

FORM OF ORDER SHEET

Court of

Appeal No. 1268/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/06/2023	<p>The appeal of Mr. Waqif Khan is presented today by Mr. Muhammad Zafar Khan ( Tahirkheli ) Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>06-06-2023</u></p> <p>By the order of Chairman</p> <p><i>A. m.</i> REGISTRAR</p>

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR**

Service Appeal No. 1268 /2023

Waqif Khan

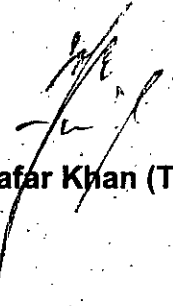
**V**ersus

Govt of Khyber Pakhtunkhwa etc.

=====  
**I N D E X**  
\_\_\_\_\_

S.No	Particulars	Annexure	Pages
1	Memo of Petition		1-3
2	Affidavit		4
3	Addresses of Parties		5
4	Application for Interim Relief		6
5	Impugned Order 02-06-2023	"A"	7
6	Departmental Appeal 30-05-2023	"B"	8-9
7	Officer Order 26-05-2023	"C"	10
8	Office Order 28-02-2022	"D"	11
9	Letter dated 18-05-2023	"E"	12
10	Ban on Posting & Transfer	"F"	13
11	Vakalatnama		14

Peshawar, dated  
5<sup>th</sup> June, 2023

  
**Muhammad Zafar Khan (Tahirkheli)**  
A S C,

87, Alfalah Street, Cantt Colony,  
Peshawar.  
0300-9597670

①

**BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTUNKHWA PESHAWAR**

Service Appeal No. 1268 /2023

Waqif Khan s/o Haji Dost Muhammad,  
Tehsildar, Tehsil Pabbi District Nowshera.

..... Appellant

**V**ersus

1. The Government of Khyber Pakhtunkhwa,  
Through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government Board of Revenue,  
Khyber Pakhtunkhwa, Peshawar.
3. Commissioner Peshawar Division,  
Peshawar.
4. Inayat ur Rehman, Tehsildar Jamrud,  
Presently posted as Tehsildar Pabbi.

.... Respondents

=====

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT 1974, AGAINST THE  
IMPUGNED ORDER DATED 02-06-2023 (COPY ANNEXED MARKED  
"A"), WHEREIN THE APPELLANT'S DEPARTMENTAL APPEAL  
DATED 30-05-2023 (COPY ANNEXED MARKED "B"), AGAINST HIS  
PREMATURE TRANSFER ORDER DATED 26-05-2023 WAS  
REGRETTEED. (COPY ANNEXED MARKED "C")**

=====

**Prayer:**

By accepting this appeal and;

- i. setting aside the impugned order dated 02-06-2023, wherein the appellant's departmental appeal dated 30-05-2023 against his politically motivated pre-mature transfer order dated 26-05-2023 was refused;
- ii. And further allowing the appellant to continue with his service as Tehsildar, Tehsil Pabbi, District Nowshera for a full / complete tenure of 03 years.
- iii. Any other relief deemed appropriate may also be granted in addition to the relief claimed above.

**RESPECTFULLY SHEWETH**

1. That the appellant being qualified and eligible was initially appointed as Halqa Patwari in the year 1997. He was allowed promotion up to the post of Tehsildar, wherein he has served the department honestly and diligently to the utmost satisfaction of his superiors till date.
2. That the appellant was posted to tehsil Pabbi vide office order of the respondent No. 3 dated 28-02-2022, wherein he assumed the charge of his duties on 03-03-2022. (Copy annexed "D")

- ②
3. That to the appellant's utter surprise he was once again posted and transferred vide impugned order dated 26-05-2023 from Pabbi to the Office of Commissioner Peshawar in complete disregard and violation to the ban imposed upon posting and transfers by the Government of Khyber Pakhtunkhwa Establishment Department vide order dated 29-03-2023.

