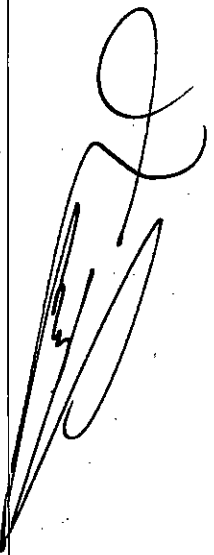
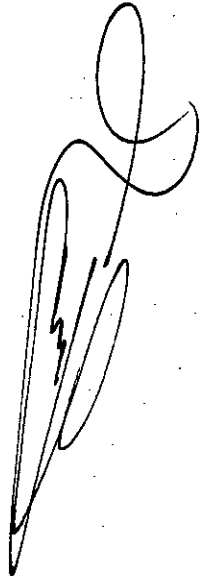


Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	<p>18.05.2015</p> 	<p>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p>Service Appeal No. 242/2015, Saleem Ahmad Versus the Government of Khyber Pakhtunkhwa through its Chief Secretary, Peshawar etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Rizwanullah, Advocate), and Mr. Muhammad Jan, GP with Mr. Mukhtiar Ali, Supdt. for the official respondents and private respondent No. 4 with counsel (Mr. Amjad Ali, Advocate) present.</p> <p>2. The impugned order dated 19.12.2014 was passed by respondent No. 3 vide which the appellant Muhammad Saleem, Head Registration Moharrir (HRM) was transferred from the post of Sub Registrar-I, Peshawar to Dir (Upper) as Sub Registrar on current charge basis (CCB). By way of the same order, private respondent No. 4 (Muhammad Iqbal) was transferred to Peshawar from Swat. Feeling aggrieved with this transfer order, he filed departmental appeal. According to the appellant since his departmental appeal dated 23.12.2014 was not responded within the statutory period, hence this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. It was submitted by the learned counsel for the appellant that vide order dated 04.09.2013 in the past the</p>

appellant assumed charge as Sub Registrar-I Peshawar on 05.09.2013 but again his transfer from Peshawar to Dir (Upper) vide impugned order dated 19.12.2014 is evidently premature and against law/rules. It was further submitted that vide annexure-C dated 11.12.2014, transfer of Muhammad Iqbal to Peshawar was politically motivated on the direction of the Chief Minister. The learned counsel for the appellant stressed that appellant was transferred from Peshawar just for no reason only to accommodate private respondent No. 4. He requested that the appeal may be accepted and the impugned order may be set aside.



4. Contrarily, it was submitted by the learned counsel for private respondent No. 4 and learned Government Pleader that due to his political backing and maneuvering, the appellant though was not a regular Sub Registrar but only Head Registration Moharrir assumed charge of a very important assignment as Sub Registrar-I, Peshawar. He while referring to the earst-while transfer order of the appellant dated 04.09.2013 from Kabal to Peshawar, stated that he was never posted as Sub-Registrar-I Peshawar but was required simply to report in the said office but he succeeded in maneuvering to sit on the seat of Sub Registrar-I, Peshawar. That appellant has also cheated this Tribunal by tempering in the date of his departmental appeal to bring it out of statutory limitation of ninety days which fact is evident from the reply of the

official respondents and copy of his departmental appeal appended with the said reply. The learned counsel for private respondent No. 4 submitted that the impugned order was made in the public interest on administrative ground and not on the direction of political administration as evident from para-2 of the reply according to which reports of corruptions surfaced time and again against the appellant. It was requested on behalf of the respondents that the appellant has not come with clean hands, therefore, the instant appeal may be dismissed.

5. Arguments of the learned counsel for the parties heard at length and perused the record with their assistance.

6. The competent authority has denied that the impugned order was the result of any political dictation. On the record, there is letter from the Secretariat of the Chief Minister for bringing up private respondent No. 4 from Swat to Peshawar but this has never been directed in the same that he be brought to Peshawar on this particular post, at the cost of the appellant. In the light of material available on record as well as arguments of the learned counsel for the parties, the Tribunal was led to presume as if the appellant who was a Head Registration Moharrir by designation but sit on the post of Sub-Registrar-I, Peshawar was not possible without maneuvering. So the

question is whether the appellant has come with clean hands? And as its answer is conclusively not in affirmative, therefore, the Tribunal is not in favour of granting any relief to the appellant. The appeal is therefore, dismissed. Needless to say that order of status quo/stay if any is recalled. So far ~~as~~ Misc. Application of the private respondent No. 4, as criminal complaint, is returned to Mr. Muhammad Iqbal, private respondent No. 4 to be presented to the proper authority, if so advised, however, copy of the same be retained on this file. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED

18.4.2015


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

13.4.2015

Appellant with counsel, M/S Mir Qasim, Assistant Secretary and Saadullah, Supdt. alongwith Addl: A.G for official respondents No. 1 to 3 and private respondent No. 4 with counsel present. Written reply by appellant to the application for vacation of status-quo order submitted. Comments on behalf of official respondents as well as private respondent also submitted. Learned counsel for the parties were heard at considerable length. Regarding the vacation of status-quo order granted by this Tribunal at the time of preliminary hearing and later on extended from date to date, it is deemed appropriate to maintain the status-quo and assign the case to D.B for final hearing of the appeal as well as stay application. The D.B may if deemed appropriate first dispose of the stay application or may dispose of even the appeal on merits on the next date of hearing which is fixed for 21.4.2015. Till then status-quo be maintained.


