

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SA No. 1556 /2023

Mr. Irshad Ali Khan, Ex-Naib Tehsildar, labour Kot, Settlement Operation Masehra,
presently waiting for posting in Director Land Records,
Khyber PakhtunkhwaAppellant

VERSUS

Senior Member Board of Revenue & others.....Respondents

INDEX

S.No	Description of Documents	Annexure	Page No.
1.	Affidavit		01
2.	Comments	--	02-03
3.	Election commission of Pakistan letter	I	04
4.	Posting transfer order dated 13.12.2022	II	05
5.	Order dated 25.07.2023	II	06

6

Authority letter

07

[Signature]
Assistant Secretary Lit-II
Board of Revenue

18/8/2023

05-09-2023

7095
21/8/2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1556/2023.

Mr. Irshad Khan, Ex-Naib Tehsildar, Labor Kot, Settlement Operation Mansehra, presently waiting for posting in Director Land Records, Khyber Pakhtunkhwa, Peshawar..... Appellant.

Versus

The Government of Khyber Pakhtunkhwa through Secretary Establishment, Khyber Pakhtunkhwa, Peshawar and others..... Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT No.1,2 and 3

RESPECTFULL SHEWETH.

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appellant is estopped by his own conduct to institute the instant appeal.
3. That the appellant has not come to the Tribunal with clean hands.

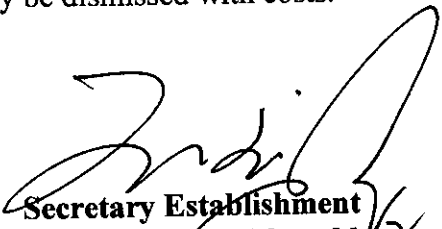
FACTS:-

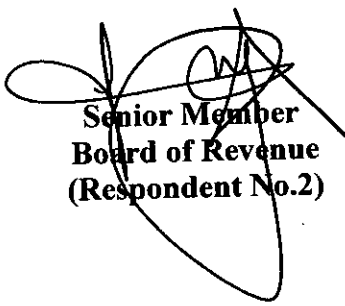
1. Pertains to record.
2. Correct to the extent that the appellant is an employee of Settlement Operation Mansehra.
3. Incorrect. After issuance of letter dated 22.01.2023 another letter dated 10.03.2023 was issued by Election Commissioner of Pakistan wherein ban was relaxed to the extent of officers/officials in BPS-17 and below (**Annex-I**). Therefore, the question of ban does not arise.
4. Correct to the extent that requisition was made through letter dated 31.05.2022 by the Settlement Officer Mansehra, but it is not the mandate of Settlement Officer to pick and chose a Kanungo BPS-11 for posing against the post of Naib Tehsildar (BS-14) in his (Own Pay Scale). Sufficient Naib Tehsildars were waiting for posting who have much experience in revenue matters but even then a Kanungo (Mr. Irshad Khan) was posted as Settlement Naib Tehsildar in his (Own Pay Scale) on 13.12.2022 (**Annex-II**).
5. Incorrect . the appellant was posted in his Own Pay Scale against the post of Naib Tehsildar (BS-14) which is against the norms of justice.
6. Incorrect. The present Settlement Naib Tehsildar (Mr. Asad Ullah) was waiting for posting in Board of Revenue and being an experience Naib Tehsildar (BS-14) was posted as Settlement Naib Tehsildar Mansehra and no violation of the Election Commission of Pakistan letter dated 22.01.2023 was made, as there was no ban on posting/transfer vide letter (**Annex-I**). Besides, the appellant was posted in his Own Pay Scale therefore, the question of tenure does not arise.
7. Incorrect. The departmental appeal of the appellant has already been decided. (**Annex-III**).
8. Incorrect. As mentioned in para-7 above.
9. Correct. The Departmental Appeal of the appellant has already been rejected on 25.07.2023.
10. Incorrect. The appellant has no solid/legal grounds to file the instant appeal.


