, SWAT.**

**APPLICATION FOR CANCELLATION OF TRANSFER
ORDER VIDE NOTIFICATION NO 830/ 1/ 4/ DK DATED
29/03/2023.**

Respected sir,

AD Fested
M. S. A. A.

Reference to subject above and to state that I was working as patwari in the Halqa Shukhdara 2020, I was transferred to Halqa Barthana, Tehsil Matta Swat vide notification No. 2825/1/4/DK dated 24/12/2020 but I was then transferred vide notification No. 20149/1/4/DK dated 28/05/2021 from Halqa Barthana Tehsil Matta to Halqa Terang, Tehsil Barikot. But again I was transferred from Halqa Terang Tehsil Barikot to main office vide notification No. 3011/1/4/DK dated 14/10/2021. I was again transferred from main office to NTLR (court attendance) vide Notification No. 287/1/4/DK dated 08/02/2022. Recently I was transferred from NTLR (court attendance) to Matta Kharirai Tehsil Matta vide notification No. 643/1/4/DK dated 14/03/2023 but again I was transferred from Matta Kharirai Tehsil Matta to NTLR (court attendance) vide notification No 830/1/4/DK dated 29/03/2023.

The notification No. 20149/1/4/DK dated 28/05/2021; notification No. 3011/1/4/DK dated 14/10/2021, Notification No. 287/1/4/DK dated 08/02/2022, notification No. 643/1/4/DK dated 14/03/2023 and notification No. 830/1/4/DK dated 29/03/2023 are out of tenure. As I did not complete my service tenure. All the above-mentioned notification are attached with the application. Therefore, it is requested to cancel the notification No. 830/1/4/DK dated

13

29/03/2023 in order that I may continue my field work at mentioned station.

I shall be thankful to you.

H. Ali
Yours obediently, 4/4/23
Hazrat Ali,
Patwari.

CTC M
Attested

M. Ali

BEFORE THE COMMISSIONER, MALAKAND DIVISION
AT SAIDU SHARIF SWAT.

Case No.188/CMD

Date of Institution: 04/04/2023

Hazrat Ali Patwari NTLR Office District Swat..... Appellant

VERSUS

The Deputy Commissioner, Swat Respondent

DEPARTMENT APPEAL AGAINST THE ORDER NO. 830/1/4/DK, DATED
29.03.2023 PASSED BY THE DEPUTY COMMISSIONER SWAT.

ORDER

27.04.2023

This order shall dispose of the appeal filed by the appellant Hazrat Ali Patwari NTLR Office District Swat against the order dated 29.03.2023 passed by the Deputy Commissioner, Swat whereby the appellant was transferred to the Naib Tehsildar Land Reform (NTLR) office.

Mish
I have gone through the case file and heard the appellant as well. Briefly stated the appellant has requested that during his period of service as patwari has been transferred time and again from one station to the other and similarly from the other station to some other without any cogent reason by the Deputy Commissioner Swat, therefore the appellant approached this forum for redressal of his grievances.

I have examined the case from all aspects and observe that:-

i) According to Section-10 of the Khyber Pakhtunkhwa Civil Servants Act 1973 "Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government or Provincial Government or local authority, or a corporation or body setup or established by any such Government". Thus, no appeal lies against transfer orders is maintainable in the eye of law.

iii) No doubt, section-3 (1) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules 1986 provides right of appeal to a civil servant but that right is only against an order passed or penalty imposed relating to the terms and conditions of his service by the competent authority in the instant case, however, the appellant hasn't suffered in so far as terms and conditions of his service are concerned.

The above facts lead me to the only conclusion that the instant appeal is incompetent and is liable to be dismissed. Hence dismissed accordingly.

Announced


Commissioner Malakand Division

27/4/23
08/05/23
08/05/23

Approved to be true copy
Mahid Ali
Resident to Commissioner
Malakand Division
Saidu Sharif Swat.

پورا لٹ خدات سرورس رٹ پریمیل ختیر علی الزاہ پساور



موردہ 17 مئی
مقدمہ حضرت علی - بنا ڈیٹی مشنر صاحب سوانو علی
دوکی سرورس رٹ پریمیل
جرم

باعث تحریر اس کی

مقدمہ بندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل کی طرف سے
کارروائی متعلقہ ان مقام شاور کے لئے محمد رحیم صاحب سوانو علی کو
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کارروائی کا کمال اختیار ہوگا۔ نیز
وکیل صاحب کیلئے رضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جو اس وقت دہی اور اقبال دہی اور
بصورت دہی کرنے اجراء اور وصول چیک و روپیہ اور رضی دہی اور درخواست ہر قسم کی تصدیق
زر اس پر دستخط کرانے کا اختیار ہوگا۔ نیز ہر قسم پیروی یا لکری یک طرفہ یا دیکر کی برآمدگی اور
نیز لکری کرنے میں کمان و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکورہ
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانون کو اپنے ہمراہ یا اپنی جگہ اقرار کا اختیار
ہوگا اور صاحب مقرر شدہ کو بھی وہی عمل ذکرہ بلا اختیار حاصل ہوں گے اور اس کا ساتھ
پر و اختہ منظور و عمل ہوگا اور دران مقدمہ میں لکری نہ دہی جہاں التوائے مقدمہ کے سبب سے ہوگا
اس کے استحق وکیل صاحب موصوف ہوں گے۔ نیز تقایا و خرچہ کی وصول کرنے کا بھی اختیار ہوگا۔ اگر
کوئی تاریخ پیشی تمام درہ پر ہوا بعد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ
کریں۔ لہذا ذاکات نامہ نمک یا کس سند رہے۔

حضرت علی الزاہ پساور

المرقم 17 مئی 1977

مقام شاور کے لئے منظور ہے

MR 2

محمد رحیم صاحب سوانو علی کو

0345 - 9524225

مونا علی