Chairman

21.04.2015

Counsel for the appellant, Mr. Mukhtiar Ali, Supdt. for respondent No. 2 alongwith Sr.GP for official respondents No. 1 to 3 and counsel for private respondent No. 4 present. Learned counsel for the appellant submitted that he does not want to file rejoinder. Hence case to come up for arguments on 7.5.2015. Till then status-quo be maintained. Since stay has been granted, therefore, the case was fixed as per diary of learned counsel for the parties.


Member

07.05.2015

Appellant with counsel, Mr. Muhammad Jan, GP with Ghulam Nabi, Supdt. and Mukhtiar Ahmad, Supdt. for the official respondents and private respondent No. 4 with counsel present. The learned Member (Judicial) is on leave, therefore, case to come up for arguments on 18.05.2015. Till then status is extended.


MEMBER

08.4.2015

Appellant with counsel, Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. for the official respondents and private respondent No. 4 with Mr. Amjad Ali, Advocate present. Respondents need further time to file written replies. An application for vacating the order of status quo on behalf of private respondent No. 4 is placed on file.

2. Counsel for private respondent No. 4 referred to his application for vacation of status quo order dated 24.3.2015 and submitted that the appeal is premature which has fraudulently been manoeuvred to be deemed mature by making forgery in the date of departmental appeal. He further submitted that despite the said manoeuvring, the appellant further succeeded to get an order of status quo in his favour. The said assertion of learned counsel for private respondent No. 4 was strongly resisted and rebutted by the learned counsel for the appellant who stated that the departmental appeal was filed on 23.12.2014 but due to political interference arranged by private respondent No. 4 a fake diary Number and date was affixed in the office of respondent No.2.

3. The learned counsel for private respondent No. 4 requested this bench that the appeal may be sent to the Bench-I as application for vacating the order of status quo was firstly brought into the notice of the learned Chairman/Bench-I so that application of status quo may also be timely disposed of. Here this may be observed that this bench is under the tremendous pressure of rush of work, hence this appeal be submitted before the Worthy Chairman as aspired by learned counsel for private respondent No. 4. Appeal fixed for written replies and arguments on applications before the learned Bench-I on 13.4.2015. Since the respondents have not filed their written replies, therefore, order of status quo is extended till the date fixed.


MEMBER
MEMBER

33 24.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Sub-Registrar-I when posted vide order dated 04.09.2013 and assumed charge on 05.09.2013. That vide impugned order dated 19.12.2014 the appellant was transferred from Peshawar to Dir Upper on the basis of political interference as evident from letter dated 11.12.2014 (Annexure-C P.12). That the impugned order is pre-mature and not tenable being politically motivated. That against the said order departmental appeal was preferred on 23.12.2014 which was not responded within the statutory period and hence the instant service appeal on 24.03.2015.

That the august Peshawar High Court, Peshawar vide order dated 05.01.2015 passed in Writ Petition No. 3917-P/2014 had granted interim relief when the Tribunal was not functional.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 08.04.2015 before S.B. Notice of stay application be also issued to the respondents for the date fixed. Till then status-quo be maintained.


Chairman

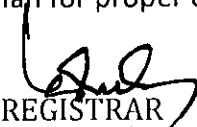

Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 2483/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.03.2015	<p>The appeal of Mr. Saleem Ahmad presented today by Mr. Riazwanullah Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Bench <u>1</u> for preliminary hearing to be put up thereon <u>24.03.15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2		

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

In the matter Service Appeal No. 248/2015

1. Saleem Ahmad, S/o Tila Muhammad, R/o House Mohallah Sultan Abad, outside Lahori Gate, Peshawar City

APPELLANT/APPLICANT

VERSUS

1. The Government of Khyber Pakhtunkhwa, through its Chief Secretary and others.

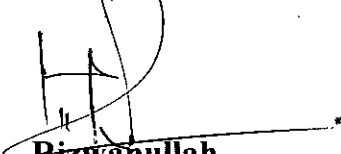
RESPONDENTS

INDEX

S.No	Particulars	Annexure	Pages #
1.	Service Appeal	-	1-8
2.	Affidavit	-	9
3.	Copy of transfer dated 4-9-2013	A	10
4.	Copy of charge assumption report dated 5-9-2013	B	11
5.	Copy of letter of CM Secretariat	C	12
6.	Copy of impugned order dated 19-12-2014	D	13
7.	Departmental appeal dated 23-12-2014	E	14
8.	Copy of writ petition	F	15-21
9.	Copy of stay order	G	22
10.	Copy of COC application	H	23-28
11.	Copy of order regarding handing over charge to appellant	I	29
12.	Copy of letter of Establishment Deptt	J	30-31
13.	Wakalatnama	-	-


Appellant

Through


Rizwanullah
M.A. LL.B
Advocate High Court
Peshawar

Dated: 24-3-2015

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 242 /2015

**G.W.F. Provincial
Service Tribunal**

Diary No. 247

Date 24-3-2015

Saleem Ahmad, S/o Tila Muhammad, R/o House Mohallah Sultan Abad, outside Lahori Gate, Peshawar City.

APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa, through its Chief Secretary.
2. Senior Member Board of Revenue (SMBR) Khyber Pakhtunkhwa, Peshawar.
3. Inspector General of Registration, Khyber Pakhtunkhwa, Peshawar.
4. Muhammad Iqbal, Sub-Registrar, Peshawar.

RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE PRE-
MATURE AND POLITICALLY MOTIVATED
TRANSFER ORDER NO. LR-IV/P.T/SR/2901-22
DATED 19-12-2014 PASSED BY THE
RESPONDENT NO.2 AGAINST WHICH A
DEPARTMENTAL APPEAL WAS PREFERRED
ON 23-12-2014 BUT THE SAME NOT
RESPONDED WITHIN THE STATUTORY
PERIOD OF LAW.**

Registrar
24/3/15

Prayer in Appeal

By accepting this appeal, the impugned transfer order No. LR-IV/P.T/SR/2901-22 dated 19-12-2014 passed by the respondent No.2 may graciously be set aside being politically motivated, premature and passed in utter violation of Posting / Transfer Policy of Government of Khyber Pakhtunkhwa as well as law laid down by august Supreme Court of Pakistan in various judgments.

Any other relief deemed appropriate in the circumstances of the case, not specifically asked for, may also be granted to the appellant.

Respectfully Sheweth,

Short facts giving rise to the present appeal are as under:-

1. That the appellant is permanent employee under respondent No.1. He was transferred from Swat and posted as Sub-Registrar-I Peshawar vide order No. LR-IV/P.F Iqbal Jelani/4584-92 dated 4-9-2013. He assumed the charge of said post on 5-9-2013. **(Copies of transfer order and charge assumption report are appended as Annex A & B).**
2. That the appellant was performing his duty with great zeal, zest and devotion. No complaint whatsoever was received against him to his superiors during the period he worked as Sub-Registrar-I, Peshawar.
3. That it is eccentric to note that one Muhammad Iqbal, Sub-Registrar Swat (respondent No.4) prevailed over the Chief Minister for his transfer in place of appellant as Sub-Registrar-I Peshawar and as such the respondent No.2 was directed to do the needful vide letter No. SOV/CMS/KPK/Rev/2013/12930 dated 11-12-2014 issued from the Chief Minister's Secretariat, Khyber Pakhtunkhwa **(Copy of letter is appended as Annex-C).**
4. That in compliance with the above directive's of the Chief Minister, the Competent Authority (respondent No.2) issued the impugned order whereby the appellant was transferred to District Dir Upper while respondent No.4 was accommodated in his place as Sub-Registara-1 Peshawar in utter violation of law vide order dated 19-12-2014 **(Copy of impugned order is appended as Annex-D).**
5. That the appellant felt aggrieved from the said order, filed a departmental appeal on 23-12-2014 praying therein that the impugned transfer order No. LR-IV/P.T/SR/2901-22 dated 19-12-2014 may graciously be set aside on the grounds mentioned therein **(Copy of departmental appeal is appended as Annex-E).**
6. That the above departmental appeal was neither decided within the statutory period of law with cogent reasons nor any information whatsoever was given to the appellant as required under **Article 19-A of**

the Constitution of Islamic Republic of Pakistan 1973. Thus, the Appellate Authority has blatantly violated the provision of law as well as Constitution and the Principle laid down by **August Supreme Court of Pakistan** in case reported in **2011 SCMR 1 (Citation –B)**. The relevant citation is reproduced herein for facility of reference:-

(b) General Clauses Act (X of 1897)---

**---S. 24-A ---Speaking order- Public
functionaries are bound to
decide cases of their subordinates
after application of mind with cogent
reasons within reasonable time.**

It is well settled law that the decision of August Supreme Court of Pakistan is binding on each and every organ of the State by virtue of Article 189 and 190 of the Constitution of Islamic Republic of Pakistan, 1973. Reliance can be placed on the judgment reported in **1996-SCMR-Page-284 (Citation-C)**. The relevant citation is as under:-

(c) Constitution of Pakistan (1973)

**Arts. 189 & 190--- Decision of
Supreme Court—Binding, effect of---
- Extent—Law declared by Supreme
Court would bind all Courts,
Tribunals and bureaucratic set-up in
Pakistan.**

7. That as this Hon'ble Tribunal was not functional at the relevant time, therefore, the appellant invoked the constitutional jurisdiction of Hon'ble Peshawar High Court, Peshawar by filing a writ petition praying therein for setting aside the impugned order. He also prayed for interim relief by suspending the said order. **(Copy of writ petition is appended as Annex-F).**
8. That the above writ petition came up for hearing before the Hon'ble court on 5-1-2015 and the operation of the impugned order was suspended. It would be advantageous to reproduce herein the said order for facility of reference:- **(Copy Annex-G).**

LR in W.P No. 3917-P/2014

Dated 05-01-2015

Since service tribunal is not functional, therefore while relying on the judgment of august Supreme Court of Pakistan in case Sarfaraz Saleem Vs Federation of Pakistan and others, reported in PLD-2014-SC-232, notice be issued to respondents for a short date. In the meanwhile the operation of impugned Notification No. LR-IV/P.T/SR/2901-22 dated 19-12-2014 to the extent of transfer/posting of petitioner Saleem Ahmad from Sub-Registrar-I Peshawar to Sub-Registrar Dir Upper on CCB against the vacant post is suspended.

9. That the above order was not implemented, therefore, the appellant filed an application under **Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 read with section 3, 4 & 5 of the Contempt of Court Ordinance, 2003** with all enabling provisions for initiating contempt of court proceedings against the respondents for disobedience of the order of the Hon'ble Court dated 5-1-2015 passed in writ petition No.3917/2014. **(Copy of COC (application) is appended as Annex-H).**
10. That during the course of litigation, the Competent Authority (respondent No.2) complied with the aforesaid order of the Hon'ble Court and directed the respondent No.4 to hand over the charge of the post of Sub-Registrar-I Peshawar to the appellant vide order No. 4385/DC(P)/EA dated 27-2-2015. **(Copy of order is appended as Annex-I).**
11. That when the above case again came up for hearing before the Hon'ble court on 20-3-2015 it was held that the Tribunal is now functional and as the matter exclusively falls within the jurisdiction of service tribunal by virtue of **Article 212 of the Constitution of Islamic Republic of Pakistan, 1973**, therefore, the petitioner may approach the said forum for redressal of his grievance.

12. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds within the statutory period of law.

GROUND'S OF APPEAL

- A. That when the Competent Authority (respondent No.2) received the directive's of the Chief Minister, he was under statutory obligation to clarify the legal position to him in respect of the pre-mature transfer of appellant from the post of Sub-Registrar-I Peshawar. But he failed to do so and straightaway issued the impugned order in utter violation of Posting and Transfer Policy of Government of Khyber Pakhtunkhwa as well as law laid down by august Supreme Court of Pakistan in case reported in PLD-2013-SC-195 (citation-h). The relevant citation is reproduced herein for facility of reference:-

PLD-2013-SC-195(citation-h)

(h) Civil Servants Act (LXXI of 1973)---

---Ss. 4 & 10---Constitution of Pakistan, Art. 184(3)---Tenure, posting and transfer of civil servants---Principles--- When the ordinary tenure for a posting had been specified in the law or rules made thereunder, such tenure must be respected and could not be varied, except for compelling reasons, which should be recorded in writing and were judicially reviewable---Transfers of civil servants by political figures which were capricious and were based on considerations not in the public interest were not legally sustainable.

Therefore, the impugned order is against the spirit of administration of justice.

- B. That the Establishment Department of Khyber Pakhtunkhwa vide letter No.SOR.VI(E&AD)1-4/2005/Vol-II dated 27-2-2013 directed all the Secretaries of the respective Departments in Province for strict

implementation of the aforesaid dictum of August Supreme Court of Pakistan. But despite thereof, the Competent Authority while passing the impugned order discarded the above dictum of the apex court of the country. **(Copy of letter is appended as Annex-J).**

- C. That as the respondent No.4 has used political means/interference for his posting in place of appellant, therefore, he has committed **“Misconduct” under rule L(v) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011** which has unequivocally laid down that **“Misconduct” includes**

“any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other condition of service.”

Hence, the respondent No.4 is liable for disciplinary action in accordance with the above rules so as to make an example for other employees. In case this practice is not discouraged at the outset, it will setup a dangerous precedent which will not only affect the lawful right of civil servants but will also open a flood gate for litigation. Therefore, the impugned order is liable to be set aside on this score alone.

- D. That the appellant was transferred within a short span of 1 year and 2 months which clearly indicates that this action of the Competent Authority was illegal and politically motivated. This was obviously done to accommodate his blue eyed chap. Therefore, the impugned order is not warranted under the law.
- E. That the respondent No.4 has already served against the post of Sub-Registrar-I, Peshawar for a period of 3 years. Therefore, he had no right to disturb the lawful tenure of posting of appellant by getting a choice posting through political influence. Hence, the impugned order is not sustainable in the eye of law.

- F.** That every civil servant is legally bound to obey only those orders of his superiors which are legal and proper. Compliance of illegal order/direction will neither be justified on the plea of same having been issued by the superior officers, as held by august Supreme Court of Pakistan in various judgments. But the respondent No. 2 while passing the impugned order, totally ignored the said dictum of apex court. Therefore, the impugned order is bad is law.
- G.** That the Competent Authority (respondent No.2) was legally bound to give reasons regarding transfer of the appellant before completion of his normal tenure against the post of Sub-Registrar-I, Peshawar as per dictum laid down by august Supreme Court of Pakistan in case referred to above in **Para-A**. Hence, the impugned order is against the norms of justice.
- H.** That the order in question is the result of malafide action and colorable exercise of powers by the Competent Authority which did not apply its independent mind in respect of the issue of short tenure of appellant at Peshawar. Thus, the above order is not tenable under the law.
- I.** That the impugned order suffers from legal infirmities and it has caused grave injustice to the appellant. Hence
- J.** That the disputed order is against law, facts of the case and norms of Natural Justice. Therefore, the same is not warranted under the law.
- K.** That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.


In view of the above narrated facts and grounds, it is, therefore, humbly prayed that the impugned transfer order No. LR-IV/P.T/SR/2901-22 dated 19-12-2014 passed by the respondent No.2 may graciously be set aside being politically motivated, premature and passed in utter violation of Posting / Transfer Policy of Government of Khyber Pakhtunkhwa as well as law laid down by August Supreme Court of Pakistan in various judgments.

Any other relief deemed proper and just in the circumstances of the case,
may also be granted.


Appellant

Through

Dated: 24-3-2015


Rizwanullah
M.A. LL.B
Advocate High Court, Peshawar.

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2015

1. Saleem Ahmad, S/o Tila Muhammad, R/o House Mohallah Sultan Abad, outside Lahori Gate, Peshawar City.

APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa, through its Chief Secretary and others.

RESPONDENTS

AFFIDAVIT

I, Saleem Ahmad, S/o Tila Muhammad, R/o House Mohallah Sultan Abad, outside Lahori Gate, Peshawar City, do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



Saleem Ahmad
Deponent

Annex - A

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF LAND RECORDS /
INSPECTOR GENERAL REGISTRATION

Peshawar dated the 04 /09/2013.

OFFICE ORDER

No.LR-IV/P.F Iqbal Jelani _____ With the approval of the Competent Authority the following posting / transfer of Sub Registrars is hereby ordered with immediate effect in the interest of general public.

