



Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 406/2015

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06/05/2015	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 28.04.2015 while treating the Writ Petition into an appeal and has sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;">  REGISTRAR </p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14-5-2015</u>.</p> <p style="text-align: right;">  CHAIRMAN </p>
2-	11-5-15	

3 14.05.2015

Counsel for the appellant present. Requested for adjournment and extension of status-quo already granted by the Division Bench of the Peshawar High Court on 28.4.2015. Adjourned to 8.6.2015 before S.B. Till the said date status-quo be maintained. Pre-admission notice be also issued to the respondents for the date fixed.



Chairman

4 08.06.2015

Appellant in person and Assistant A.G for respondents present. Submitted copy of office order No. 38 dated 19.5.2015 vide which the impugned order has been cancelled.

11/22/15
In view of the above, appellant requested for withdrawal of appeal which is, therefore, dismissed as withdrawn. File be consigned to the record.

11/22/15
ANNOUNCED
08.06.2015

11/22/15

Chairman
08.06.15

**THE
PESHAWAR HIGH COURT
PESHAWAR**



Ph: No. 091-9210149-158
Ext: No. 394

No. 496 /Judl:
Dated Peshawar the 5-5 2015

From

The Additional Registrar (J),
Peshawar High Court,
Peshawar.

M.W.F. Province
Service Tribunal
Diary No. 365
Dated 6/5/15

To

The Registrar,
KPK Service Tribunal,
Peshawar.

Subject

Writ Petition No. 2398-P/2014

Sher Ali & others -----Petitioners

Versus

Govt. of KPK & others -----Respondents

Memo:

I am directed to send herewith the titled case in original alongwith all annexures & copy of order dated 28-04-2015, passed by Division Bench of this Court, for compliance. **(Writ Petition is attached).**


ADDITIONAL REGISTRAR (J)

Endst: No. & even dated:

Copy forwarded to:

1. The Secretary Environment, Forest & Wildlife Deptt. Peshawar.
2. The Chief Conservator, Forests Central Southern Forest, Region-I, KPK, Peshawar.
3. The Conservator, Forests Southern Circle, Peshawar.
4. The Divisional Forest Officer Peshawar, Forest Division, Nowshera.


ADDITIONAL REGISTRAR (J)

Encl:

Copy of order.

(30)

PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET

Date of Order or Proceedings	Order or others Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2
28.4.2015	<p><u>IR with W.P No. 2398/2014 with COC No. 369/2014.</u></p> <p>Present: Mr. Khushdil Kkan, Advocate, for the petitioners.</p> <p>Mr. Waqar Ahmad, AAG, for the official respondents.</p> <p>*****</p> <p><u>MAZHAR ALAM KHAN MIANKHEL, CJ.-</u> Through instant writ petition the petitioners have challenged the validity and legality of order dated 11.7.2014 passed by respondent No. 3 whereby they were transferred from Peshawar Forest Division to Bunnu, D.I Khan and Kohat Forest Divisions.</p> <p>2. The petitioners had filed this writ petition at the time when Khyber Pakhtunkhwa Service Tribunal having the exclusive jurisdiction to entertain such like matters was not functioning but now the Service Tribunal is functional, therefore, we, at this stage, would not like to adjudicate upon the matter, as it amounts to pre-empt the jurisdiction of the other forum.</p> <p>In this view of the matter, we, while disposing of the instant writ petition, treat it as an appeal before the Service Tribunal and direct the office to send it thereto for decision in accordance with law. The petitioner is directed to appear before</p> <p><i>M-7</i></p>

the Service Tribunal on 14.5.2015. In the meanwhile, operation of the impugned order shall remain suspended.

Announced.
Dt. 28.4.2015.

M. A. Yusoff
CHIEF JUSTICE
Zafal ktk
JUDGE

Zafal ktk

Mick
30/4

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 2398/2014

Appeal No. 406-2015
Sher Ali and othersPetitioners

Versus

Secretary Govt. of KP
Environment, Forest and Wildlife Departments,
Peshawar and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Writ Petition with Affidavit			1-6
2.	Memo of Addresses of Parties			0-7
3.	Copy of impugned order whereby petitioners are transferred to far flung areas of southern divisions of the province	11.07.2014	A	0-8
4.	Copy of impugned order whereby brother of petitioners is transferred to D.I.Khan Wildlife Division.	15.07.2014	B	0-9
5.	Stamp Paper			
6.	Wakalat Nama			

