

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

Appeal No. 1061 of 2023 SB

Kashif

(Appellant)

VERSUS

SMBR & OTHERS

(Respondents)

INDEX

S.No.	Description of documents	Annexure	Page
1	Comments		1-2
2	Complaint against the appellant	Annex-A	3
3	Posting/transfer Policy	Annex-B	4
4	Seniority List of Kanungo of Bannu Div:	Annex-C	5-7
5	Authority Letter		8
6	Affidavit		9

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JOINT PARAWISE REPLY ON BEHALF OF (RESPONDENT NO.1 & 2)

Respectfully Shewith,

Preliminary objections.

1. That the instant appeal has no merits.
2. That the appellant has got no cause of action to file instant appeal.
3. That the appellant has got no locus standi.
4. That the instant appeal is barred by law and limitation.
5. That the instant appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the appellant has filed the instant appeal with malafide intention.
7. That the appeal is not maintainable under the law.
8. That the appellant is estopped to file the instant appeal.

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 6037

Dated 15/6/2023

Para wise Reply

(A) FACTS

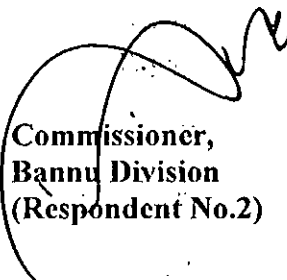
1. Correct to the extent that he was posted as Naib Tehsildar in his own pay and scale, as he is actually a Kanungo in BPS-11 not performing his duties efficiently.
2. Correct to the extent that a Naib Tehsildar is normally assisting such type of activities in a district.
3. Correct to the extent that the respondent department has issued order dated 29/09/2022, but performance of the appellant was not up to the mark.
4. Incorrect. The appellant was repatriated to his parent office (DC Bannu) on administrative grounds, due to several compelling reasons from the post of Naib Tehsildar Bannu; (i), complaint for being involved in malpractices; (Annex-A) (ii), Khyber Pakhtunkhwa posting/transfer policy is for the regular incumbent of the cadre having equivalent Basic Pay Scale and not for officials on stop gap arrangements. (iii), being junior Kanungo amongst Naib Tehsildars in Bannu Division in own pay and scale, and (iv), being the domicile holder of the same Tehsil where he was serving as Naib Tehsildar in violation of Board of Revenue instructions vide letter No. Estt:I/Posting/Transfer/Policy/1013-55 dated 09/01/2020 (Annex-B); that a Naib Tehsildar concerned shall not be posted in his own Tehsil due to conflict of interest.
5. Incorrect both appellant and private respondent are posted in OPS (own pay and scale). Moreover the current Naib Tehsildar Bannu (Private Respondent) is senior to the appellant.
6. The appeal of the appellant was filed by Senior Member, Board of Revenue on legal grounds, devoid of merit.

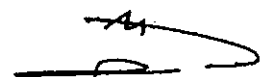
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(B) GROUNDS

- a. Incorrect. The orders have been made in accordance with law and in good faith.
- b. Incorrect. The order has been made in accordance with law and the respondent No. 3 is senior to the appellant as reflected in Final Seniority List of Kanungos in Bannu Division for the year, 2022 (Annex-C) and due to the facts explained in para-4 above.
- c. Incorrect. As stated in para-4 above in facts portion.
- d. Incorrect both appellant and private respondent are posted in OPS (own pay and scale) and due to exigency of service or case of public complaints the inefficient official can be transferred purely on merit.
- e. Correct to the extent that the official should perform duty efficiently and with good intentions in public interest which is not the case here.
- f. As explained in para-e above.
- g. As stated in Para-4 above.
- h. Anita Turab case is not applicable here as explicitly mentioned above.
- i. No fundamental right of the appellant has been violated and if so then, "Ubi Jus ibi Remedium" applies.
- j. Para-I of the appeal is Incorrect. All the acts of the respondent are as per law/rules.
- k. The appellant has no legal ground to advance before this Tribunal/Court.

In view of the above the instant appeal may be dismissed accordingly.