S.No	Name of Sub Registrar	From	To
01.	Iqbal Ahmad	Peshawar-I	Charsadda (against the vacant post)
02.	Saleem Ahmad	Kabal	Report to the office of the Sub Registrar-I Peshawar.


DIRECTOR LAND RECORDS /
INSPECTOR GENERAL REGISTRATION

Ph # 091-9210057.

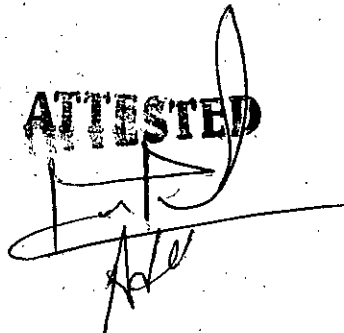
Endst: No.LR-IV/P.F Iqbal Jelani 4584-92

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Commissioners Peshawar and Malakand Divisions.
3. Deputy Commissioners Peshawar and Swat.
4. District Accounts Officer Swat.
5. Private Secretary to Senior Member Board of Revenue Khyber Pakhtunkhwa.
6. Personal files.
7. Officials concerned.


DIRECTOR LAND RECORDS /
INSPECTOR GENERAL REGISTRATION
Ph # 091-9210057.

ATTESTED




ATTESTED

Annex - B

CHARGE ASSUMPTION REPORT

In compliance with the office order of the Director Land Records/Inspector General Registration Government of Khyber Pakhtunkhwa Peshawar, vide Endst No. LR-IV/PF Iqbal Jelani 4584-92 dated 04/09/2013. I, Salim Ahmad, assumed the Post of Sub-Registrar-I Peshawar today on 5th September, 2013 (Fore-Noon)



SALIM AHMAD
SUB REGISTRAR I PESHAWAR

Endst No. 261-265 /SRP

Dated 05/09 Sept: 2013

Copy forwarded to

1. The Commissioner Peshawar Division Peshawar.
2. The Director Land Records/Inspector General of Registration Khyber Pakhtunkhwa Peshawar.
3. The Deputy Commissioner, Peshawar.
4. The Accountant General Khyber Pakhtunkhwa Peshawar for information.
5. The Private Secretary to Senior Member Board of Revenue Peshawar.


SALIM AHMAD
SUB REGISTRAR I PESHAWAR

ATTESTED




ATTESTED

**CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA**

Annex-C

12

No. SOV/CMS/KPK/Rev/2013
Dated Peshawar the 11.12.2014

12930

To

The Senior Member,
Board of Revenue & Estate Department,
Khyber Pakhtunkhwa, Peshawar.

Subject:- POSTING/TRANSFER.

Dear Sir,

I am directed to refer to the above subject and to state that Muhammad Iqbal Sub Registrar Swat (Revenue) be transferred to Peshawar as desired by competent Authority, please.

Encl: As above.

Yours faithfully,


(KHALID AKBAR)
SECTION OFFICER-V 11/12

Endst No and Date Even:

Copy forwarded for information to the:-

1. PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.

SECTION OFFICER-V

ATTESTED


A. Ch

Annex - D

13

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF LAND RECORDS /
INSPECTOR GENERAL REGISTRATION

Peshawar dated the 19/12/2014

OFFICE ORDER

No.LR-IV/P.T/SR/_____ With the approval of Competent Authority, the following posting/transfer amongst the Sub Registrars/Naib Tehsildars is hereby ordered with immediate effect in public interest:-

S.NO.	Name of Sub Registrar	From	To	Remarks
1	Mr. Muhammad Iqbal Sub-Registrar	Sub-Registrar Swat at Mingora	Sub-Registrar-I Peshawar	Vice No.6
2	Mr. Khalid Rafique Sub-Registrar	Sub-Registrar Haripur	Sub-Registrar Abbottabad	Vice No.3
3	Mr. Muhammad Riaz Sub-Registrar	Sub-Registrar Abbottabad	Sub-Registrar Battagram	Against the vacant post.
4	Mr. Sultan Haider Naib Tehsildar	HVC Commissioner Office Peshawar	Sub-Registrar Haripur in OPS.	Vice No.2
5	Mr. Muhammad Ibrar Naib Tehsildar	Naib Tehsildar Land Reform Swat at Mingora in OPS.	Sub-Registrar Swat at Mingora	Vice No.1
6	Mr. Saleem Ahmed HRM	Sub-Registrar-I Peshawar	Sub-Registrar Dir Upper on CCB	Against the vacant post

INSPECTOR GENERAL OF REGISTRATION
Ph # 091-9210057.

Endst: No.LR-IV/P.T/SR/2901-22

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Commissioners, Malakand, Peshawar & Hazara Divisions.
3. Deputy Commissioners/District Registrars, Swat, Peshawar, Abbottabad, Haripur & Battagram.
4. District Account Officers, Swat, Peshawar, Abbottabad, Haripur & Battagram.
5. Private Secretary to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
6. Sub Registrars/Naib Tehsildars concerned.
7. Personal files.

INSPECTOR GENERAL REGISTRATION

ATTESTED

Annex - E

(14)

To.

The Senior Member,
Board of Revenue.

Subject: DEPARTMENTAL APPEAL FOR CANCELLATION ORDER
NO. LR-IV/PT/SR-2901-22, DATED 19.12.2014.