Through


Petitioners

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 18 / 07/ 2014


FILED TODAY
Deputy Registrar
21 JUL 2014

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 2398 /2014

App No. 406/2015

1. Sher Ali,
Chowkidar, Peshawar Forest Division,
Peshawar.
2. Sham Sher,
Forest Guard,
Peshawar Forest Division, Peshawar.
3. Saeed Khan,
Forest Guard,
Peshawar Forest Division, Peshawar.Petitioners

Versus

1. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Environment, Forest and Wildlife Departments,
Peshawar.
2. The Chief Conservator,
Forests Central Southern Forest
Region-I, Khyber Pakhtunkhwa,
Peshawar.
3. The Conservator,
Forests Southern Circle, Peshawar.
4. The Divisional Forest Officer Peshawar,
Forest Division, Nowshera.....Respondents

WRIT PETITION UNDER ARTICLE, 199 OF THE CONSTITUTION OF
THE ISLAMIC REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth,

The brief facts giving rise to the present petition are as under:-

1. That petitioners are the permanent low paid employees of Respondent No.3 working as Chowkidar and Forest Guards. They have been performing their duties to the best of their abilities to the entire satisfaction of their superiors and no complaint whatsoever in nature against them were ever made.

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Deputy Registrar
21 JUL 2014

2. That all of sudden, an order dated 11.07.2014 issued under the signature of Respondent No.3 thereby petitioners were transferred from Peshawar Forest Division to Bannu Forest Division, D.I.Khan Forest Division and Kohat Forest Division without cogent reason. Later on, the petitioners came to know that their such illegal, unlawful transfers were made at the instance of Mr. Ishtiaq Urmer (MPA) Special Assistant to Chief Minister Khyber Pakhtunkhwa on Environment. Copy of the impugned order dated 11.07.2014 as **Annex: A**.
3. That petitioners being aggrieved of their illegal, unjustified transfer order to such far flung areas of southern districts of province and finding no adequate and efficacious remedy are constrained to file this petition on the following amongst other grounds:

Grounds:

- A. That impugned order is against the law, rules and Posting/transfer Policy of the Provincial Government hence not tenable.
- B. That the impugned order is politically motivated for ulterior motives based on malafides which is not warranted under the law and the Constitution of Pakistan, 1973 having no legal sanctity, of no legal effect and inoperative against the rights of petitioners.
- C. That impugned order has neither passed in the public interest nor based on any complaint or for any other reason rather the same was issued under the political pressure/influence of Mr. Ishtiaq Urmer (MPA) now Special Assistant to Chief Minister of Khyber Pakhtunkhwa on Environment who has no power and authority to issue such unlawful, frivolous directions to the authorities concerned. Thus the impugned order is incompetent, unlawful and without lawful authority hence not tenable.
- D. That Respondent No.3 has not used his independent mind in the cases of petitioners and unlawfully complied with the illegal and incompetent order of the Special Assistant to Chief Minister Khyber Pakhtunkhwa on Environment and passed the impugned order in violation of law, rules and policy on the subject. Thus the impugned order is illegal, without lawful authority, based on malafides hence not sustainable, liable to be set aside.

FILED TODAY

Deputy Registrar

21 JUL 2014

- E. That petitioners are low paid employees performing jobs of Chowkidar and Forest Guards and all these posts are district cadre posts as per rules on subject and they could not transfer out of their home district. Therefore, Respondent No.3 has acted in excess of his power and authority and unlawfully transferred them to far flung areas of southern divisions of the province and as such he acted malafide, in a partial, unjust and oppressive manner. In such circumstances the impugned order is not warranted and liable to be set aside.
- F. That the impugned order is unreasonable and non speaking and violative of Section 24-A of the General Clauses Act, 1897 and hence not tenable.
- G. That it will not be out of context to mention that their other brother namely Shams-ur-Rahman who is also low paid employee working as Driver in Wildlife Department/Wing who is also transferred by a separate order dated 15.07.2014 from Peshawar Wildlife Division to D.I.Khan Wildlife Division at the instance of above named Special Assistant to Chief Minister Khyber Pakhtunkhwa on Environment. It indicates his personal grudges with the petitioners and he is adamant not only to damage the service careers of the petitioners and his above name brother but also intend to suffer them and their families with mental agony and financial crises by transferring them to such far flung areas. Copy of the order dated 15.07.2014 as **Annex: B**.

It is therefore, humbly prayed that on acceptance of this petition, this Hon'ble Court may be pleased to:-

- (i) **Declare** the impugned transfer order of petitioners dated 11.07.2014 as illegal, without lawful authority, incompetent, malafide and against the law, rules and Posting/transfer policy on the subject.
- (ii) **Direct** the Respondents No.2 & 3 to act in accordance with law, rules and policy on the subject and not to obey the illegal, incompetent directions/orders of their political boss.
- (iii) Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioners.


