

15.06.2017

Clerk of the counsel for appellant present. Mr. Muhammad Adeel Butt, Additional AG for official respondents No. 1 & 2 also present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 18.10.2017 before D.B.

(GUL ZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

18.10.2017

None for the appellant present. Addl. AG for respondents present. Called for several times but no one appeared on behalf of the appellant, therefore, the appeal in hand is hereby dismissed in default. File be consigned to the record room.

Announced:
18.10.2017


Member
(Executive)

Member
(Judicial)

08.06.2016

Counsel for the appellant, Mr. Ziaullah, GP for official respondents No. 1 and 2 and counsel for private respondent No. 3 present. Learned counsel for the appellant requested for adjournment. Adjourned for arguments to ~~17-18-16~~ before D.B.


MEMBER


MEMBER

17.06.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for official respondents No. 1 & 2 present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 14-2-17 before D.B.


(ABDUL LATIF)
MEMBER


(PIR BAKHISH SHAH)
MEMBER

14.02.2017

Junior to counsel for the appellant, Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Ziaullah, GP for official respondents and counsel for private respondent also present. Junior to counsel for the appellant requested for adjournment. To come up for up for arguments on 15.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(ASHFAQUE TAJ)
MEMBER

30.4.2015

Counsel for the appellant, Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary for the official respondents and counsel for private respondent No. 3 present. Due to rush of work, case is adjourned to 14.10.2015 for arguments.


MEMBER


MEMBER

14.10.2015

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. To come up for arguments on

1-3-16


Member


Member

01.03.2016

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. To come up for argument on

8.6.16


Member


Member

347/13

6.2.2014

Junior to counsel for the appellant and Mr. Muhammad Jan, GP with Murad Ali Assistant and Mir Qasam Assistant Secretary for the official respondents and junior to counsel for private respondent present. Senior counsel for the private respondent is busy before the learned Bench-I and request made on his behalf for adjournment. To come up for arguments on 22.4.2014.

MEMBER

MEMBER

22.4.2014.

Appellant in person and Mr. Muhammad Jan, GP with Murad Ali, Assistant and Mukhtiar Ali, Supdt. for the official respondents and clerk to counsel for private respondent present. Due to general strike of the Bar, counsel for the parties are not available. To come up for arguments on 10.9.2014.

MEMBER

MEMBER

10.09.2014.

Counsel for the appellant, and Mr. Mukhtiar Ali, Supdt. for respondent No. 1 with Mr. Muhammad Adeel Butt, AAG for the official respondents and junior to counsel for private respondent No. 3 present. The learned Member is on leave. To come up for the same on 08.01.2015.

08.1.2015

Junior to counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Mukhtiar Ali, Supdt. for the official respondents and clerk to counsel for private respondent No. 3 present. The Tribunal is incomplete. To come up for the same on 30.4.2015.

READER

READER

6.9.2013

Junior to counsel for the appellant, Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary for official respondents present who already filed written reply. Counsel for private respondent No. 3 present and again requested for time. Last chance is given to respondent No. 3 for submission of written reply on 25.10.2013.

MEMBER

MEMBER

25.10.2013.

Counsel for the appellant and Mr. Ziaullah, G.P with Mukhtiar Ali, Superintendent for respondents No. 1 and 2 and counsel for private respondent No. 3 present. Written reply of on behalf of private respondent No. 3 received and placed on file. Copy handed over to counsel for the appellant. Written reply of respondents No. 1 and 2 already received. To come up for rejoinder on 18.12.2013.

MEMBER

18.12.2013.

Counsel for the appellant, Mr. Muhammad Adeel Butt, AAG with Mir Qasam, Assistant Secretary for the official respondents and counsel for private respondent No. 3 present. Rejoinder received. Copies handed over to the learned AAG and counsel for private respondent. To come up for arguments on 6.2.2014.

MEMBER

MEMBER

347/2013

23.05.2013.

Appellant in person, Mr. Muhammad Jan, GP with Attaullah, Supdt. and Wisal Muhammad, Computer Operator for official respondents and Clerk to counsel for private respondent No. 3 present. In pursuance of promulgation of Khyber Pakhtunkhwa Ordinance 2013, the Tribunal is incomplete. To come up for the same on 21.6.2013.


READER

21.6.2013

Appellant with counsel and Mr. Muhammad Jan, GP with Wisal Muhammad Assistant for the official respondents present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 30.7.2013.


READER

30.7.2013

Counsel for the appellant, Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary for the official respondents. Counsel for private respondent No. 3 also present and requested for time. To come up for written reply of private respondent No. 3 on 6.9.2013.

MEMBER



MEMBER



19.3.2013

Appellant in person and AAG with Attaullah, Superintendent for respondent No. 1 and private respondent No. 3 in person present and requested for time. None is available on behalf of respondent No. 2. Fresh notice be issued to him. To come up for written reply on main appeal as well as reply/arguments on 17.4.2013. Till then status quo is extended.



MEMBER

17.04.2013

Counsel for the appellant, Mir Qasim, Assistant Secretary and Wisal Muhammad, Computer Operator for official respondent No.1 and 2 with Mr.Arshad Alam, GP present. Muhammad Asif Yousafzai, Advocate filed wakalat Nama on behalf of private respondent No.3. Written reply on behalf of respondents No.1 and 2 received, copy whereof is handed over to the counsel for the appellant as well as counsel for private respondent. To come up for written reply of respondent No.3 on 23.05.2013.



MEMBER



MEMBER

Appeal No. 347/2013.
Mr. Abbas Khan.