Grounds

- A. Incorrect. The order dated 10.05.2023 was issued in best public interest. Being an experience Naib Tehsildar (BS-14) Mr. Asad Ullah was posted Settlement Naib Tehsildar Mansehra to speed up the Settlement activities. As mentioned above no violation of notification dated 22.01.2023 has been made.
- B. Incorrect. No violation of Article 4& 25 of the constitution of Islamic Republic of Pakistan 1973, has been committed as the posting order was issued in the best interest of Settlement Operation Mansehra.
- C. Incorrect. No violation of any Section of the Constitution was made as the appellant has already worked in the Settlement Operation Mansehra for the last 8 / 10 years in capacity of Patwari, Girdawar and Naib Tehsildar (Own Pay Scale) but no fruitful result/progress was achieved regarding completion of Settlement activities.
- D. Incorrect. As mentioned in para-C.
- E. Incorrect.
- F. The respondents well also advance/produce others grounds at the time of hearing.

Keeping in view of above, the service appeal of the appellant having no legal grounds may graciously be dismissed with costs.


Secretary Establishment
Govt: of Khyber Pakhtunkhwa
(Respondent No.1)


Senior Member
Board of Revenue
(Respondent No.2)


Director Land Records
Khyber Pakhtunkhwa
(Respondent No. 3)

No.F.10 (1)/2023-Elec-I
ELECTION COMMISSION OF

.N



"Secretariat"
Constitution Avenue, G-5/2,
Islamabad, the 10th March, 2023.

To,

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:

GRANT OF PERMISSION FOR TRANSFER/POSTING AND ALL KIND
OF LEAVES.

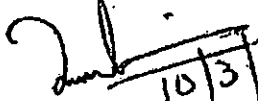
Dear Sir,

I have the honor to state that the Hon'ble Commission has been pleased to decide that following matters may be dealt at your own level:

- i. All kind of leaves.
- ii. Transfer/Posting of Additional Secretaries of BS-19 & below working in the Secretariat.
- iii. Transfer/Posting of officers/ officials of BS-17 and below of all other Departments besides officers/ officials of Police (posted in field or Head Quarters) and Administration. However, the copy of such orders issued against Para-iii, may be shared with this Commission.


2. Moreover, all other cases of transfer/posting of BS-20 and above of the officers of Secretariat & all BS-18 and above officers of the field including Police and Administration should be sent to this Commission for concurrence and approval.

Yours sincerely,


10/3/2023
(Syed Nadeem Haider)
Additional Director General (Elections-I)

Copy forwarded for information to:

The Provincial Election Commissioner, Khyber Pakhtunkhwa.


10/3/2023
(Syed Nadeem Haider)
Additional Director General (Elections-I)



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF LAND RECORDS
REVENUE AND ESTATE DEPARTMENT

E-Mail: landrecord.kpk@gmail.com

Phone: 091-9210057

@LandrecordKP
fb.com/landrecord.kpk

Peshawar dated the 13/12/2022.

OFFICE ORDER:

No.LR-IV/Estb/DLR/ 7452-59 The following posting/transfer of Settlement Tehsildars/Naib Tehsildars are hereby ordered with immediate effect in the public interest.

S.No	Officer	From	To
1.	Said Muhammad	Naib Tehsildar, Settlement-II, Mansehra	Tehsildar(OPS), Settlement-II, Mansehra
2.	Malik Sajjad Khan	Tehsildar (OPS), Settlement-II, Mansehra	DRA, Haripur
3.	Nisar Ahmad	Naib Tehsildar/DRA, Haripur	Naib Tehsildar, Settlement-I, Mansehra.
4.	Muhammad Akhtar	Naib Tehsildar, Settlement-I, Mansehra.	At the Disposal of Commissioner Hazara Division
5.	Irshad Khan	Girdawar Settlement, Mansehra	Naib Tehsildar, Settlement-II, Mansehra

Approved by
Competent Authority

Encl: No. & date even.

Copy forwarded for information to the;

1. Commissioner Hazara Division, Abbottabad, for information and necessary action please.
2. Deputy Commissioner Haripur & Mansehra.
3. Settlement Officer, Mansehra.
4. District Accounts Officers, Haripur & Mansehra.
5. Senior PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
6. PA to Director Land Records, Khyber Pakhtunkhwa.
7. Officials concerned.
8. Officer Order file.