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Deputy Registrar
21 JUL 2014

Interim Relief

That petitioners have good prima facie case who have not yet been relieved of their jobs therefore they request to kindly suspend the operation of the impugned transfer order dated 11.07.2014 till the final decision of main petition.

Through


Petitioners


Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 18 / 07/ 2014


FILED TODAY
Deputy Registrar
21 JUL 2014

CERTIFICATE

Certified on instruction that petitioners have not previously moved this Hon'ble Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 regarding present matter.

18/7/2014
Khush Dil Khan
Advocate, Peshawar.

List of Books

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Services Law.

NOTE

1. Three spare copies of the Writ Petition are enclosed in a separate file cover.
2. Memo of addresses is also attached.

18/7/2014
Khush Dil Khan
Advocate, Peshawar

FILED TODAY
Deputy Registrar
21 JUL 2014

IN THE PESHAWAR HIGH COURT PESHAWAR

W.P. No. _____/2014


Sher Ali and othersPetitioners

Versus

Secretary Govt. of KP
Environment, Forest and Wildlife Departments,
Peshawar and others.....Respondents

Affidavit


I, Sher Ali, Chowkidar, Peshawar Forest Division, Peshawar, (Petitioner No.1) do hereby solemnly affirm and declare on oath that the contents of this petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.


Deponent

Identified by


Khush Dil Khan
Advocate, Peshawar

707
Certified that the above was verified on solemnly affirmation before me on this.....15th day of July.....2014 at Peshawar who was identified by Khush Dil Khan Who is personally known to me.
18/7/14
Oath Commissioner
Peshawar High Court, Peshawar.


FILED TODAY
Deputy Registrar
21 JUL 2014

IN THE PESHAWAR HIGH COURT PESHAWAR.

W.P. No. _____/2014

Sher Ali and othersPetitioners

Versus

Secretary Govt. of KP
Environment, Forest and Wildlife Departments,
Peshawar and others.....Respondents**Addresses of Parties.**

1. Sher Ali,
Chowkidar, Peshawar Forest Division,
Peshawar.
2. Sham Sher,
Forest Guard,
Peshawar Forest Division, Peshawar.
3. Saeed Khan,
Forest Guard,
Peshawar Forest Division, Peshawar.Petitioners

Versus

1. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Environment, Forest and Wildlife Departments,
Peshawar.
2. The Chief Conservator,
Forests Central Southern Forest
Region-I, Khyber Pakhtunkhwa,
Peshawar.
3. The Conservator,
Forests Southern Circle, Peshawar.
4. The Divisional Forest Officer Peshawar,
Forest Division, Nowshera.....Respondents

Through



Petitioners

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

18/7/2014

Dated: 18 / 07/ 2014

FILED TODAY
Deputy Registrar
21 JUL 2014

OFFICE ORDER NO. 0.9. DATED PESHAWAR
THE 11 JULY 2014, ISSUED BY MR. ALI GAUHER KHAN
CONSERVATOR OF FORESTS SOUTHERN FOREST CIRCLE, PESHAWAR.

Annex: A" P. 8

The following posting transfers amongst the officials of Peshawar Forest Division are hereby ordered in the interest of public service with immediate effect:


S.No.	Name & Designation	From	To
1.	Mr. Sher Ali Chowkidar	Peshawar Forest Division	Bannu Forest Division
2.	Mr. Shamsheer F.Guard	Peshawar Forest Division	D.I.Khan Forest Division
3.	Mr. Saeed Khan F.Guard	Peshawar Forest Division	Kohat Forest Division

Sd/-
Conservator of Forests,
Southern Circle, Peshawar

No. 274-77/E, Dated Peshawar the 11 July 2014.

Copy to:

1. Chief Conservator of Forests Central Southern Forest Region-I, Khyber Pakhtunkhwa for information with reference to discussion held in his office today on 11-7-2014.
2. Divisional Forest Officer Peshawar Forest Division Nowshera. He is directed to immediately relieve the officials within 24 hours.
3. Divisional Forest Officer Kohat, Bannu & D.I.Khan. They are directed to report the arrivals of the incumbent officials.
4. ✓ Officials concerned for necessary action.


Conservator of Forests,
Southern Circle, Peshawar

Annex B. P. 9

OFFICE ORDER NO 01 /WL (SC) DATED PESHAWAR THE 15/7/2014
ISSUED BY SAFDAR ALI SHAH CONSERVATOR WILDLIFE SOUTHERN CIRCLE
PESHAWAR

Incompliance with the verbal directives of the Special Assistant to Chief Minister Khyber Pakhtunkhwa on Environment dated 14th July 2014 and reiterated today on 15th July 2014, the following posting/ transfer among the drivers of this circle are hereby ordered with immediate effect in the interest of public service.