3. 22.2.2013

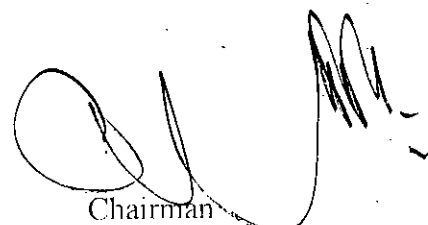
Counsel for the appellant present and heard. Contended that this appeal has been filed against the final order dated 10.1.2013 conveyed to him on 30.1.2013, within a period of 30 days. He further contended that the appellant has not been treated in accordance with law. The appellant has been transferred vide the impugned order dated 16.11.2012, without completing his normal tenure which is against the posting/transfer policy of the Government. Moreover, the impugned order is politically motivated as is evident from the body of the impugned order and the same has been endorsed to the Minister for Revenue. The appellant filed a departmental appeal but the same has been rejected on 10.1.2013. Counsel for the appellant has also submitted an application for suspension of the transfer order dated 16.11.2012 till the decision of the appeal. Copy of application be sent to the respondents. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 19.3.2013 for submission of written reply on main appeal as well as reply/arguments on application. Till then status-quo be maintained.

Appellant deposited
Process fee & Security
Rs. 18000/- Receipt
attached with file.


Member.



4. 22.2.2013

This case be put before the Final Bench  for further proceedings.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 347/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07/02/2013	<p>The appeal of Mr. Afsar Khan presented today by Mr. Ijaz Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	13-2-2013.	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>22-2-2013.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 347 /2013

Afsar Khan Sub Registrar Haripur.

Appellant

VERSUS

Senior Member Board of Revenue Khyber Pakhtunkhwa
Peshawar and others.


Respondents

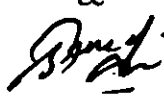
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1	Memo of Appeal		1-3
2	Application and Affidavit		4-5
3	Transfer Orders dated 5.4.2012 & 25.07.2012	A & B	6-7
4	Impugned Transfer Order dated 16.11.2012	C	8
5	Departmental Appeal and Rejection Order dated 10.01.2013	D & E	9-11
6	Posting and transfer Policy	F	12-16
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Appellant

Through


IJAZ ANWAR
Advocate, Peshawar

&

SAJID AMIN
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 347 /2013

~~A. W. J. Feroze~~
~~Secretary~~
~~Case No. 390~~
~~Dated 27-2-2013~~

Afsar Khan Sub Registrar Haripur..... Appellant

VERSUS

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
2. Inspector General Registration, Khyber Pakhtunkhwa Peshawar.
3. Qazi Ijaz, Sub Registrar Batagram..... Respondents

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the Office Order dated 16.11.2012, whereby the appellant has been transferred from the post of Sub-Registrar Haripur to the post of Sub-Registrar Batagram against which his Departmental Appeal dated 20.11.2011, has also been rejected vide order dated 10.01.2013 conveyed to the appellant 30.01.2013.

✓
Final order

Prayer in Appeal;

On acceptance of this appeal the impugned Orders dated 16.11.2012 and (10.01.2013) may please be set-aside and the appellant be allowed to continue his duties as Sub-Registrar Haripur.

Respectfully Submitted:

1. That the appellant is serving in the respondent department and was initially appointed as Moharirr in the year 1994.
2. That during the course of his service, the appellant gained promotion and lastly promoted as Sub- Registrar in the year 2008.
3. That it is pertinent to point out here that the appellant remained at different stations as and when directed/posted.
4. That after completing his normal tenure of about 3 years at Swabi, vide order dated 05.04.2012, the appellant was transferred and posted as Sub- Registrar Abbotabad, however without allowing him to complete his normal tenure vide office

~~Signature~~
~~Name~~
7/2/13

order dated 25.07.2012 he was transferred from Abbotabad and posted at Haripur. (Copies of the Office Orders dated 5.4.2012 & 25.07.2012 are attached A & B).

5. That while the appellant has hardly completed about 4 month at Haripur was again transferred from Haripur to District Batagram while Respondent No 3 has been transferred vice the Appellant vide Office Order dated 16.11.2012. (Copy of the office order dated 16.11.2012 is attached C).
6. That the appellant filed Department Appeal dated 20.11.2012, however it has also been rejected vide order dated 10.01.2013. The copy of the rejection order was however, delivered to the appellant on 30.01.2013. (Copy of the Departmental Appeal and rejection order is attached as Annexure D & E).
7. That the impugned orders dated 16.11.2012 and 30.01.2013 are illegal, unlawful, against the transfer and posting policy and politically motivated and malafide inter alia on the following grounds:

Grounds of Appeal:

- A. That the appellant has not been treated as accordance with law.
- B. That the appellant has been prematurely transferred, the appellant has hardly served for four months at Haripur, thus he has not completed his tenure, the order impugned is illegal and against the law laid down by the apex court, in its case reported in PLD 1995 Supreme Court Page No. 530.
- C. That the impugned transfer order is illegal, unlawful, without lawful authority and passed without jurisdiction, not in the prescribed period, in violation of transfer and posting policy, thus nullity in the eyes of law and not tenable.
- D. That the appellant has not yet completed his tenure either at Abbotabad or at Haripur and thus the transfer order is illegal and unlawful, moreover the same is in violation of posting and transfer policy of the Provincial Govt. (Copy of the Posting and transfer Policy is attached as Annexure F).
- E. That in fact there exist no exigencies of service nor the order of transfer can be termed as in the public interest, rather it was passed in favour of the Respondent No. 3 to accommodate him at the cost of the appellant.