**Commissioner,
Bannu Division
(Respondent No.2)**


14/6/2023
**Senior Member
Board of Revenue
Khyber Pakhtunkhwa
(Respondent No. 1)**

خدمت ضابطہ کوشنر صاحب تحصیل و ضلع بنوں

عنوان: حکایت بر خلاف کاشف نائب تحصیلدار ضلع بنوں

ضابطہ عالی۔ آئی۔ اے۔ اے۔ کی خدمت عالیہ میں ذیل گزشتہ درجہ کی صورتی ہے

کہ کاشف نائب تحصیلدار سیم سے علیحدہ ڈو لاک ٹوٹہ نزار (2/290000/2)

مورخہ 13/01/2021 کو بد اراضی انتقال (بمطابق عدالت ڈگری) دیکھے گئے۔

اب نہ اراضی انتقال کرتا ہے۔ اور نہ ہی اپنا امانت دیا ہے۔ اور طلب کرتا ہے


تال مائل کرتا ہے

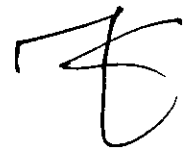
لہذا آئی۔ اے۔ صاحب میں جان کر کے کاشف نائب تحصیلدار صاحب

امانت رقم علیہ لاک ٹوٹہ نزار کے والیس لکھنا اطمینان حاصل فرمائیں

باد اسکو اراضی انتقال کرنے کے اطمینان کے۔ مورخہ 15-9-2023

سائل: اظہار کان کنڈراک سرکار تحصیل و ضلع بنوں
موبائل نمبر: 03368843704

ACCP
D-U




RECEIVED
D.No 646
Date 15-02-23
16-2-23

Attested
ama2
Gul Nawaz
ACP Bamble

15/2/23



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.
Fax No: 091.9213989.
No. Estt:/posting / transfer/policy/ 1013-55
Peshawar dated the 09/01/2020.

To

1. All the Commissioners,
In Khyber Pakhtunkhwa.
2. All the Deputy Commissioners
In Khyber Pakhtunkhwa.

SUBJECT: POSTING / TRANSFER OF REVENUE STAFF IN THEIR
DISTRICT OF DOMICILE.

Dear Sir,

I am directed to refer to the subject and to state that the Competent Authority in consultation with Chief Secretary Khyber Pakhtunkhwa has been pleased to direct that posting / transfer of the Revenue Staff in the Province shall be made in the following manner:-

- a. Tehsildar shall not be posted in the District of his domicile.
- b. Naib Tehsildar shall not be posted in his home Tehsil.
- c. Patwari shall not be posted in Patwar Halqa to which he belongs.

I am further directed to request you to submit details of those revenue staff who were posted in their district of domicile, their home tehsil and Patwar Halqas to which they belongs for further necessary action within 15 days positively please.

Assistant Secretary (Estt:)

No. Estt:/posting / transfer/policy/.....

Copy forwarded to the:-

1. PSO to Chief Secretary Khyber Pakhtunkhwa.
2. PS to Chief Secretary Khyber Pakhtunkhwa.
3. PS to Secretary Establishment Khyber Pakhtunkhwa.
4. PS to Senior Member Board of Revenue.
5. PS to Member - III Board of Revenue.
6. PA to Secretary - I Board of Revenue.

Assistant Secretary (Estt:)

Attested
Gul Nawaz
ACP Bannu

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COMMISSIONER
BANNU DIVISION

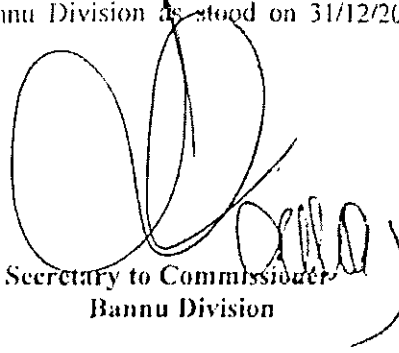
P.O. Box 12, Postal Code 28100, Bannu.
Phone: 0928-9270044 & 621144
Fax: 0928-9270041
E-mail: ecr.bannu@peshawar.gov.pk

No. 18.13/AE/E
Dated: 18.04.23

IMMEDIATE.
The Assistant Secretary (Pstr),
Board of Revenue,
Peshawar.