S#	Name	From	To
1 ✓	Mr. Shams Ur Rehman	Peshawar Wildlife Division	DIKhan Wildlife Division
2	Mr. Aurang Zaib	DIKhan Wildlife Division	Peshawar Wildlife Division

sd/-
Safdar Ali Shah
Conservator Wildlife Southern Circle
Peshawar

No 454-59 /WL(SC)

Copy forwarded for information and necessary action to the:-

1. Chief Conservator Wildlife Khyber Pakhtunkhwa Peshawar
2. PS to Special Assistant on Environment to Chief Minister Khyber Pakhtunkhwa Peshawar with reference to his above cited directives.
3. Divisional Forest Officer Wildlife Peshawar
4. Divisional Forest Officer Wildlife DIKhan
- 5 ✓ Official concerned

[Signature]
Conservator Wildlife Southern Circle
Peshawar
15/07/14

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

W.P No:- 2398/2014

Sher Ali Chowkidar, Forest Division, Peshawar and
others..... Petitioners

Versus

The Secretary, Govt of KPK Environment Department,
Peshawar and others..... Respondents


INDEX

S#	Description of the Documents	Annex	Pages
1.	<i>Para wise Comments on behalf of respondent no.1 to 4</i>		1-3
2.	<i>Affidavit</i>		4

Dated:- 08/09/2014

Respondents No.1 to 4

Through


MUHAMMAD TAHIR, SDFO

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

W.P No:- 2398/2014

Sher Ali Chowkidar, Forest Division, Peshawar and
others..... Petitioners

Versus

The Secretary, Govt of KPK Environment Department, Peshawar and
others..... Respondents

AFFIDAVIT

*I, Muhammad Tahir, SDFO, do hereby solemnly affirm and declare on
oath that the contents of this accompanying para wise Comments _ are true
and correct to the best of my knowledge and belief and nothing has been
concealed from this Honourable Court.*

Identified by

Advocate General



DEPONENT

CNIC NO:- 17101-723486

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION NO. 2398/2014

- 1.
2. Sher Ali Chowkidar,
Peshawar Forest Division
Peshawar
2. Shamsheer Forest Guard
Peshawar Forest Division
Peshawar
3. Saeed Khan Forest Guard
Peshawar Forest Division, Peshawar ----- Petitioners.

VERSUS

1. The Secretary,
Govt: of Khyber Pakhtunkhwa,
Environment Department, Peshawar.
2. the Chief Conservator of Forests,
Central Southern Forest region-1
Khyber Pakhtunkhwa, Peshawar
3. Conservator of Forests,
Southern Circle Peshawar
4. The Divisional Forest Officer,
Peshawar Forest Division, Nowshera ----- Respondents.

PARA WISE COMMENTS ON BEHEIF OF RESPONENTS .NO.1 TO 4.

PRELININARY OBJECTIONS

1. The petition has got no locus standi:
2. The petition is not maintainable in its present form.
3. The petition suffers from mis-joinder of the parties:
4. The petitioner being Government servant could have approached service Tribunal instead of Peshawar High Court.

RESPECTFULLY SHEWETH,

THE BRIEF COMMENTS ON THE PRESENT PETITION ARE FURNISHED AS UNDER:

ON FACTS


1. Incorrect. Mr. Sher Ali Chowkidar and his father Mr. Noshier Khan Ex-Naib Qasid had tried to transfer Govt: land at Forest Depot Colony at Gulbahar, Peshawar to their name on false documents and filed civil suit against the department during 1991, but when they could not prove their ownership, they withdrew the same suit during 1994.

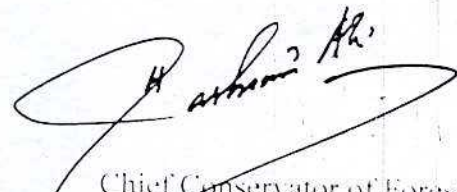
Now they have again carried over illegal construction on Govt: land and were trying to transfer such land to their name on false documents. They have also filed several civil suits against the Department in the name of their relatives out of which Mr. Sher Ali Chowkidar is either Plaintiff or defendant in the same cases. Hence there was no alternative with the department except to transfer and dislocate them from the Government Building/land where they living.