- F. That during the posting of the appellant as Sub-Registrar his performance remained commendable and there was no complaint whatsoever regarding his performance.
- G. That in fact there exist no exigencies of service nor the order of transfer can be termed as in the public interest, moreover the same is political motivated, in fact exerting political pressure in obtaining choice posting amounts to misconduct under the Govt. Servants Conduct Rules, 1987, thus the transfer order is also not tenable on this score alone.
- H. That the Local MPA or Minister has got no powers whatsoever in terms of the Rules of Business in the matter of posting of transfer, the transfer of the appellant was due to political interference, this has been deprecated by the Supreme Court of Pakistan in a recent judgment reported in 2007 SCMR page 599.
- I. That the respondent without caring for law, had in a quick succession issued a number of orders against the public interest or exigency of service. Thus repeated transfer orders were made in violation of Posting and Transfer Policy, thus the order is nullity in the eyes of law.
- J. That the appellant seeks the permission to the rely on additional ground at the hearing of this appeal.


It is, therefore, very humbly prayed that on acceptance of this appeal the impugned Orders dated 16.11.2012 and 10.01.2013 may please be set-aside and the appellant be allowed to continue his duties as Sub-Registrar Haripur.


Appellant

Through


IJAZ ANWAR
Advocate, Peshawar

&


SAJID AMIN
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR**

In the matter of
Appeal No. _____/2013

Afsar Khan Sub Registrar Haripur.

Appellant

VERSUS

Senior Member Board of Revenue Khyber Pakhtunkhwa
Peshawar and others.

Respondents

**Application for the suspension of the transfer order
Dated 16.11.2012 till the decision of the above noted
Appeal**

Respectfully Submitted:


1. That the appellant has filed today the above noted appeal in this Honourable Tribunal in which no date of hearing has been fixed so far.
2. That the facts and ground mentioned in the accompanied appeal may be read as integral part of this application.
3. That the applicant has got a good prima facie case and there is likelihood of it success.
4. That the appellant has so far not relinquished his charge.
5. That the applicant would be exposed to great hard ship and inconvenience in case the order is not suspended.
6. That the order passed is in violation of law and is politically motivated and is made in violation of law and rules on the subject.

7. That it will also serve the interest of justice if the order impugned is suspended till the final decision of the appeal.


It is, therefore, prayed that on acceptance of this application the operation of the impugned cancellation order dated 16.11.2012 may please be suspended till the decision of the appeal.


Applicant

Through

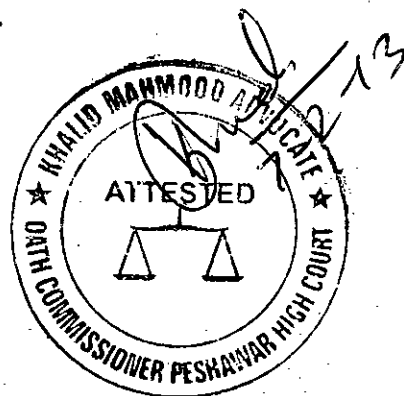

IJAZ ANWAR
Advocate, Peshawar

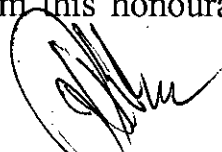
&


SAJID AMIN
Advocate, Peshawar

AFFIDAVIT

I, **Afsar Khan Sub-Registrar Haripur**, do hereby solemnly affirm and declare on oath that the contents of the above appeal as well as application are true and correct and that nothing has been kept back or concealed from this honourable Tribunal.




DEPONENT

(6)

ANNEX-A

Peshawar dated the ___/04/2012..

OFFICE ORDER

No. ___/LR-IV/12-G. With the approval of Competent Authority, the following postings/transfers are hereby ordered with immediate effect.

S.No.	Name o	From	To
1	Mr. Afsar Khan	Sub Registrar, Swabi	Sub Registrar, Abbottabad.
2	Mr. Qazi Ijaz	Sub Registrar, Abbottabad	Sub Registrar, Kohistan
3	Mr. Aurang Zeb	Sub Registrar, Kohistan	Sub Registrar, Swabi

INSPECTOR GENERAL OF REGISTRATION

Ph: II.091-9210057

e/c

Instt. No. ___/LR-IV/12-G.

Copy forwarded to the:-

- 1) Accountant General, Khyber Pakhtunkhwa.
- 2) Commissioner, Mardan Division, Mardan
- 3) Commissioner, Hazara Division, Abbottabad
- 4) District Officers (R&L)/Collectors, Mardan, Abbottabad and Kohistan, Swabi.
- 5) PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
- 6) District Accounts Officers, Swabi, Abbottabad and Kohistan.
- 7) Officials concerned.
- 8) Office order file.

INSPECTOR GENERAL OF REGISTRATION

Ph: II.091-9210057

e/c

ANNEX-B

OFFICE OF THE
INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHAWA.

Peshawar dated the 25/07/2012.

OFFICE ORDER.

No. 640 /LR-IV/12-G. With the approval of competent authority, the following postings / transfers of Sub Registrars are hereby made with immediate effect in the Public interest.

S. No.	Name & Designation	From	To
1	Mr. Khalid Rafique, Sub Registrar	Haripur	Abbottabad
2	Mr. Afsar Khan, Sub Registrar	Abbottabad	Haripur
3	Mr. Qazi Ejaz Ahmad, Sub Registrar	Kohistan	Battagram


INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHAWA.

Endost: No. 641-53 /LR-IV/12-G.

Copy forwarded to the: -

1. District Officers (R&E), Abbottabad, Haripur, Kohistan and Battagram
2. District Accounts Officers, Abbottabad, Haripur, Kohistan and Battagram.
3. PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa
4. Officials concerned.
5. Office order file.


INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHAWA.



8

Approved: C

INSPECTOR GENERAL OF REGISTRATION,
KHYBER PAKHTUNKHWA.

Peshawar dated the 16/11/2012.