R/Sir,

The following submission are placed for your kind perusal:

1. I had been transferred and posted as Head Registration Moharrir Swat on 20.2.2012 (copy enclosed).
2. I was posted as Sub Registrar Kabal District Swat On 12.2.2013 (copy enclosed).
3. I performed my duties in District Swat for more than one and a half year.
4. I was posted as Sub Registrar Peshawar on 04.9.2013 and served my duties to the entire satisfaction of officers and even no single complaint during the period has been made. But due to unknown reasons I was again transferred, to District Dir Upper on 19.12.2014 and one Mr. Muhammad Iqbal has been posted in place of applicant.
5. It is pertinent to mention here that Mr. Muhammad Iqbal had already served in District Peshawar for more than 3 years.
6. My childrens are studying in Peshawar and due to my frequent transfers, it will disturb their studies.

In view of above it is humbly requested that order No. LR-IV/PT/SR-2901-22, dated 19.12.2014 may kindly be set a side please.


Your's faithfully


(SALEEM AHMAD)

Sub Registrar.

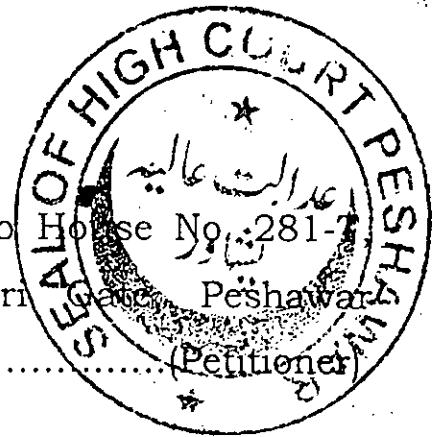
23-12-2014

ATTESTED



BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWARWrit Petition No. 3917-P 2014

Saleem Ahmad S/o Tila Muhammad R/o House No. 281-7
 Mohallah Sultan Abad, Outside Lahore Gate, Peshawar
 City..... (Petitioner)

**VERSUS**

1. Inspector General of Registration, Khyber Pakhtunkhwa, Peshawar.
 2. Senior Member Board of Revenue (SMBR) Khyber Pakhtunkhwa, Peshawar.
 3. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
 4. Muhammad Iqbal Sub-Registrar, Peshawar.
-(Respondents)

WRIT PETITION UNDER ARTICLE 199

Of the Constitution of Islamic republic of Pakistan, 1973.

May it please this Hon'ble Court:

The petitioner, while having no other efficacious and adequate remedy, very humbly seeks permission to plead his grievance and beseeches for solace as follows:

MUHAMMAD IZAZ

Deputy Registrar

24 DEC 2014

ATTESTED

ATTESTED

EXAMINER
 Peshawar High Court.

06 JAN 2015

Facts leading to this Writ Petition:

1. That the petitioner vide order dated 04/9/2013 was posted as Sub-Registrar-I, Peshawar from Kabal Swat.
2. That the petitioner after performance at hard are for considerable period in the light of the transfer order submitted arrival to Peshawar as a Sub-Registrar-I, Peshawar. (Copies of the transfer order dated 04/09/2013 and arrival report dated 05/09/2013 are attached as annexure "A" and "A-1" respectively).
3. That the petitioner was performing duties with zeal and devotion and there is no any complain against the petitioner. Meanwhile the Chief Minister Secretariat issued letter No. SOV/CMS/KPK/Rev/2013 dated 11/12/2014 and directed the respondent No. 2 to transfer the respondent No. 4 on the wishes/ desire by the Chief Minister, Khyber Pakhtunkhwa. (Copy of letter dated 11/12/2014 is attached as annexure "B").
4. That in compliance of the said letter mentioned above the respondent No. 2 issue impugned notification on 19/12/2014 bearing No. LR-IV/P.T/SR/2901-22 and transfer the petitioner from Peshawar to Sub-Registrar Dir Upper. (Copy of letter dated 19/12/2014 is attached as annexure "C").
5. That the petitioner is mortally aggrieved of the impugned frequent transfers orders, therefore the petitioner is gravely dissatisfied and aggrieved of the acts, omission

24/1/2015

ATTESTED

ATTESTED
May
 EXAMINER
 Peshawar High Court
 06 JAN 2015

and decision on part of the respondents, thus while having no other adequate and efficacious remedy, is constrained to invoke the Constitutional Jurisdiction of this Hon'ble Court on the following grounds and reasons amongst others:

Grounds warranting this Writ Petition:

- A. Because the impugned notification dated 19/12/2014 is illegal, unlawful, without lawful authority, hence liable to be set aside.
- B. Because the transfer of the petitioner is based on Political Influence, rather on merit, which is against the law and rules.
- C. Because the impugned transfer order of the petitioner is premature as according to law and rules and the judgments of the superior Court are consistent view that fix time period is necessary to complete in particular post.
- D. Because the petitioner was treated in discriminatory manner and due to the connivance of the Chief Minister Khyber Pakhtunkhwa.
- E. Because the impugned notification issued by the respondent No. 2 violates numerous constitutional right guaranteed under Article 25 of the Constitution of Islamic Republic of Pakistan, 1973.

FILED TODAY

Deputy Registrar

24 DEC 2014

ATTESTED

ATTESTED
EXAMINER
Peshawar High Court
06 JAN 2015

F. Because the affairs in the Government Departments is strictly prohibited as well as judgments of the superior Courts are very much clear that Political Influence/ interference shall not be interfere in the Government Departments and all transfers should be made according to merit, law and rules.

G. Because according to the Khyber Pakhtunkhwa Government Servants Conduct Rules, 1987, according to Rule 34 Government Servants were debarred from use of political or other influence.

H. Because the matter of tenure transfer, posting and promotion of Civil Servants would not be dealt within arbitrary manner, it could only be sustain when it was according with law.

