

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No 1264/ 2023

Muhammad Nadir Khan Tehsildar (BPS-16) R/o Gulgasht Colony
House No. 1, Street No 2 Peshawar Cantt

..... Appellant

VERSUS

- (1) SMBR Board of Revenue.
- (2) Commissioner Malakand Division Saidu Sharif Swat.
- (3) Mr. Ajmal Khan (Tehsildar Acting Charge basis)

..... Respondents

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Dated 13.07.2023

Appellant



Muhammad Khawaja
Superintendent (BPS-17)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**Service Appeal No. 1264 of 2023.**Khyber Pakhtunkhwa
Service Tribunal**MUHAMMAD NADIR KHAN** (Tehsildar, BPS-16),
Peshawar Museum, Peshawar
r/o Gulgash Colony, H#1, Street No.2, Peshawar Cantt:Diary No. 6451Dated 13/07/23.....**APPELLANT****VERSUS**

1. **SENIOR MEMBER BOARD OF REVENUE (SMBR),**
Khyber Pakhtunkhwa, Peshawar.
2. **The COMMISSIONER, Malakand Division,**
Saidu Sharif, Swat.
3. **Mr. Ajmal Khan, (Tehsildar, Acting Charge Basis),**
O/o Commissioner, Malakand Division, Saidu Sharif Swat
Transfer as Tehsildar HQ Dir.

Subject: - **PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO.1**
(SENIOR MEMBER BOARD OF REVENUE) & 2 COMMISSIONER
MALAKAND DIVISION.

PRELIMINARY OBJECTIONS.

1. The appellant is estopped by his conduct to file the present appeal.
2. The appellant has got no cause of action.
3. The appellant has no locus stand to bring the present appeal.
4. That the appellant has not come to the tribunal with clean hands.
5. The appellant has no legal grounds in support of his appeal.

FACTS.

1. No comments, pertains, to record.
2. No comments.
3. Correct to the extent that the appellant was earlier posted as Tehsildar HQ Dir vide this office order dated: 24/03/2023 (awaiting for posting in this office). The appellant was transferred and posted in Upper Chitral with the reason that all posts of Tehsildars in Upper Chitral were lying vacant and the District Administration was facing difficulties to process the important nature of land acquisition cases and other revenue matters Later on, the appellant was posted as Tehsildar Mastuj/Booni vide this office order dated: 26/06/2023 in light of the recommendation of District Administration Upper Chitral. It is further added 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 of Provincial Government or local authority, or a corporation or body setup or established by any such Government". This, no appeal lies against transfer orders is maintainable in the eye of law.
 - II. 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 condition of his service are concerned.

4. As stated in above para-3.
5. No comments.


GROUND.

- A. Incorrect, proper procedure were adopted under the rules.
- B. Incorrect. The appellant has been treated in accordance with the law and rules.
- C. Incorrect, as explained above.
- D. Incorrect, as explained above.
- E. Incorrect, as explained above.
- F. Incorrect, as explained above.
- G. Incorrect, as explained above.
- H. The appellant has been treated in accordance with law and rules.
- I. Incorrect, as stated above.
- J. Incorrect as explained in para-3.
- K. No comments.

In light of the above facts explained above, it is humbly prayed that the appeal filed by the appellant does not merit consideration, may kindly be dismissed with the cost please.


SENIOR MEMBER OF BOARD OF REVENUE (SMBR)
KHYBER PAKHTUNKHWA, PESHAWAR.
(RESPONDENT NO.1)

Secretary to Govt. of Khyber Pakhtunkhwa
Revenue & Estate Department


THE COMMISSIONER, MALAKAND DIVISION
SAIDU SHARIF, SWAT
(RESPONDENT NO.2)

Commissioner, Malakand Division.

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MUHAMMAD NADIR KHAN (Tehsildar, BPS-16),
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.....APPELLANT

VERSUS

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Saidu Sharif, Swat.
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SENIOR MEMBER OF BOARD OF REVENUE (SMBR)
KHYBER PAKHTUNKHWA, PESHAWAR.

(RESPONDENT NO.1)
Senior Member
Board of Revenue
Khyber Pakhtunkhwa

*Submitted for
vetting*

[Signature]
12/7/23

THE COMMISSIONER, MALAKAND DIVISION
SAIDU SHARIF, SWAT
(RESPONDENT NO.2)

Commissioner, Malakand Division.

[Signature]

*vetted subject to compliance letter dated 29/7/23, index,
Affidavit & necessary documents. eul*

[Signature]
12.7.23
Additional Advocate General
Khyber Pakhtunkhwa
Service Tribunal Peshawar.



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

AUTHORITY LETTER

Mr. Khwaja Muhammad Superintendent (BS-17) is hereby authorized to attend the Service Tribunal Peshawar in Appeal No. 1264 of 2023 titled "Nadir Khan vs SMBR Peshawar" on behalf of the undersigned and submit para-wise comments alongwith other allied documents as directed by the Hon'ble Court.

**SENIOR MEMBER BOARD OF REVENUE (SMBR)
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No. 01)**

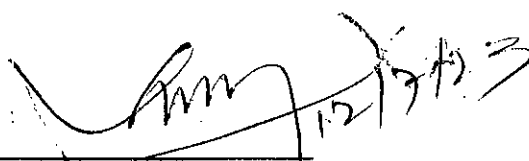
Senior Member
Board of Revenue
Khyber Pakhtunkhwa

**COMMISSIONER MALAKAND DIVISION
(Respondent No.02)
Commissioner, Malakand Division**

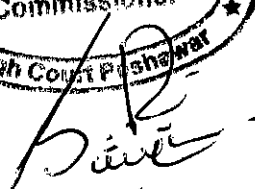
AFFIDAVIT

I, Khwaja Muhammad Superintendent Commissioner Office Saidu Sharif Swat do hereby solemnly affirm and declare that the contents of this service appeal No. 1264 of 2023 is true and correct to the best of my knowledge and belief and nothing has concealed herein.

Dated: 12/07/2023


Khwaja Muhammad
Superintendent Commissioner
Office Saidu Sharif Swat



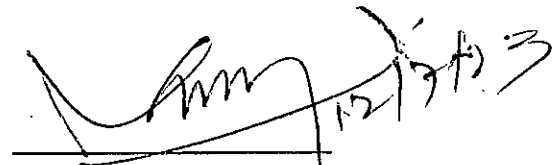

12/07/23.

AFFIDAVIT

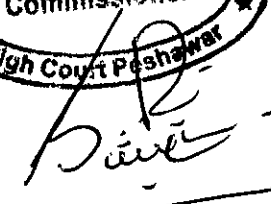
I, Khwaja Muhammad Superintendent Commissioner Office Saidu Sharif Swat do hereby solemnly affirm and declare that the contents of this service appeal No. 1264 of 2023 is true and correct to the best of my knowledge and belief and nothing has concealed herein.

It is further stated that on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defence has been struck off.

Dated: 12/07/2023



Khwaja Muhammad
Superintendent Commissioner
Office Saidu Sharif Swat



12/07/23.



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

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**SENIOR MEMBER BOARD OF REVENUE (SMBR)
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No. 01)**

**Senior Member
Board of Revenue
Khyber Pakhtunkhwa**

**COMMISSIONER MALAKAND DIVISION
(Respondent No.02)
Commissioner, Malakand Division**