Director Land Records
Khyber Pakhtunkhwa

~~ATTACHED~~

GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.

091-9213989

091-9214208

Peshawar Dated the 25/07/2023

ORDER

No. Estt:V/Irshad Khan/SNT/17-1861 WHEREAS; Mr. Irshad Khan Settlement Naib Tehsildar Labor Kot Settlement Operation Mansehra was transferred on 10.05.2023 and his services were placed at the disposal of Director Land Records.

AND WHEREAS: he filed Departmental Appeal as well as filed Writ Petition before the Hon'able Peshawar High Court Peshawar and the Hon'able Peshawar disposed of the Writ Petition in the following terms :-

" In view of the above, this petition is disposed of with the direction to the worthy Senior Member Board of Revenue, Khyber Pakhtunkhwa , Peshawar (respondent No.2) to decide the fate of the departmental appeal of the petitioner with a period of fortnight form the date of receipt of this order, positively, after providing right of hearing to the petitioner".

AND WHEREAS: In compliance with the order of Hon'able Peshawar High Court, Peshawar Mr. Irshad Khan was afforded the opportunity of personal hearing on 23.06.2023 and the official requested for cancellation of his posting order dated 10.05.2023.

AND WHEREAS: during the personal hearing, the official admitted the fact that he has worked in Settlement Operation Mansehra for the last 8/10 years in the capacity of Patwari, Girdawar and Naib Tehsildar.

AND WHEREAS: the newly posted Naib Tehsildar is an experience Revenue knowing official and was posted to speed up the Settlement work to complete the Settlement work in due course of time as the said Settlement Operation has already been delayed.

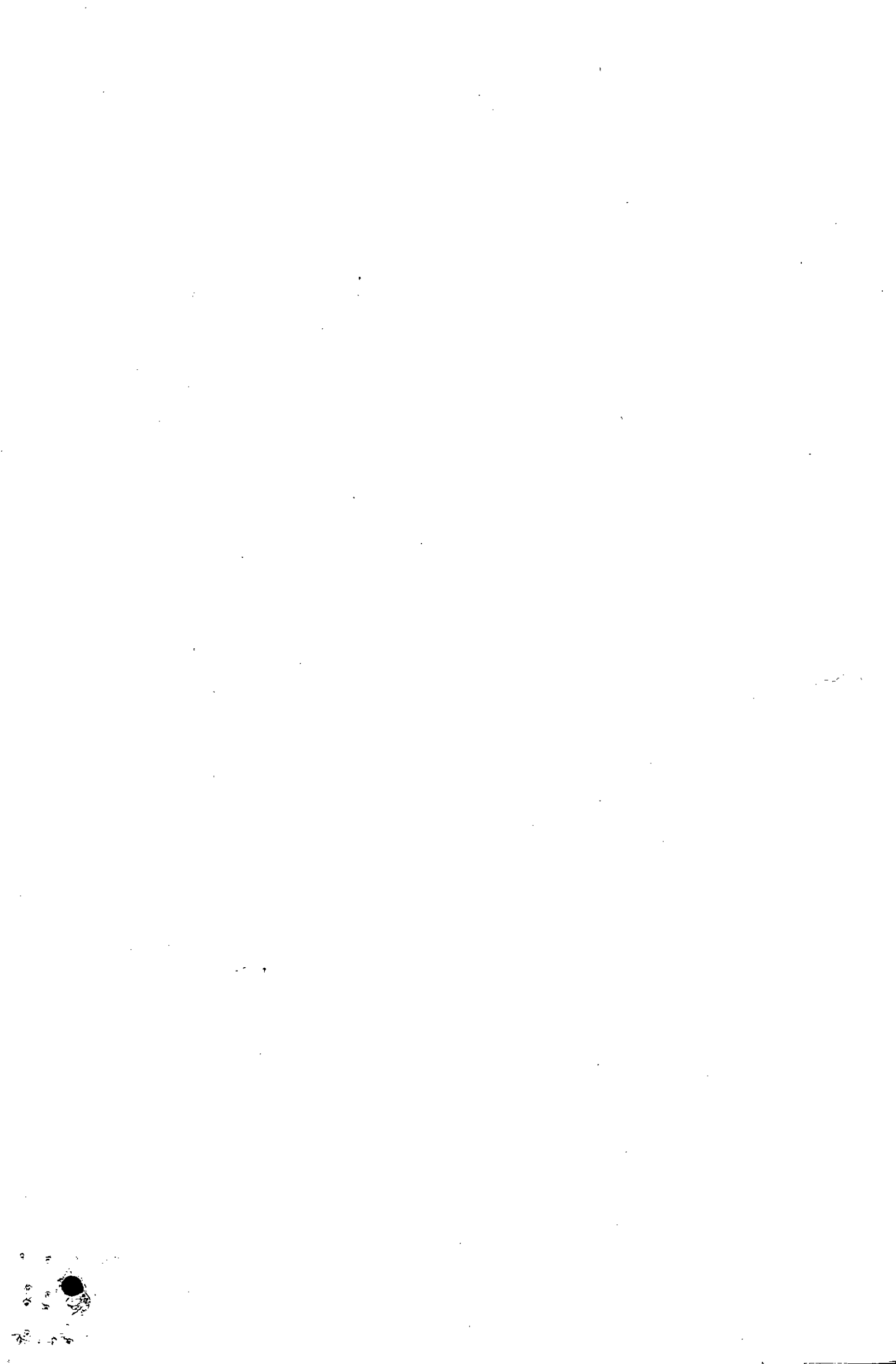
AND WHEREAS: The Settlement Operations are also going on in other Districts of the Province i.e Abbottabad, Malakand, Nowshera, D.I.Khan therefore, the department intends to utilize the services of the official in any other Settlement Operation in the province.