I. Any other ground or reasons, at the time of hearing will be argued with the permission of the Court.

It is, therefore, most humbly prayed, that on acceptance of the instant Writ Petition, this Hon'ble Court may very magnanimously hold, declare and order that:

i. Declare the impugned notification of respondent No. 2 dated 19/12/2014 is illegal and without lawful authority, may graciously be set aside.

[Signature]
Deputy Registrar
24 DEC 2014

ATTESTED

ATTESTED
[Signature]
EXAMINER
Peshawar High Court
06 JAN 2015

5

ii. Any other relief, nor specifically prayed, may also graciously be granted, if appears just, necessary and appropriate.

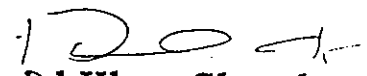
iii. **Interim Relief:**

A. The operation of the impugned notification No. LR-IV/P.T/SR/2901-22 dated 19/12/2014 may kindly be suspended, till the final decision of the Writ Petition.

Petitioner

Through

Dated: 23/12/2014


Danial Khan Chamkani
 Advocate High Court,
 Peshawar.

CERTIFICATE:

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter.


 ADVOCATE

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973
2. Any other law books according to need.

FILED TODAY

Deputy Registrar

24 DEC 2014

ATTESTED


 ADVOCATE

(6)

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 3917-P 2014

Saleem Ahmad(Petitioner)

V E R S U S

Inspector General of Registration, Khyber Pakhtunkhwa,
Peshawar and others.....(Respondents)

AFFIDAVIT

I, Saleem Ahmad S/o Tila Muhammad R/o House No. 281-T, Mohallah Sultan Abad, Outside Lahori Gate, Peshawar City, do hereby solemnly affirm and declare on oath that the contents of the **Writ Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Saleem Ahmad
DEPONENT

Identified by:

Daniyal Khan Chamkani
Daniyal Khan Chamkani
Advocate High Court,
Peshawar.

7357 -

Subscribed and sworn to on this 23rd day of Dec 2014 by Saleem Ahmad s/o Tila Muhammad who was identified to me by Daniyal Khan Chamkani who is personally known to me.

[Signature]
Oath Commissioner
Peshawar High Court, Peshawar.

~~FILED~~
Deputy Registrar
24 DEC 2014

ATTESTED
[Signature]
EXAMINER
Peshawar High Court,
06 JAN 2015

ATTESTED

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 3917-P 2014

Saleem Ahmad(Petitioner)

V E R S U S

Inspector General of Registration, Khyber Pakhtunkhwa,
Peshawar and others.....(Respondents)

ADDRESSES OF PARTIES

PETITIONER:

Saleem Ahmad S/o Tila Muhammad R/o House No. 281-T,
Mohallah Sultan Abad, Outside Lahori Gate, Peshawar City.

RESPONDENTS:

1. Inspector General of Registration, Khyber Pakhtunkhwa, Peshawar.
2. Senior Member Board. of Revenue (SMBR) Khyber Pakhtunkhwa, Peshawar.
3. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
4. Muhammad Iqbal Sub-Registrar, Peshawar.

Petitioner

Through

Dated: 23/12/2014

D. C. K.
Danial Khan Chamkani
 Advocate High Court,
 Peshawar.

ATTESTED

ATTESTED
Maj
 EXAMINER
 Peshawar High Court
 05 JAN 2015

PESHAWAR HIGH COURT, PESHAWAR
FORM "A"
FORM OF ORDER SHEET



Court of _____
Case No _____

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signatures of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
	05.01.2015	<p><u>I.R in W.P No.3917-P/2014.</u></p> <p><u>Present:-</u> Mr. Danial Khan Chamkani, Advocate for petitioner.</p> <p>*****</p> <p>Since Service Tribunal is not functional, therefore while relying on the Judgment of August Supreme Court of Pakistan in case <u>Sarfaraz Saleem Vs Federation of Pakistan & others</u>, reported in <u>PLD 2014 SC 232</u>, notice be issued to respondents for a short date. In the meanwhile the operation of impugned notification No.LR-IV/P.T/SR/2901-22 dated 19.12.2014 to the extent of transfer/posting of petitioner Saleem Ahmad from Sub-Registrar-I, Peshawar to Sub-Registrar Dir Upper on CCB against the vacant post is suspended.</p> <p><i>Ad - Imad Gaiser</i></p> <p><i>Judge</i> JUDGE</p>

ATTESTED

[Signature]
CERTIFIED TO BE TRUE COPY
Peshawar High Court, Peshawar
Authorized Under Article 47 of
The Constitution of Pakistan Order 4984
06 JAN 2015

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWARC.O.C. No. 15 P/2015

In

Writ Petition No. 3917/2014

Saleem Ahmad(Petitioner)

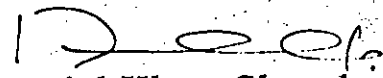
V E R S U SGhulam Nabi Superintendent, Acting Director Land/Inspector
General of Registration, Khyber Pakhtunkhwa, Peshawar and
others.....(Respondents)**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	COC in Writ Petition		1-3
2.	Affidavit		4
3.	Addresses of the Parties		5
4.	Copy of Writ Petition and order dated 05/01/2015	A&B	6-13
5.	Copy of Application	C	14
6.	Wakalat Nama		15

Petitioner

Through

Dated: 13/01/2015


Danial Khan Chamkani
 Advocate High Court,
 Peshawar.
 Zabeel Palace Hotel,
 G.T. Road, Peshawar.
 Cell: 0314-9160522