OFFICE ORDER

No. LR-IV/B-14/_____ In pursuance of directives of the Revenue Minister, Khyber Pakhtunkhwa vide D.O letter No. PS/Mnstr/Revenue/KPK/2012 dated, 16/11/2012, the following postings / transfers amongst the Sub Registrars are hereby ordered with immediate effect in the interest of public:-

S. No.	Name of Sub Registrar	From	To	Remarks
01	Qazi Ejaz	Sub Registrar Batagram	Sub Registrar Haripur	Vice No. 02
02	Mr. Afsar Khan	Sub Registrar Haripur	Sub Registrar Batagram	Vice No. 01

INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHWA

No. LR-IV/B-14

602-7

Copy forwarded to

1. PS to Minister for Revenue, Khyber Pakhtunkhwa with reference to his D.O letter quoted above.
2. PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. District Registrars, Haripur and Batagram.
4. District Accounts Officers, Haripur and Batagram.
5. Officials concerned.
6. Office order file.

INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHWA.

[Handwritten signature]

[Handwritten signature]

(9)

ANNEX: D

BEFORE THE SENIOR MEMBER BOARD OF REVENUE
KHYBER PAKHTUNKHWAPESHAWAR

Departmental Appeal No. ____/2012

Afsar Khan Sub Registrar Haripur.

(Appellant)

Versus

1. Inspector General Registration Khyber Pakhtunkhwa Peshawar.
2. Qazi Ijaz, Sub Registrar Batagram.

(Respondents)

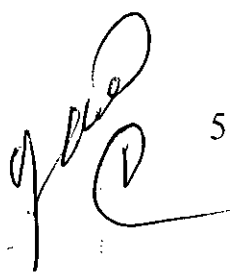
Appeal under Rule 3 of the Khyber Pakhtunkhw Civil Servant (Appeal) Rules, 1986 read with section 22 of the Khyber Pakhtunkwha Civil Servant Act, 1973 against the office order dated 16.11.2012 whereby the appellant has been transferred to the post of Sub- Registrar Batagram and the Respondent No. 2 has been transferred vice the Appellant.

Prayer in Appeal;

On acceptance of this appeal the impugned order dated 16.11.2012 may please be setaside and the appellant be allowed to continue his duties as Sub- Registrar Haripur.

Respectfully Submitted:

1. That the appellant is serving in the respondent department and was appointed as Moharirr in the year 1994.
2. That during the course of my service I gained promotion and lastly promoted as Sub- Registrar in the year 2008.
3. That it is pertinent to point out here that the appellant remained at different stations as and when directed/posted.
4. That after completing his normal tenure of about 3 years at Swabi, vide order dated 5.4.2012 I was transferred and posted as Sub- Registrar Abbotabad, however without completing my normal tenure vide office order dated 25.07.2012 I was transferred from Abbotabad and posted at Haripur. (Copies of the office orders dated 5.4.2012 & 25.07.2012 are attached)
5. That while the appellant has hardly completed about 4 month at Haripure was again transferred from Haripur to District Batagram vide office order dated 16.11.2012. (Copy of the office order dated 16.11.2012 is attached)



6. That the impugned order are illegal, unlawful, against the rules, politically motivated and malafide inter alia on the following grounds:

Grounds of appeal:

- A. That the appellant has not yet completed his tenure either at Abbotabad or at Haripur and thus the transfer order is illegal and unlawful, moreover the same is in violation of posting and transfer policy of the Provincial Govt.
- B. That infact there exist no exigencies of service nor the order of transfer can be termed as in the public interest, rather it was passed in favour of the respondent No. 2 to accommodate him at the cost of the appellant.
- C. That the impugned transfer order is illegal, unlawful, without lawful authority and passed without jurisdiction, not in the prescribed period, in violation of transfer and posting policy, thus nullity in the eyes of law and not tenable.
- D. That repeated transfer orders were made in violation of Posting and Transfer Policy, thus the order is nullity in the eyes of law.
- E. That infact exerting political pressure in obtaining choice posting amount to misconduct under the Govt Servant Conduct Rules, 1987, thus the transfer order is also not tenable on this score alone.
- F. That the Local MPA or Minister has got no powers what so ever in terms of the Rules of Business in the matter of posting of transfer, the transfer of the appellant was due to political interference, this has been deprecated by the Supreme Court of Pakistan in a recent judgment reported in 2007 SCMR page 599.
- G. That the appellant seeks the permission of this Honourable Authority to rely on additional grounds at the hearing of this appeal.

It is therefore that on acceptance of this appeal the impugned order dated 16.11.2012 may please be setaside and the appellant be allowed to continue his duties as Sub- Registrar Haripur.

Through

Appellant

IJAZ ANWAR
Advocate Peshawar.

(11)

Approved: E

**IN THE COURT OF SENIOR MEMBER BOARD OF REVENUE
KHYBER PAKHTUNKHWA, PESHAWAR**

Departmental Appeal No. 178/2012
Date of Institution ... 20.11.2012
Date of Decision ... 10.01.2013

Afsar Khan, Sub – Registrar, Battagram (Appellant)

VERSUS

Director Land Records / Inspector General of Registration, Khyber Pakhtunkhwa etc
..... (Respondents)

ORDER

Brief facts of the case are that the appellant was appointed as Moharrir in 1994. He was posted as Sub-Registrar, Swabi where he remained posted as Sub-Registrar for 03 years and from there he was transferred and posted as Sub-Registrar, Abbottabad on 05.04.2012 and later on from Abbottabad to Haripur on 25.07.2012. Now he has been transferred from Haripur and posted as Sub-Registrar Battagram on 16.11.2012, by Director Land Records / Inspector General of Registration.