(Annex "A")

4. The appellant was pre-maturely transferred just after 14 months of his assumption of charge as Tehsildar at Pabbi due to a political maneuver orchestrated by respondent No. 4 in connivance with the office of Special Assistant to the Caretaker Chief Minister. The appellant was shocked to receive such an arbitrary treatment without any sufficient cause or plausible explanation. (Annex "C")
5. That the appellant preferred a departmental appeal dated 30-05-2023 against the impugned politically motivated pre-mature transfer order but was regretted vide impugned order dated 02-06-2023. (Annex "B")

Feeling aggrieved and finding no other appropriate remedy, the appellant has been constrained to approach the Hon'ble Service Tribunal for the redress of his grievance inter-alia on the following,

### Grounds

- a. That the impugned transfer order was passed in haste by the respondent department without considering the material facts on record and thus the same is illegal and void ab-initio and is liable to be set right by this Hon'ble Tribunal.
- b. The worthy department was required to act in accordance with the well-established principles of equity, law, justice and propriety. The impugned order was passed in haste, wherein the appellant has been subjected to harsh treatment without any lawful justification.
- c. The impugned transfer is not only arbitrary and discriminatory but is also against the postings / transfer policy of the Provincial Government, wherein the appellant was lawfully entitled to enjoy his normal tenure of posting for a minimum period of 03 years, but was however denied the said benefit.
- d. That the appellant's pre-mature transfer after just 14 months tenure at Tehsil Pabbi was result of a political maneuver by respondent No. 4 through the Office of Special Assistant to Caretaker Chief Minister Revenue and Estate Department Mr. Peer Haroon Shah vide his letter No. PS/SA/R&E/KP/1-1/2023 dated 18-05-2023 initiated through his private secretary. (Copy annexed "E")
- e. That the caretaker government of Khyber Pakhtunkhwa has imposed complete ban on the posting and transfer of the civil servants before the forthcoming general elections vide notification bearing No. SO(policy)(E&D)/1-4/2023 dated 29-05-2023. The appellant has been transferred in complete violation of the ban imposed by the provincial Government, hence the impugned order is liable to be recalled and re-sended. (Copy annexed "F")
- f. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal vide its recent judgment dated 12-05-2023 passed in SA No. 577/2023, titled as "Abdul Karim Vs Secretary Health and others" has taken strong note and exception to the transfers made by the Provincial Government in violation of the ban imposed. The impugned order is thus, liable to be set aside on this count alone.

- g. That the worthy Tribunal in its recent decision passed vide judgment and order dated 17-01-2022 in service appeal No. 7786/2021, titled, "Maqsood ur Rehman Vs Govt. of Khyber Pakhtunkhwa" has categorically held that, the transfer order based on malafide, administrative expediencies and without taking into consideration the tenure of the office at the place office posting is illegal. Pre-mature transfer is violative of clause-I & IV of posting / transfer policy notified by the Provincial Government read with letter of Establishment Department dated 27-02-2013, pertaining to posting / transfer.
- h. The impugned politically motivated pre-mature transfer order is thus not only arbitrary but also discriminatory and against the principles of equity, law, justice and propriety, subject to correction by this Hon'ble Service Tribunal.

The appellant seeks leave of the Hon'ble Tribunal to rely on additional grounds at the time of final arguments.

In view of the above, it is most humbly requested that by accepting this appeal;

- a. The impugned order dated 02-06-2023, may kindly be set aside, wherein the appellant's departmental appeal dated 30-05-2023 was regretted against the politically motivated pre-mature transfer order dated 26-05-2023;
- b. And further by cancelling and modifying the impugned pre-mature transfer order dated 26-05-2023 and allowing the appellant to continue with his service as Tehsildar, Tehsil Pabbi, District Nowshera for a full / complete tenure of 03 years.
- c. Any other relief deemed appropriate may also be granted in addition to the relief claimed above.

  
Appellant

Through,

  
Muhammad Zafar Khan (Tahirkheli)  
ASC

Peshawar, dated  
5<sup>th</sup> June, 2023

**Certificate**

It is certified that no appeal on the similar grounds and facts was filed before the Hon'ble Khyber Pakhtunkhwa Service Tribunal prior to the instant appeal.

  
Appellant

4

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR**

Service Appeal No. \_\_\_\_\_/2023

Waqif Khan

**V**ersus

Govt of Khyber Pakhtunkhwa etc.

**Affidavit**

I, the appellant, Waqif Khan s/o Haji Dost Muhammad, Tehsildar, tehsil Pabbi District Nowshera, do hereby state on Oath that the contents of the accompanying appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed or withheld from this Hon'ble Tribunal.

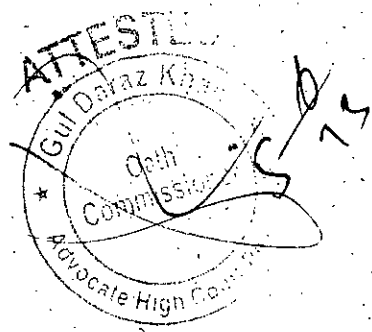


DEPONENT

CNIC No. 17301-5105522-7

Cell No. 0314-9002233

Date: - 5<sup>th</sup> June, 2023



(5)

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR**

Service Appeal No. \_\_\_\_\_/2023

Waqif Khan

**V**ersus

Govt of Khyber Pakhtunkhwa etc.