Subject: PROVISION OF FINAL/UNDISPUTED SENIORITY LIST OF KANUNGOS FOR THE YEAR, 2022

I am directed to refer to the subject noted above and to enclose herewith a copy of Joint Final seniority list of Kanungos (BPS-11) of Bannu Division as stood on 31/12/2022 for information and further necessary action as desired, please.

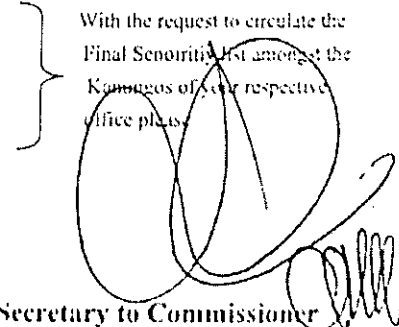

Secretary to Commissioner
Bannu Division

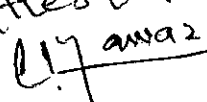
Even No & Date

Copy for information to the:-

1. Deputy Commissioner, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. Deputy Commissioner, North Waziristan.
4. PS to Commissioner Bannu Division

With the request to circulate the
Final Seniority List amongst the
Kanungos of their respective
office places.


Secretary to Commissioner
Bannu Division

Attested

Gul Nawaz
ACP Bannu

JOINT FINAL SENIORITY LIST OF KANUNGOS OF BANNU DIVISION FOR THE YEAR UPTO 31/12/2022.

S.No	Name of Kanungo	BPS	Date of Birth	Date of 1 st Appointment	Date of Regular Promotion as Kanungo	Educational Qualification	Establishment to which belongs	Remarks
1	Hamid Ullah Jan	11	25/06/1965	01/08/1984	14/06/2011	-	DC, NWTD	N.T ACB.
3	Atta Ullah	11	16-09-1965	23-10-1986	26-10-2017	Matric	D C Office, Bannu	N.T ACB
4	Asghar Khan	11	10-01-1965	18-07-1987	26-10-2017	M.A	D C Office, Bannu	N.T ACB
5	Mati Ullah Shah	11	25-04-1968	23-09-1987	26-10-2017	B.A	D C Office, Bannu	N.T ACB
6	Sultan Mir	11	11-04-1963	05-01-1987	07-11-2017	D.Com	D C Office, L M	NT (OPS)
7	Noor Muhammad	11	11-04-1964	18-11-1987	07-11-2017	Matric	D C Office, L M	NT (OPS)
8	Hameed Ullah	11	2/12/1966	12/09/1988	31/10/2019	F.A	D C Office, Bannu	NT (OPS)
9	Naseeb Zaman	11	24-01-1964	12-05-2005	17-08-2018	Matric	D C Office, Bannu	N.T ACB
10	Habib Jan	11	01-02-1965	10-10-2006	17-08-2018	Matric	D C Office, Bannu	NT ACB
11	Taib Ullah	11	05-11-1973	12-03-2007	17-08-2018	M.A	D C Office, Bannu	NT ACB
12	Hazrat Umer	11	01-10-1971	08-07-2004	27-09-2018	F.A	D C, Office, L M	NT (OPS)
13	Amwar Kamal	11	15-03-1975	01-08-2007	27-09-2018	F.A	D C, Office, L M	NT (OPS)
15	Yaqoob Nawaz	11	15-11-1973	12-03-2007	03-10-2018	B.A	D C Office, Bannu	NT (OPS)
16	Gul Nabi	11	11-09-1981	01-08-2007	29-11-2018	M.A	D C Office, L M	NT (OPS)
17	Attiq Ullah Khan	11	07-01-1982	01-08-2007	29-11-2018	B.A	D C Office, L M	NT (OPS)
18	Turab Shah	11	16/02/1975	12/03/2007	05/04/2019	B.A	D C Office, Bannu	NT (OPS)
19	Muhammad Kashif	11	14/05/1979	12/03/2007	05/04/2019	B.A	D C Office, Bannu	NT (OPS)
20	Sakhi Shah	11	16/03/1981	12/03/2007	05/04/2019	F.A	D C Office, Bannu	NT (OPS)
21	Muhammad Kamran-I	11	1/09/1883	12/03/2007	31/10/2019	F.A	D C Office, Bannu	NT (OPS)
22	Kamran-II	11	1/4/1975	20/12/2008	31/10/2019	B.A	D C Office, Bannu	
23	Muhammad Ayaz	11	28/03/1966	01/07/1985	21/05/2020	-	DC Office, NWTD	
24	Hameed Ullah Jan	11	13/03/1964	19/07/1986	23/07/2020	Matric	DC Office, LM	
25	Islam Qader	11	11/03/1969	13/01/2009	28/09/2020	F.A	D C Office, Bannu	
26	Gul Umer Ayaz	11	3/11/1970	13/01/2009	28/09/2020	F.A	D C Office, Bannu	
27	Muhammad Riaz Khan	11	18/04/1972	4/6/2010	28/09/2020	F.A	D C Office, Bannu	
28	Gulab Khan	11	13/12/1964	25/10/1986	30/06/2021	Matric	DC Office LM	
29	Habib-Ur-Rehman	11	10/08/1964	25/10/1986	30/06/2021	F.A	DC Office, LM	