2. The petitioners are brothers in relation and are trying to transfer the Govt: Building/Land at Gulbahar, Peshawar on fake, false and illegal documents, and if they are not ejected from the same station, they will succeed in encroachment on Govt: Building/Land which will be a great loss to the Department/Government. The contention of the Petitioners that such order has been made on the directives of the Political authorities is only a blame on the concerned authority and is totally baseless.
3. The transfer of Petitioners has been made in the interest of public service, as if they are not ejected from such place of existing posting, it is understood that encroachment made by them over Government land will become permanent which will be a great loss to the state.
 - A. The transfer order of the Petitioners is in accordance to the law, rules and posting/transfer policy of the Provincial Government and has been issued in the interest of the public service.
 - B. In-correct. The transfer of Petitioners is in the interest of public service and no political motivation is involve in the matter as the petitioners neither falls in the constituency of Mr. Ishtiaq Urmer MPA nor having any relation with the concerned political authority, but are trying to get relief on the baseless blame on political authorities.
 - C. The transfer order has been issued by the competent authority in the interest of public service and no political pressure/influence of Mr. Ishtiaq Urmer MPA, as alleged by the Petitioners, is involve in the matter. The petitioners are blaming an irrelevant MPA, just to get relief from the Court of Law on the same pretext. The petitioners are intentionally involving Mr. Ishtiaq Urmer MPA in the matter, just to get relief from the Court of Law on the same pretext reason.
 - D. The respondent No. 3 being competent authority for posting/transfers of the employees of BPS-1 to 15 in the Southern Forest Circle, spread over Mardan, Peshawar, Kohat, Bannu and D.I.Khan Forest Divisions, has correctly issued transfer order of the Respondents in the interest of public service and no political order from any Political authority is involve in the matter. In correct. The Petitioners and his father belong to District Chitral. Out of the petitioners, one Mr.

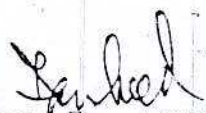
Shamsher Khan Forest Guard was originally appointed in Chitral Forest Division and he subsequently transferred himself to Peshawar Forest Division which is such a far flung area from Chitral. Moreover their transfer from Peshawar Forest Division has been made in the interest of state, as they are trying to transfer Govt: land to their names on false documents.

- E. In correct. The Petitioners and his father belong to District Chitral. Out of the petitioners, one Mr. Shamsher Khan Forest Guard was originally appointed in Chitral Forest Division and he subsequently transferred himself to Peshawar Forest Division which is such a far flung area from Chitral. Moreover their transfer from Peshawar Forest Division has been made in the interest of state, as they are trying to transfer Govt: land to their names on false documents.
- F. As explained in para- E above, the transfer order of the Petitioners has been made by the competent authority in the interest of state to save the Govt: land from illegal encroachment/transfer. As per Policy, Ordinance, Act and Rules of Khyber Pakhtunkhwa Forest Department Chapter-XIII Para.111 No suit, prosecution or other legal proceedings shall lie against Government, the Forest Officers and other employees, experts, advisors, committees or consultants of the Department, the Forest Magistrate or any other person for any thing which is done or intended to be done in good faith under this Ordinance or the rules made there under.
- G. Does not relate to Respondents of this Petition.
- i. It is therefore requested that the writ petition may kindly be dismissed.
- ii. The Petitioners have got no prima facie case who have already been relieved of their jobs.


Secretary
To Govt: of Khyber Pakhtunkhwa
Environment Department, Peshawar.
(Respondent No. 1)


Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 2)


Conservator of Forests,
Southern Circle, Peshawar.
(Respondent No. 3)


Divisional Forest Officer
Peshawar Forest Division
Nowshera
(Respondent No. 4)

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 2398/2014

Sher Ali and othersPetitioners


Versus

Secretary Govt. of KP
Environment, Forest and Wildlife Departments,
Peshawar and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Rejoinder with Affidavit			1-3
2.	Copy of order	15.07.2014	Rj/A	0-4
3.	Copy of order	02.09.2014	Rj/B	0-5
4.	Copy of order sheet of the Hon'ble Peshawar High Court Peshawar.	29.09.2014	Rj/C	6-7
5.	Copy of letter	16.07.2014	Rj/D	0-8
6.	Copy of letter	28.08.2014	Rj/E	0-9

Through


Petitioners

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Off. Tel # 091-2213445

Dated: 08 / 10/ 2014

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 2398/2014

Sher Ali and othersPetitioners

Versus

Secretary Govt. of KP
Environment, Forest and Wildlife Departments,
Peshawar and others..... Respondents

REJOINDER ON BEHALF OF PETITIONERS IN RESPONSE TO PARA
WISE COMMENTS FILED BY RESPONDENTS NO. 1 TO 4

Respectfully Sheweth,

Preliminary objections raised by answering respondents are erroneous and frivolous so denied however in respect of preliminary objection No.4 it is submitted that now a day the Khyber Pakhtunkhwa Service Tribunal, Peshawar is not functioning as one of the learned member has been retired while the other one is transferred so there is no other adequate and efficacious remedy therefore he rightly approached to this Hon'ble Court under Article 199 of the Constitution, 1973 in view of judgment of the august Supreme Court of Pakistan reported in PLD 2014 Supreme Court 232.