Feeling aggrieved with the Director Land Records / Inspector General of Registration order dated 16.11.2012 the appellant filed the instant departmental appeal before this court.

Appellant with his counsel present. Arguments heard. Comments received from Inspector General of Registration perused.

Perusal of record reveals that the appellant remained posted as Sub-Registrar Swabi for more than 03 years and was transferred and posted as Sub-Registrar Abbottabad and later-on as Sub-Registrar Haripur. He got his choice posting by implying political influence / pressure. He did not feel aggrieved while posted as Sub-Registrar Swabi, Abbottabad and Haripur but suddenly, on his transfer and posting as Sub-Registrar Battagram, he became dis-satisfied and filed the instant appeal challenging therein his transfer order 16.11.2012 despite the fact that the order was made on the recommendation of Minister for Revenue. Moreover, posting / transfer is the part and parcel of service of a Government Servant. It is made with the aim and purpose to ensure proper functioning and smooth running of the public administration and official business. Posting / transfer is the discretionary powers of the appointing / competent authority. Furthermore, Section 10 of the Civil Servant Act, 1973 also provides that a Government Servant is bound to serve anywhere in the province as public interest is kept in mind. As such, appeal is hereby dismissed.

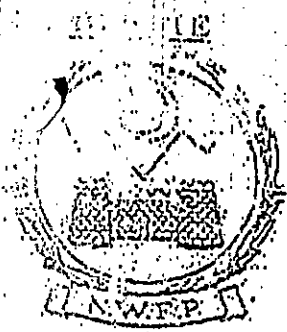
ATTESTED

114
30.1.13

Reader to
Senior Member,
Board of Revenue,
Khyber Pakhtunkhwa

ANNOUNCED
10.01.2013

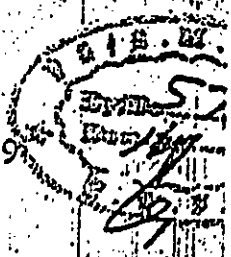
(Fazli Rehmani)
(FAZLI REHMANI)
SENIOR MEMBER
BOARD OF REVENUE



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

(Regulation Wing)

No. SOR-VI/E&AD/1-4/2008/Vol-VII
Dated Peshawar, the 11th September, 2009



To

1. The Additional Chief Secretary, Govt of NWFP. P&D Department.
2. The Additional Chief Secretary (FATA), Peshawar.
3. The Additional Chief Secretary Home Department.
4. The Senior Member, Board of Revenue, NWFP.
5. All Administrative Secretaries to Government of NWFP.
6. The Secretary to Governor, NWFP.
7. The Principal Secretary to Chief Minister, NWFP.
8. All Divisional Commissioners in NWFP.
9. All DCOs in NWFP/Political Agent in FATA.

Subject: POSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

Dear Sir,

I am directed to refer to the subject and to convey that the competent authority has been pleased to amend Para-IV of the existing, posting/ transfer policy of the Provincial Government circulated vide letter No.SOR-VI(E&AD)/Misc/Updation/09 dated 13 January, 2009 as under:

Para IV: Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive /hard areas shall be reduced to two (02) years for settled areas, 01 1/2 years for unattractive areas and one year for hard areas.

2. The above amendment is hereby circulated for information & compliance.

3. Nonetheless the status quo of posting/transfer in FATA will be maintained.

Yours faithfully,

(KALEEM ULLAH)
SECTION OFFICER (REG-VI)

(13) ~~SECRET~~

BETTER COPY.

GOVERNMENT OF N.W.F.P
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(REGULATION WING)

NO.SOR-1(E&AD)1-1/85(Vol:11)

Dated the Peshawar the 15th February, 2003.

- 1- All Administrative secretaries to Govt: of NWFP.
- 2- The Secretary to Governor, NWFP.
- 3- The Secretary to Chief Minister, NWFP.
- 4- All Heads of Attached Departments in NWFP.
- 5- All the Heads of Autonomous/Semi Autonomous Bodies in NWFP.
- 6- All Distt: Co-Ordination Officer/Political Agents in NWFP.
- 7- The Registrar Peshawar High Court Peshawar.
- 8- All Distt: & Session Judges in NWFP.
- 9- The Secretary NWFP Public Service Commission, Peshawar.
- 10- The Director Anti-Corruption Establishment, Peshawar.
- 11- The Secretary Board of Revenue, NWFP, Peshawar.
- 12- The Registrar, NWFP Service Tribunal, Peshawar.

SUBJECT: POSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

Dear Sir,

- i. I am directed to refer to the subject noted above and to say that in supersession of all policy, instructions issued in this behalf, the competent authority has approved the following Posting/Transfer Policy: -
 - i). All the posting /transfer shall be made strictly in the public interest and shall not be abused/misused to victimize the Government Servant.
 - ii). All Government servants are prohibited to exert political, Administrative or any other pressure upon the posting /transfer authorities for seeking posting transfer of their choice and against the public interest.
 - iii). All contract Govt: employees appointed against specific posts cannot be posted against any other post.
 - iv). The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas, the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and

Yusuf

ATTESTED
[Signature]

while the remaining departments shall make posting/transfer in July. There shall be a ban on posting/transfer throughout the year excluding the aforementioned two months due to promotion/retirement/creation of new post/return from long leave/involvement in disciplinary proceedings and adjustment of surplus staff for which specific relaxation shall be obtained from the Chief Minister.