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Attested
Gul Nawaz
AEP Bannu

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30	Ismail Khan	11	03/05/1962	23/09/1987	06/10/2021	F.A	DC Office Bannu
31	Miras Khan	11	01/01/1966	03/08/1987	12/10/2022	Matric	DC Office LM
32	Noor Aslam Khan	11	16/01/1963	18/11/1987	08/12/2022	F.A	DC Office LM
33	Muhib Ullah	11	11/01/1964	18/11/1987	08/12/2022	Matric	DC Office LM
34	Farid Ullah S/o Gul Habib	11	14/05/1964	18/11/1987	08/12/2022	Matric	DC Office LM

Attested
Gulnawaz
 Gulnawaz
 ACP Bannu


 COMMISSIONER
 BANNU DIVISION

(7)



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P.O. Box. 12, Postal Code 28100, Bannu.
Phone: 0928- 9270044 & 621144
Fax: 0928 - 9270041
E-mail : gcr.bannu@yahoo.com

COMMISSIONER BANNU DIVISION

No. _____ A.E _____
Dated: _____, 2023

AUTHORITY LETTER

Mr. Gul Nawaz, Assistant to Commissioner (Pol/Dev) Bannu Division is hereby authorized to submit para-wise comments and attend the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of the undersigned, respondent No.2, in the case titled Kashif Kanungo (BRS-11), Deputy Commissioner, Office Bannu versus Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar & others on 09/06/2023 and subsequent date of hearing


COMMISSIONER
BANNU DIVISION

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

Appeal No. 1061 of 2023 SB

Kashif (Appellant)

VERSUS

SMBR & OTHERS (Respondents)

AFFIDAVIT

I, Gul Nawaz Khan, Assistant to Commissioner (Pol/Dev), Division Bannu, do hereby solemnly affirm and declare that the parawise reply/comments in Appeal No. 1061 of 2023, is submitted on behalf of Respondent No. 1 & 2 is true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

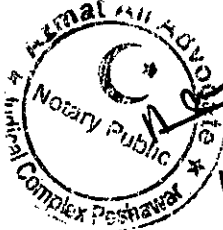
It is further stated on oath that in this appeal the answering respondents have neither been placed ex parte nor their defense has been struck off. Gul Nawaz Khan

Assistant to Commissioner (Pol/Dev)
Bannu Division

Identified by

ATTESTED

Addl: Advocate General,
Khyber Pakhtunkhwa,
Peshawar

 A circular notary seal for the Notary Public at the Tribunal Complex, Peshawar. The seal contains the text 'Notary Public' and 'Tribunal Complex Peshawar'. A signature is written across the seal, and the date '15-06-2023' is written to the right of the seal.