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**ADDRESSES OF PARTIES**

\_\_\_\_\_

**Appellant;**

Waqif Khan s/o Haji Dost Muhammad,  
Tehsildar, Tehsil Pabbi District Nowshera.

**Respondents**

1. The Government of Khyber Pakhtunkhwa,  
Through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government Board of Revenue,  
Khyber Pakhtunkhwa, Peshawar.
3. Commissioner Peshawar Division,  
Peshawar.
4. Inayat ur Rehman, Tehsildar Jamrud,  
Presently posted as Tehsildar Pabbi.

  
Appellant

Through,

  
**Muhammad Zafar Khan (Tahirkheli)**  
ASC

Peshawar, dated  
5<sup>th</sup> June, 2023

6

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR**

Service Appeal No. \_\_\_\_\_/2023

Waqif Khan

**V**ersus

Govt of Khyber Pakhtunkhwa etc..

=====  
**APPLICATION FOR INTERIM RELIEF**  
\_\_\_\_\_

**Respectfully Sheweth:**

1. The above titled appeal is being filed, wherein the contents of the main appeal, may kindly be read as part and parcel of the present application.
2. The appellant has a strong prima facie case on merits in which he is most likely to succeed.
3. That the impugned premature transfer order will cause irreparable harm to the applicant and his cause would be seriously prejudiced if incase the interim relief is refused.
4. The balance of convenience lies in maintaining the status-quo order.

In view of the above, it is most humbly requested that by accepting this application the impugned transfer order dated 26-05-2023 being premature and politically motivated, may kindly be suspended up to the extent of applicant / appellant only, pending adjudication, the instant service appeal.

*[Handwritten Signature]*  
Applicant

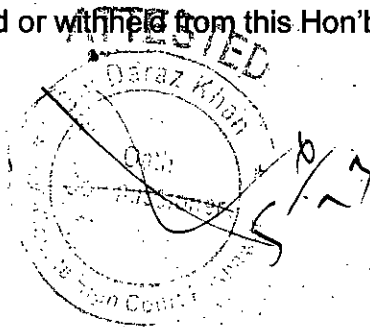
Through,

*[Handwritten Signature]*  
**Muhammad Zafar Khan (Tahirkheli)**  
ASC

Peshawar, dated  
5<sup>th</sup> June, 2023

**Affidavit:**




I Waqif Khan s/o Haji Dost Muhammad, Tehsildar, tehsil Pabbi District Nowshera, the applicant, state on oath that the contents of the above application are true and correct to best of knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.



*[Handwritten Signature]*  
Deponent



A  
⑦


	<b>GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE &amp; ESTATE DEPARTMENT.</b>
 091-9212726	 091-9214208
No.Estt:I/PF/Waqif Khan/13556	Peshawar Dated the 02/06/2023

To

Mr. Waqif Khan,  
Tehsildar (ACB BS-16) Pabbi, District Nowshera.

**SUBJECT: DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE IMPUGNED ORDER DATED 26.05.2023 WHEREIN THE APPELLANT WAS PREMATURELY TRANSFERRED IN COMPLETE VIOLATION OF THE BAN IMPOSED BY THE GOVERNMENT.**

I am directed to refer to the subject noted above and to state that your Departmental Appeal dated 30.05.2023 has been examined and regretted by the Competent Authority please.

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

CURE B

Received  
us  
for  
30-5-23

The Secretary  
Board of Revenue, Khyber Pakhtunkhwa,  
Peshawar.

**Subject: Departmental Appeal/ Representation  
against the impugned order dated 26.05.2023  
wherein the appellant was prematurely  
transferred in complete violation of the ban  
imposed by the Government.**

Respected Sir,

Waqif Khan, Tehsildar, the appellant, most respectfully submits the following for your kind consideration and favour of acceptance.