- vi) While making posting/transfers from settled area to FATA vice-versa specific approval of the Governor NWFP needs to be obtained.
- vii) Officers may be posted on executive/administrative posts in the Distt: of their domicile except District Co-Ordination Officers (DCOs), and Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where a Police Station (Thana) of his area/residence is situated.
- viii) No posting/transfers of the officers/officials on the detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in the Provincial Services, efforts where possible would be made to post such persons at one station and this will be subject to the public interest.
- x) All posting/transfers authorities may facilitate the posting/transfers of unmarried female Govt: Servant at the station of their residence of their parents.
- xi) Officer/officials except DCOs and SPs who are due to retire within one year may be posted on their option, on posts in the Distt: of their domicile and be allowed to serve there till retirement.
- xii) In terms of Rule-17 (1) and (2) read with schedule-III of the Govt: of NWFP Rules of Business 1985, transfer of officers shown in column 1 of the following table, table shall be made by the authorities shown against each officers in column 2 thereof: -

COLUMN-1	COLUMN-2
<p><u>Outside the Secretariat.</u></p> <ol style="list-style-type: none"> 1. Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above. 2. Other officers in BPS-17 and above to be posted against scheduled posts or posts normally held by the APUG, PCS (EG) and PCS (SG) 3. Head of attached Deptt: and other officers in B-19 & above in all the Deptt: 	<p>Chief secretary in consultation with the Establishment Deptt. With the approval of the Chief Minister.</p>

<p><u>In the Secretariat.</u></p> <p>4. Secretaries.</p> <p>5. Other officers and above the rank of Section Officers: -</p> <p>a)- Within the same Deptt:</p> <p>b)- Within the Secretariat from one Deptt: to another.</p> <p>6. Officers up to the rank of Superintendents.</p> <p>a)- Within the same Deptt:</p> <p>b)- To and from Attached Deptt:</p> <p>c)- Within the Secretariat from one Deptt: to another.</p>	<p>Chief Secretary with the approval of the Chief Minister.</p> <p>Secretary of the Deptt: concerned.</p> <p>Chief Secretary/ Secretary Establishment.</p> <p>Secretary of the Deptt: concerned.</p> <p>Secretary of the Deptt: in consultation with the Head of Attached Deptt: Secretary Establishment.</p>
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- xiii) While considering the posting/transfers proposals all the concerned authorities shall keep in mind the following: -
 - a). To ensure the posting of proper persons on proper posts the annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on integrity of the concerned officer/officials be considered.
 - b). Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.
- xiv) Government servants including Distt: Government employees feeling aggrieved due to the orders of posting/transfers authorities may seek remedy from the next higher authority/ the appointing authority as the case may be brought an appeal to be submitted within seven days of the receipt of such order. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/transfers orders could be exercised only in the following cases: -
 - i)- premature posting/transfers or posting/transfers in violation of this policy.
 - ii)- Serious and grave personal(humanitarian) grounds.

(16)

S.No	Officers	Authority
1-	Posting of Distt: Coordination Officer and Executive Distt: Officer in a Distt:	Provincial Govt:
2-	Posting of Distt: Police Officer.	Provincial Govt:
3-	Other officer in BPS-17 and above posted in the Distt:	Provincial Govt:
4-	Official in BPS-16 and below.	Executive Distt: Officer in consultation with Distt: Coordination Officer.

3. As per Rule-25 (2) of the Rules mentioned above the Distt: Coordination Department shall consult the Govt: if it is proposed to:-
- a)- transfer the holder of the tenure post before the completion of his tenure or extend the period of his tenure; and
 - b)- Acquire an officer to hold charge of more than one post for a period exceeding two months.
4. I am directed further to request that the above noted policy may be strictly observed/ implemented.

Your Faithfully,

Sd/xxx
(GHULAM JALANI ASIF)
ADDL: SECRETARY(REG:)

Endst:NO.SOR-1(E&AD)1-1/85

dated Peshawar the 15.2.2003.

ATTESTED

POWER OF ATTORNEY

The COURT of Khyber Pakhtunkhwa, Service Tribunal
Peshawar
Ajzar Khan Sub-Registrar,

For:
Plaintiff ✓
Appellant ✓
Petitioner ✓
Complainant

VERSUS

Senior member Board of Revenue and others

Defendant
Respondent
Accused

Appeal/Revision/Suit/Application/Petition/Case No: _____ of _____
Fixed for _____

I/WE, the undersigned, do hereby nominate and appoint

MR. IJAZ ANWAR ADVOCATE, HIGH COURT, PESHAWAR

and Sajid Amin, Advocate my true and lawful attorney, for me in my name and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any appellate Court on any Court to which the business is transferred in the above matter and is agreed to sign and file PETITIONS. An appeal, statements, accounts; exhibits, compromises or other documents whatsoever, in connection with the said matter or any matter arising there-from and also to apply for and receive all documents or copies of documents, depositions etc and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other execution, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to do all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may per proper and expedient.

AND I/We hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/We undertake at time of calling of the case by the court/ my authorized agent shall inform the Advocate and make him appear in court, if the case may dismissed in default, if it be proceeded ex-parte the said counsel shall not held responsible for the same. All cost awarded in favour shall the right of Counsel or his nominee, and if awarded against shall payable by me/us.

IN WITNESS whereof I/We have hereto signed at _____ the _____ day to _____ in the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

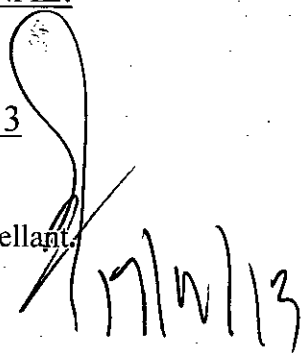
Accepted
Sajid Amin
SAJID AMIN
Advocate, Peshawar.

[Signature]
Ijaz Anwar
Advocate High Courts & Supreme Court of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL.