Rejoinder to Reply of Facts:

1. That the reply of para 1 is irrelevant so denied. In the reply of this para the answering respondents has raised the land dispute among the parties which has no link with the present case. In case there is any land dispute between the parties there are competent courts for trial and decision. It shows the malafide on the part of answering respondents that the impugned transfer order has been passed for ulterior motives and not in the interest of public and in such circumstances the impugned order of transfer is not tenable being violative of law, rules and policy on subject.
2. The reply of answering respondents found against the facts and incorrect so denied. The impugned order was prompted by the political influence and interference as evident from the orders dated 15.07.2014 which was subsequently withdrawn by the Conservator, Wild Life Southern Circle

Peshawar on 02.09.2014 on the basis of which the petitioner withdrawn his Petition No.2397/2014 which was accordingly disposed off by this Hon'ble Court as withdrawn on 29.09.2014. The intentions behind the impugned order of transfer of petitioners was the land dispute which is unjustified and devoid of legal sanctity and the answering respondents have acted unfairly, unjustly to pass the impugned order in order to compel the low paid employees/petitioners to waive off their rights in the dispute land if any. Copies of orders dated 15.07.2014 as Annex: Rj/A, 02.09.2014 Annex: Rj/B, 29.09.2014 Annex:Rj/C.

3. That the reply is incorrect so denied.

Rejoinder to Reply of Grounds: -

- A. That the reply is incorrect and the impugned order is tainted with malafide intention which candidly shown and conceded by the answering respondents in the reply of facts.
- B. That the impugned transfer order was not passed in public interest rather the same was passed malafidely in order to compel them to accept their illegal demands.
- C. That the reply is incorrect so denied. The impugned transfer order of the petitioners has been passed on the direction of Advisor to Chief Minister on Environment as evident from letters dated 16.07.2014 and 28.08.2014 the copies are attached as Annex: Rj/D and Rj/E
- D. That the reply is incorrect so denied. The impugned order is illegal, without lawful authority, malafide being violative of law, rule and policy on subject. The petitioners are low paid employees whose appointments were made on the divisional basis so they have wrongly and unlawfully transferred to other divisions which is against the recruitment rules and not sustainable.
- E-G That the replies in respect of grounds E, F and G are unjustified, unreasonable so denied.

It is therefore, humbly prayed that the reply of answering respondents may kindly be rejected in toto and petition as prayed for may graciously be accepted.

[Handwritten signature]

Petitioners

Through

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

Dated: 28 / 10/ 2014

Affidavit

I, Sher Ali, Chowkidar, Peshawar Forest Division, Peshawar, (Petitioner No.1), ^{are} do hereby solemnly affirm and declare on oath that the contents of this rejoinder true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Court.

[Handwritten signature]

Deponent

Identified by

Khush Dil Khan,
Advocate, Peshawar

No: 3488

Certified that the above was verified on solemnly affirmation before me on the this 30th day of Oct 13 at Peshawar to Sher Ali Chowkidar who was identified by Khush Dil Khan who is personally known to me:

[Signature]
9/10/2014
Off. Commissioner
Peshawar High Court, Peshawar

Annex: A
P. 4

OFFICE ORDER NO 01 /WL (SC) DATED PESHAWAR THE 15/7/2014
ISSUED BY SAJDAR ALI SHAH CONSERVATOR WILDLIFE SOUTHERN CIRCLE
PESHAWAR

Incompliance with the verbal directives of the Special Assistant to Chief Minister Khyber Pakhtunkhwa on Environment dated 14th July 2014 and reiterated today on 15th July 2014, the following posting/ transfer among the drivers of this circle are hereby ordered with immediate effect in the interest of public service.