AND WHEREAS: The official (Mr. Irshad Khan) will be posted as Naib Tehsildar in any one of the Settlement Operation going on in other Districts of the Province once the summary already moved for ban relaxation is approved by the Chief Minister, Khyber Pakhtunkhwa.

AND WHEREAS: posting/transfer is a part of service and a Government servant is legally bound to perform his official duty as per directions of the relevant Competent Authority wherever required.

THEREFORE, the instant appeal of the official for cancellation of the order dated 10.05.2023 is hereby filed being meritless.

Senior Member
Board of Revenue



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1556//2023

Irshad Khan.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary, Board of Revenue, Khyber Pakhtunkhwa and others..... Respondent

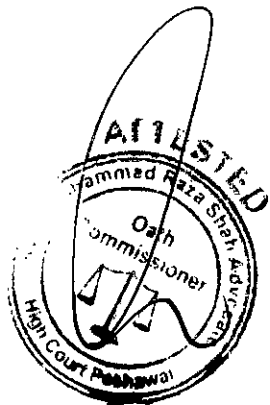
AFFIDAVIT

I, Abdul Rasheed, Superintendant, Litigation-II Section, Revenue and Estate Department, Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **Joint Para-wise Comments** provided and prepared by Assistant Secretary (Establishment, Section) of Board of Revenue, Khyber Pakhtunkhwa, attached herewith are submitted in the subject Service Appeal noted above, which are true and found correct as per available record and that nothing has been concealed from this Honorable Service Tribunal.

Abdul Rasheed

DEPONENT

It is further stated on oath that in this appeal the answering ^{respondents} have not been placed ex-parte nor their response have been struck off list.

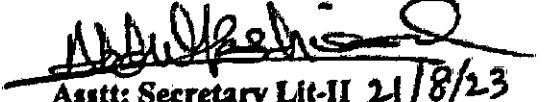


21/8/23

**GOVERNMENT OF KHYBER PAKHTUNKHWA
REVENUE AND ESTATE DEPARTMENT**

AUTHORITY LETTER

Mr. Imran Akbar, Assistant Litigation-II (BS-16) Board of Revenue, is hereby authorized to attend and submit comments in Service Tribunal, Khyber Pakhtunkhwa Peshawar, in Service Appeal No. 1556/2023 titled Irshad Khan(Naib Tehsildar) Versus Senior Member, Board of Revenue on behalf of this department.


Asstt: Secretary Lit-II 21/8/23
Board of Revenue
Khyber Pakhtunkhwa