IN THE MATTER OF SERVICE APPEAL NO. 347/2013

Afsar Khan, Sub Registrar, Haripur..... Appellant.



VERSUS

- 1) Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar
- 2) Inspector General Registration, Board of Revenue, KPK, Peshawar.
- 3) Qazi Ijaz, sub Registrar, Haripur..... Respondents.

PRELIMINARY OBJECTIONS.

- A That the appellant has got no cause of action to question the order of his transfer, as he is liable to be transferred & served anywhere in the province as envisaged under Section 10 of the Civil Servant Act.
- B. That no legal rights of the appellant has been violated to file the instant appeal.

PARAWISE COMMENTS.


1. No comments.
2. Correct to the extent that after fulfilling the codal formalities, the appellant was promoted as Sub Registrar on his turn.
3. No comments.
4. Correct to the extent that the posting/transfer of the appellant was ordered under Section 10 of the Civil Servant Act.
5. Incorrect. The posting/transfer of the appellant was ordered with the aim and purpose to ensure proper functioning and smooth running of the public administration and official business as well in light of provision contained in Section-10 of the Act ibid which provides that a Government Civil Servant is bound to serve anywhere in the Province however public interest is to be kept in mind. Besides, the posting/transfer is the discretionary powers of the competent authority and can make order where interest of the general public is involved.
6. Correct to the extent that after proper examination and scrutiny of service record, the appeal of the appellant was dismissed.
7. No comments. As per Para- 5 above.


GROUNDS.

- A. Incorrect. All the Government Civil Servants are being dealt with strictly in light of Rules/Policy.
- B. No comments. As per Para -- 5 above.
- C. No comments. As per Ground-B above.

- D. This ground is the repetitions of aforementioned grounds.
- E. Incorrect. As per Para – 5 above.
- F. No comments.
- G. This ground is repetition of the aforesaid paras, hence no comments.
- H. Incorrect. No posting/transfer is made under the political influence but made in the interest of public.
- I. No comments.
- J. No legal right of the appellant is violated to file the instant appeal.

It is, therefore, prayed that on acceptance of this written reply the appeal in hand may graciously be dismissed.


SENIOR MEMBER
BOARD OF REVENUE, KPK
(Respondent No.1)


INSPECTOR GENERAL OF
REGISTRATION KPK
(Respondent No.2)

VAKALAT NAMA

NO. 347 /2013.

IN THE COURT OF Service Tribunal Peshawar.

Ajean Khan

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Revenue Deptt.

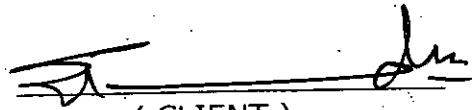
(Respondent)
(Defendant)

I/we Qazi Jaz (Resptt. No. 3)

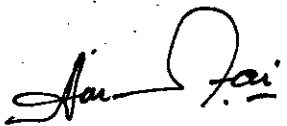
Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar,** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 17-4-2013.


(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-

0333-9103240

FR-8, Bilour Plaza
Peshawar

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

Service Appeal No.347/2013

Afsar Khan

V/S

S.M.B.R. & Others.


.....

**WRITTEN REPLY ON BEHALF OF QAZI EJAZ, SUB
REGISTRAR, RESPONDENT NO.3**

RESPECTFULLY SHEWETH:

Preliminary Objections:

1. That the appellant/petitioner has no cause of action.
2. That appeal of the appellant is badly time barred.
3. The appellant has not come to this court with clean hands.
4. That the appellant has got no locus standi to file the instant appeal.
5. That the appellant has concealed the material facts from this Honourable Court hence liable to be dismissed.
6. That the appellant has concealed the material facts from the Honourable Court hence liable to be dismissed.
7. That the appellant has filed the instant appeal malafide motive.
8. That the appellant did not challenge the transferred orders dated 25.7.2012 in any forum therefore, the instant appeal is not maintainable.


Case/107/13

9. That the instant appeal is filed just to pressurize the respondents.

FACTS:

1. Para- No.1 is denied for want of proof.
2. Para No.2 is also denied for want of proof.
3. Para No.3 is denied as no documentary evidence is annexed with the appeal.
4. Para- No.4 is incorrect, the appellant himself got transfer orders vide office order No. /LR-IV/12-G; dated 05.04.2012 and the appellant did not feel aggrieved while posted as Sub Registrar Abbottabad.
5. That the appellant also stated in Para-4 that "WITHOUT ALLOWING THE APPELLANT TO COMPLETE HIS TENURE HE WAS POSTED TO HARIPUR VIDE ORDER NO.641-53/LR-IV/12-G; dated 25.07.2012" but the appellant also not feels aggrieved while posted as Sub Registrar, Haripur.
6. Whereas in response to Para-4 of the appellant the respondent No.3 also not completed his tenure of his service in Abbottabad and posted to Kohistan as per Order No./LR-IV/12-G; dated 5.4.2012 in the public interest and without completing of my tenure I was reposted from Kohistan to Battagram as per Order No.640/LR-IV/12-G; dated 25.7.2012.
7. That in response to Para-4 it is further stated that the appellant intends for posting of his selected District which is against the justice and also against the rules of Government Servants.
8. Para No.5 is incorrect, the appellants did not feel aggrieved while posted as Sub-Registrar Abbottabad to Haripur but the appellant is feeling aggrieved and became dissatisfaction and filed the instant appeal challenging there in his transferred orders dated 16.11.2012 despite the fact that the order was made on the recommendation of the Minister for Revenue in the best interest of public but the appellant mentioned in his appeal of grounds Para "F" that "THE

PERFORMANCE OF THE APPELLANT REMAINED COMMENDABLE AND THERE WAS NO COMPLAINT WHATSOEVER REGARDING HIS PERFORMANCE" in this respect a Publication published in the Daily "Aaj" dated 31.08.2012 is self explanatory and enclosed with the instant written statement due to which the appellant was transferred from District Haripur to District Battagram in the best interest of Public. Copy of Publication in the News Paper are attached as R-I.