S#	Name	From	To
1 ✓	Mr. Shams Ur Rehman	Peshawar Wildlife Division	DIKhan Wildlife Division
2	Mr. Aurang Zaib	DIKhan Wildlife Division	Peshawar Wildlife Division

Accepted

ed/
Sajdar Ali Shah
Conservator Wildlife Southern Circle
Peshawar

No 454-59 /WL (SC)

Copy forwarded for information and necessary action to the:-

1. Chief Conservator Wildlife Khyber Pakhtunkhwa Peshawar
2. PS to Special Assistant on Environment to Chief Minister Khyber Pakhtunkhwa Peshawar with reference to his above cited directives.
3. Divisional Forest Officer Wildlife Peshawar
4. Divisional Forest Officer Wildlife DIKhan
5. ✓ Official concerned


[Signature]
Conservator Wildlife Southern Circle
Peshawar

[Signature]

Annex: B
P 5

OFFICE ORDER NO. 02 /WL(SC) DATED PESHAWAR THE 2 - 9 - 2014
ISSUED BY DR. MOHSIN FAROOQUE, CONSERVATOR WILDLIFE SOUTHERN
CIRCLE PESHAWAR

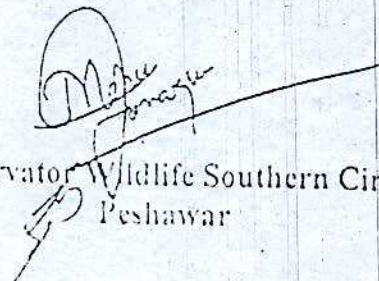
This office order No. 01 dated 15-7-2014 is hereby cancelled with immediate effect in the interest of public service.


(Dr. Mohsin Farooque)
Conservator Wildlife Southern Circle
Peshawar

No 1800-4 /WL (SC)

Copy forwarded for information and necessary action to the:-

1. Chief Conservator Wildlife Khyber Pakhtunkhwa Peshawar.
2. Divisional Forest Officer Wildlife Peshawar
3. Divisional Forest Officer Wildlife-Dikhan
- ✓ 4. Official concerned.

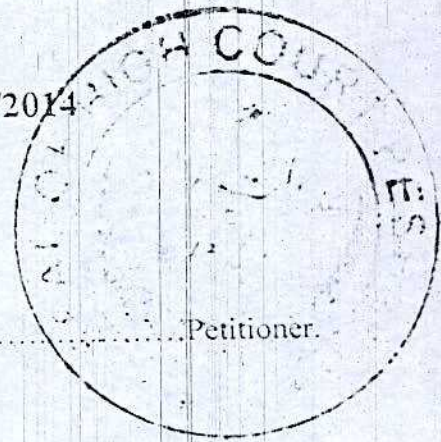

Conservator Wildlife Southern Circle
Peshawar

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Annex
P. 6

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 2397 /2014



Shams-ur-Rahman,
Driver, Peshawar Wildlife Division,
Peshawar.....

Petitioner.

Versus

1. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Environment, Forestry and Wildlife Departments,
Peshawar.
 2. The Chief Conservator,
Wildlife Department,
Khyber Pakhtunkhwa Peshawar.
 3. The Conservator,
Wildlife Southern Circle,
Peshawar.
 4. The Divisional Forest Officer
Wildlife Peshawar.
 5. Aurang Zaib,
Dirver,
D.I.Khan, Wildlife Division.....
- Respondents

**WRIT PETITION UNDER ARTICLE, 199 OF THE CONSTITUTION OF
THE ISLAMIC REPUBLIC OF PAKISTAN, 1973.**

Respectfully Sheweth,

The brief facts giving rise to the present petition are as under:-

1. That petitioner is the permanent low paid employee of Respondent No.3 working as Driver. He has been performing his duties to the best of his abilities to the entire satisfaction of his superiors and no complaint whatsoever in nature against him was ever made.

2. That all of sudden, on the direction of Mr. Ishtiaq Urmer, Special Assistant to Chief Minister, Khyber Pakhtunkhwa on Environment, the Respondent No.3 has issued the impugned transfer order on 15.07.2014 whereby petitioner was transferred from Peshawar Wildlife Division to D.I.Khan Wildlife Division. Copy of the impugned transfer order as

FILED TODAY

Deputy Registrar

21 JUL 2014

ATTESTED

EXAMINER

Pes

PESHAWAR HIGH COURT PESHAWAR

ORDER SHEET

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2	3
	29.9.2014	<p><u>W.P No. 2397-P/2014.</u></p> <p>Present:</p> <p>Mr. Khushdil Khan, for petitioners.</p> <p>Mr. Muhammad Suhail Khan, AAG, alongwith Said Jamal, Superintendent for Department.</p> <p>*****</p> <p><u>YAHYA AFRIDI, J:-</u> Through the instant Constitutional petition, petitioner has questioned the transfer order dated 15.7.2014, whereby petitioner was transferred from Peshawar Wildlife Division to D.I Khan Wildlife Division, with the prayer to declare the aforementioned transfer order as illegal, without lawful authority, incompetent, malafide and against the law, rule and posting /transfer policy.</p> <p>2. At the very outset, learned counsel for petitioner produced copy of office order No. 02 / WL (SC) Dated Peshawar the 2.09.2014</p>

9

APPROVED
 PESHAWAR HIGH COURT
 02 OCT 2014

whereby the impugned transfer order dated 15.7.2014 has been withdrawn, stated that he is under instruction to withdraw the instant writ petition having served out its purpose.