- 1) That the appellant was transferred as Tehsildar Pabbi (OPS) vide order dated 28.02.2022 and was serving the department to the utmost satisfaction of his superiors without any default.
- 2) That to the appellant's surprise he was prematurely transferred after just one year of service at Pabbi vide impugned order dated 26.05.2023, without any plausible explanation.
- 3) That the caretaker government of Khyber Pakhtunkhwa has imposed complete ban on the posting and transfer of the civil servants before the forthcoming general elections vide notification bearing No. SO (policy) (E&D)/1-4/2023 dated 29.05.2023. The appellant has been transferred in complete violation of the ban imposed by the provincial Government, hence the impugned order is liable to be recalled and re-sended.
- 4) That the Hon'ble Khyber Pakhtunkhwa Service Tribunal vide its recent judgment dated 12.05.2023 passed in S.A.No.577/2023, titled as "Abdul Karim v/s Secy. Health and others" has taken strong note and exception to the transfers made by the Provincial Government in violation of the ban imposed. The impugned order is thus, liable to be set aside on this count alone.

*[Handwritten signature]*

- 5) That the appellant has not only been transferred prematurely before completion of his tenure as Tehsildar Pabbi but his transfer order being in violation of the ban imposed is void ab-initio and is subject to correction by the worthy authority.
- 6) That the impugned transfer order is thus, arbitrary, discriminatory, against the principles of equity, law, justice and propriety and hence liable to be corrected by the worthy authority.

In view of the above it is, most humbly requested that by accepting this appeal, the impugned premature transfer order of the appellant dated 26.05.2023 may kindly be recalled ad set aside while allowing him to serve at Tehsil Pabbi for his full tenure.

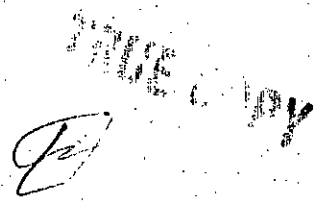
Appellant



**Waqif Khan**  
Tehsildar

Cell: 0314-9002233

Dated: 30.05.2023





SIGNATURE 'C'  
(10)

**OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR**

Dated 26.05.2023

**OFFICE ORDER**

The following posting / transfer of Tehsildar / Naib Tehsildar in Peshawar Division are hereby ordered with immediate effect in the best public interest:-

S.#	Name of Officials	From	To
1.	Mr. Khaurshid Shah Tehsildar	Waiting for posting	Tehsildar City
2.	Mr. Inayat ur Rehman Tehsildar	Tehsildar Jamrud	Tehsildar Pabbi
3.	Mr. Waqif Khan Tehsildar	Tehsildar Pabbi	Report to this office
4.	Mr. Tehseen Ullah Naib Tehsildar	Waiting for posting	Naib Tehsildar Tehkal
5.	Mr. Mujeeb ur Rehman Naib Tehsildar	Waiting for posting	Naib Tehsildar Charsadda
6.	Mr. Muhammad Adnan Naib Tehsildar	Naib Tehsildar Charsadda	Report to this office

-Sd-

**COMMISSIONER  
PESHAWAR DIVISION PESHAWAR**

No: 6/7/EA/2023/1/6181-87

Copy forwarded to:

1. Senior Member Board of Revenue Khyber Pakhtunkhwa.
2. Accountant General Khyber Pakhtunkhwa.
3. The Deputy Commissioners Peshawar, Charsadda, Nowshera & Khyber.
4. PS to Commissioner Peshawar Division.
5. Officials concerned for compliance.

  
**ASSISTANT COMMISSIONER (Rev/GA)  
PESHAWAR DIVISION PESHAWAR**





OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR

No: 6/7/EA/2022/1/  
Dated 28.02.2022

**OFFICE ORDER**

The following posting / transfer of Tehsildar / Naib Tehsildar in Peshawar Division are hereby ordered with immediate effect:-

S.#	Name of Officials	From	To
1	Mr. Abdul Karim Tehsildar	Waiting for posting	Tehsildar Charsadda
2	Mr. Waqif Khan Naib Tehsildar	Tehsildar Charsadda (OPS)	Tehsildar Pabbi (OPS)
3	Mr. Abdul Jabbar Naib Tehsildar	Tehsildar Pabbi (OPS)	Report to Commissioner Office

-Sd-

COMMISSIONER  
PESHAWAR DIVISION PESHAWAR

No: 6/7/EA/2022/1/2696-2701

Copy forwarded to:

1. Senior Member Board of Revenue Khyber Pakhtunkhwa.
2. Accountant General Khyber Pakhtunkhwa.
3. The Deputy Commissioner Charsadda & Nowshera.
4. PS to Commissioner Peshawar Division.
5. Officials concerned for compliance.

ASSISTANT TO COMMISSIONER (Rev/GA)  
PESHAWAR DIVISION PESHAWAR

TRUE COPY



PIR HAROON SHAH

To,

The Commissioner,  
Peshawar Division.