9. Para No.6 is correct to the extent that the appellant submitted his Departmental appeal on 20.11.2012 but the same was rejected by the competent authority on 10.01.2013 on merits and according to law U/S-10 in the Civil Servant Act-1973.
10. Para No.7 is denied.

GROUND:

- A) Incorrect. The appellant has been treated in accordance with law.
- B) Incorrect. The appellant tenure was completed U/S-10 of the Civil Servant Act, the appellant is liable to service any where posted by the competent authority.
- C) Incorrect. The order has been passed by the competent authority and is legally justified.
- D) Incorrect. The appellant himself requested for premature transfer now he can not legally take this plea.
- E) Incorrect and misconceived. The order has been passed in the public interest.
- F) Denied for want of knowledge.
- G) Incorrect and misconceived. The order has been passed by the competent authority, therefore, now he can not agitate this point under the principle of estoppel.
- H) Incorrect and hence denied.

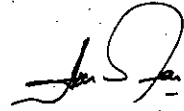
I) The same relief may kindly be granted to the reply respondent.

It is, therefore, humbly prayed that the appeal of the Appellant may kindly be dismissed with costs.

Respondent No.3

Qazi Ejaz

Through



(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of reply on behalf of respondent No.3 (Qazi Ejaz) are true and correct to the best of my knowledge and belief.



DEPONENT

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

Service Appeal No.347/2013

Afsar Khan

V/S

S.M.B.R. & Others.

.....

REPLY TO APPLICATION FOR SUSPENSION

RESPECTFULLY SHEWETH:

Preliminary Objections:

1. That the appellant/petitioner has no cause of action.
2. That appeal of the appellant is badly time barred.
3. The appellant has not come to this court with clean hands.
4. That the appellant has got no locus standi to file the instant appeal.
5. That the appellant has concealed the material facts from this Honourable Court hence liable to be dismissed.
6. That the appellant has concealed the material facts from the Honourable Court hence liable to be dismissed.
7. That the appellant has filed the instant appeal malafide motive.
8. That the appellant did not challenge the transferred orders dated 25.7.2012 in any forum therefore, the instant appeal is not maintainable.

9. That the instant appeal is filed just to pressurize the respondents.
10. The application is not maintainable as the appellant has no chances of irreparable loss.

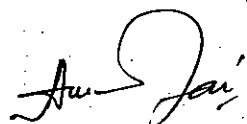
FACTS:

1. No comments.
2. The Facts and grounds may also be considered as integral part of this application.
3. Incorrect. The appellant has no good prima facie case.
4. Incorrect. The appellant has already relinquished the charge and now the present application is incorrect and infructuous.
5. Incorrect. The applicant has already relinquished the charged and now he is not facing any hardship being a civil servant he is legally to serve any where posted by the competent authority U/S-10 of the civil servant act.
6. Incorrect, hence denied.

It is, therefore, humbly prayed that the appeal of the Appellant may kindly be dismissed with costs.

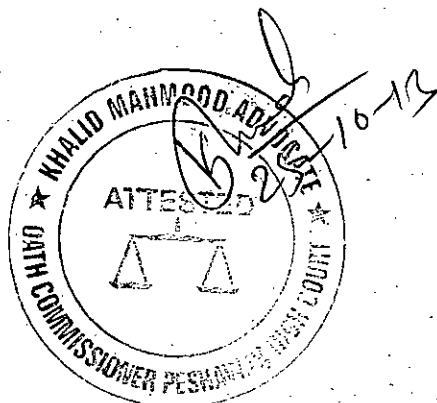
Respondent No.3
Qazi Ejaz

Through


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of ^{reply to} Application are true and correct to the best of my knowledge and belief.




DEPONENT

پشاور ایبٹ آباد اسلام آباد و کراچی سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشنی کی صفات، آج کا نصب العین

روزنامہ

ایبٹ آباد
پاکستان



عبدالواحد یوسفی

صفحات 8

جلد 16 جمعہ 31 اگست 2012ء 12 ستمبر 1433ھ قیمت 7 روپے شمارہ 314

ملک عاصم

پشاور

آیا سے فوری طور پر یہاں سے تبدیل کیا جائے
ورنہ حالات کسی وقت بھی خراب ہونے کا خدشہ ہے
ان خیالات کا اظہار ملک عاصم نے اپنے ایک تحریری
بیان میں کیا انہوں نے کہا کہ سب رجسٹرار جو کہ اپنی
حرکات کی وجہ سے ایبٹ آباد سے بلک لسٹ ہو کر
ہریپور آتے ہی انہوں نے بد اخلاقی کے تمام ریکارڈ
توڑ دیئے ہیں کسی بھی شخص کا بغیر پیسوں کے جائز کام
کرنا عوام کے ساتھ دشمنی کے مترادف ہے۔

تحصیل آفس ہریپور کا سب رجسٹرار

رشوت لیے بغیر کام کرنا گناہ سمجھنے لگا

ہریپور (نمائندہ آج) تحصیل آفس ہریپور میں
تعمینات سب رجسٹرار رشوت لینے کے بغیر کام کرنا
کبیرہ گناہ سمجھنے لگا بد اخلاقی کو اپنا طرہ بنا لیا عوام کے
جائز کاموں میں روڈے انکا نا اہلشن بنا کر ایبٹ
آباد سے ہریپور پہنچ (بانی صفحہ 7 بقیہ نمبر 43)