3. What has been observed above, this petition is dismissed as withdrawn.

sd/- Yahya Afzidi J
sd/- J. Kamul Khan J

JUDGE

JUDGE

Announced on;
29th of September, 14.

CERTIFIED TO BE TRUE COPY

EX-101/2014 Peshawar
High Court
Order 1983

10 OCT 2014

4325

29-9-14

3P

6:00

04-10-14

04-10-14

Zarshad

04-10-14

Sheer Ali

sd/-
sd/-

OFFICE OF SUB DIVISIONAL FOREST OFFICER, PESHAWAR FOREST SUBDIVISION

Divisional Forest Officer,
Peshawar Forest Division,
at Nowshera.

Annex-D
P. 8

No 06/P ; dated 16-07-2014.


SUBJECT: DIRECTIVE OF ADVISOR TO CHIEF MINISTER ON ENVIRONMENT
AND CHIEF CONSERVATOR OF FORESTS

Ref: Your office endorsement No 151/E/Misc; dated 16-07-14.

Memo, In compliance with reference letter on captioned subject; it is submitted that;

① The officials of Peshawar Forest Sub Division transferred vide office order No. 02, dated 11-07-2014 of worthy Conservator Forests (South) have already been retrieved from office of undersigned and compliance sent to your goodself vide this office letter No. 06/P dated ~~16~~ 11-07-2014 please.

② This pertains to Nizampur Forest Subdivision.
→ Moreover, it is submitted that regarding trucks stated in the reference letter vigorous efforts are being made in order to apprehend ~~the~~ ~~trucks~~. The achievement of progress, if any, will be intimated to your office please.

 16/07/14.
(S.DFO - Peshawar)

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OFFICE OF SUBDIVISIONAL FOREST OFFICER, PESHAWAR FOREST SUBDIVISION

Divisional Forest Officer,
Peshawar Forest Division
Nowshera.

Annex. E
P. 9

No. 12/P ; dated: 28-08-2014

SUBJECT: PAY OF FOREST OFFICIALS - ADVICE THEREOF

Ref: i) Verbal direction of worthy CF (South) on 28-08-2014
ii) Your office endorsement No. 494/E dated 21-08-2014.
iii) Your office letter No. 548/E dated 27-08-2014.

Memo;

It is submitted that the forest officials transferred vide Office Order No. 02 dated 11-07-2014 of Conservator Forests (South) have sought stay order through writ petition No. 2398/2014 in honourable High Court whereby Honourable High Court has granted interim relief and suspended the office order till next date of hearing to be intimated by High Court.

In compliance with reference office order duly endorsed by your goodself to office of u/signed, the u/signed has relieved the officials vide letter of office of u/signed dated 14-07-2014 via No. 01/P however none of the officials has departed and they reluctant for doing same.

As the honourable court has suspended the office order No. 02 dtd 11-07-2014 which is earlier date than relieving of the officials from their positions by undersigned.

To avoid any inordinate act and court contempt it is requested that u/signed may be given clear cut direction whether to include their pay and allowances for 08/2014 or otherwise please

A

[Signature]
28-08-2014.
(S.D.F.O - Peshawar)


OFFICE ORDR NO. 38 DATED PESHAWAR THE 19 MAY, 2015,
ISSUED BY CONSERVATOR OF FORESTS SOUTHERN CIRCLE, PESHAWAR

This office order No. 02, dated 11-7-2014 is hereby cancelled

Sd/-
Conservator of Forests,
Southern Circle, Peshawar

No. 110081-83 /E, Dated Peshawar the 19th May 2015.

1. Chief Conservator of Forests Central Southern Forest Region-I, Khyber Pakhtunkhwa for information with reference to this office endorsement No. 274-77/E, dated 1-7-2014.
2. Divisional Forest Officer Peshawar Forest Division Nowshera for information with reference to his letter No. 4005/L, dated 6-5-2015.
3. Officials concerned.


Conservator of Forests,
Southern Circle, Peshawar,

0-1-4
Dr
08.06.15