Subject: - **REQUEST FOR POSTING/TRANSFER.**

Dear Sir,

I am directed to refer to the subject noted above and to state that the Honorable Special Assistant to Chief Minister for Revenue & Estate, Khyber Pakhtunkhwa has desired that Mr. Inayat Ur-Rehman (Tehsildar), presently working in Jamrud, District Khyber, may be transferred and post him Tehsil Pabbi, District Nowshera.

It is therefore, requested to kindly the above-mentioned order may be issued on priority basis, and compliance report may be furnished to this office for information, please.

Yours Sincerely,

  
(HUKAM KHAN)  
PRIVATE SECRETARY

TRUE COPY  


EXURE E

(12)

No. PS/SA/R&E/KPI 1-1/2023

Date: 18.5.2023

ANNEXURE 'F'

13



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

No. SU (Policy) (E&AD) 1-4/2023  
Dated Peshawar, the 29<sup>th</sup> May, 2023

1. Additional Chief Secretary P&D Department Govt. of Khyber Pakhtunkhwa
2. Senior Member Board of Revenue, Govt. of Khyber Pakhtunkhwa
3. Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
4. All Divisional Commissioners in Khyber Pakhtunkhwa
5. All Heads of Attached Departments in Khyber Pakhtunkhwa
6. All Deputy Commissioners in Khyber Pakhtunkhwa

Subject -  
Dear Sir,

BAN ON POSTINGS AND TRANSFERS IN KHYBER PAKHTUNKHWA

I am directed to refer to the above cited subject and to convey that in view of the fragile fiscal position of the Provincial Government, the Hon'ble Chief Minister Khyber Pakhtunkhwa has been pleased to impose ban on inter-district posting and transfers of officers and officials under the Government of Khyber Pakhtunkhwa as per the following:

- i. There shall be complete ban on inter-district transfers in all the departments;
- ii. This ban shall not apply on transfers within the districts and within the Secretariat and Directorates. However, while proposing such transfers of officers/officials within the district, Directorates or the Secretariat, as the case may be, due diligence must be observed and tenure, suitability of the officers/officials for the posts and past performance must be taken into account;
- iii. In cases posting and transfer is necessitated due to some court orders or some administrative exigencies, ban relaxation will be obtained from Chief Minister through summary. For such posting/transfers, departments will put forth sound justifications. Subsequently in cases where NOC from Election Commission is required, cases will be taken up with ECP for ban relaxation by the concerned Administrative Departments;
- iv. This ban shall not apply on filling of vacant posts through recommendations of the Khyber Pakhtunkhwa Public Service Commission as Election Commission of Pakistan has already granted exception in such cases.

Yours sincerely,

Deputy Secretary (P&D) 15/29/23

ENDST: NO. & DATE EVEN

Copy is forwarded for information to:

1. Principal Secretary to Governor, Khyber Pakhtunkhwa
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. CSO/PSO to Chief Secretary to Govt. of Khyber Pakhtunkhwa
4. All Additional Secretaries/Deputy Secretaries/Section Officers in Establishment & Administration Department

Section Officer (Policy)

TRUE COPY

(14)

# VAKALATNAMA

In the Court of

**Khyber Pakhtunkhwa Service Tribunal, Peshawar**

Service Appeal No. \_\_\_\_ / 2023

ID No.	<b>B.C- 10-7764</b>
Advocate	<b>M. Zafar</b>
Cell No.	<b>0300-9597670</b>
CNIC	<b>17301-1639615-3</b>

Petitioner  
Plaintiff  
Applicant  
Appellant  
Complainant

**Waqif Khan**

Decree-Holder

**V**ERSUS

Respondent  
Defendant  
Opponent  
Accused

**Govt of Khyber Pakhtunkhwa etc.**

Judgment-Debtor

I / We **Waqif Khan** the above noted appellant do hereby appointed and constitute, **Muhammad Zafar Khan Tahirkheli Advocate Supreme Court of Pakistan**, to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.

The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.

I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.

Client

**M. Zafar Khan Khan (Tahirkheli)**

Attested & Accepted (Advocates)

Dated, 05/06/2023

Office **ATIQ LAW ASSOCIATES,**  
87, Al-Falah Street, Besides State Life Building,  
Peshawar Cantt, Phone: 091-5279529  
E-mail : [zafark.advocate@gmail.com](mailto:zafark.advocate@gmail.com)