ATTESTED

(1)

(24)

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

C.O.C. No. 15 P/2015

In

Writ Petition No. 3917/2014

Saleem Ahmad S/o Tila Muhammad R/o House No. 281-T,
Mohallah Sultan Abad, Outside Lahori Gate, Peshawar
City.....(Petitioner)

V E R S U S

1. Ghulam Nabi Superintendent, Acting Director
Land/Inspector General of Registration, Khyber
Pakhtunkhwa, Peshawar.
 2. Muhammad Iqbal Sub-Registrar, Peshawar.
-(Respondents)

APPLICATION UNDER ARTICLE 204 OF THE
CONSTITUTION R/W S. 3, 4, 5 OF THE
CONTEMPT OF COURT ORDINANCE 2003 WITH
ALL ENABLING PROVISIONS FOR INITIATING
CONTEMPT OF COURT PROCEEDING AGAINST
THE RESPONDENTS AS WELL AS FOR THE
IMPLEMENTATION OF THE ORDER OF THIS
HON'BLE COURT DATED 05/01/2015,
PESHAWAR IN WRIT PETITION No. 3917/2014.

Respectfully Sheweth:

1. That the petitioner had earlier filed a Writ Petition
No. 3917/2014 for the redressal of his grievance
against the respondents which was admit notice to

ATTESTED

(2)

28

the respondents on 05/01/2015 and also granted ad-interim order in favour of the petitioner. (Copy of Writ Petition and order dated 05/01/2015 is attached as annexure "A" & "B" respectively).

2. That petitioner approached to respondents No. 1 and 2 of the order of this Hon'ble Court, but the respondent No. 2 is not ready to obey the order of this Hon'ble Court and the petitioner also filed an arrival report to the respondent No. 1 but till date the respondent No. 2 is not ready to leave the post. (Copy of Application is attached as annexure "C").

3. That in this very order dated 05/01/2015 this Hon'ble Court directed the respondents to suspend the impugned notification No. LR-IV/P.T/SR/2901-22 dated 19/12/2014, while the Senior Member Board of Revenue having obey the said order, but the respondent No. 3 is not leave the post of instead of the suspension of the said notification.

4. That the respondents are badly failed and reluctant and prolonging the matter.

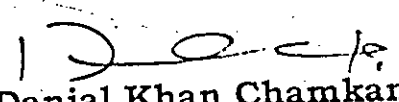
ATTESTED

5. That the act of the respondents against the law and natural justice as well as the order of this Hon'ble Court.

It is, therefore most humbly prayed on acceptance of this application/ petition the contempt of Court proceeding may please be initiating against the respondents and they may be directed to implement the order of this Hon'ble Court dated 05/01/2015 passed in Writ Petition No. 3917/2014 in the best interest of justice.

Petitioner

Through


Danial Khan Chamkani
Advocate High Court,
Peshawar.

Dated: 13/01/2015

ATTESTED

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

C.O.C. No. _____/2015

In

Writ Petition No. 3917/2014

Saleem Ahmad(Petitioner)

V E R S U S

Ghulam Nabi Superintendent, Acting Director Land/Inspector General of Registration, Khyber Pakhtunkhwa, Peshawar and others.....(Respondents)

AFFIDAVIT

I, Saleem Ahmad S/o Tila Muhammad R/o House No. 281-T, Mohallah Sultan Abad, Outside Lahori Gate, Peshawar City, do hereby solemnly affirm and declare on oath that the contents of the **C.O.C Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Saleem Ahmad
DEPONENT

Identified by:

Danial Khan Chamkani
Danial Khan Chamkani
Advocate High Court,
Peshawar.

8083
I, _____, do hereby affirm and declare on solemn affirmation that the contents of this 13/11/2015
day of Jan 2015, Saleem Ahmad
s/o Tila Muhammad Peshawar
who was identified by Danial Khan Chamkani
Who is personally known to me:
[Signature] 13/11/2015
Oath Commissioner
Peshawar High Court, Peshawar

ATTESTED

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

C.O.C. No. _____/2015

In

Writ Petition No. 3917/2014

Saleem Ahmad(Petitioner)

V E R S U S

Ghulam Nabi Superintendent, Acting Director Land/Inspector General of Registration, Khyber Pakhtunkhwa, Peshawar and others.....(Respondents)

ADDRESSES OF THE PARTIES

PETITIONER:

Saleem Ahmad S/o Tila Muhammad R/o House No. 281-T, Mohallah Sultan Abad, Outside Lahori Gate, Peshawar City.

RESPONDENT:

- 1. Ghulam Nabi Superintendent, Acting Director Land/Inspector General of Registration, Khyber Pakhtunkhwa, Peshawar.
- 2. Muhammad Iqbal Sub-Registrar, Peshawar.

Petitioner

Through

Dated: 13/01/2015

D. Khan
Danial Khan Chamkani
 Advocate High Court,
 Peshawar.

ATTESTED

CHARGE RE ASSUMPTION REPORT

In compliance of Peshawar High Court Peshawar orders dated 05/01/015, Passed in Writ Petition No. 3917-P with the order bearing No. LR-IV/Salim/SR/603-4, dated 26/02/2015 issued by The Secretary Board of Revenue, Khyber Pakhtunkhwa Peshawar, and orders bearing No. 4385/DC(P)EA, dated 27.02.2015 issued by Deputy Commissioner Peshawar, I Saleem Ahmad hereby Re-assume the charge the Post of Sub Registrar- I, Peshawar today i.e 27/02/2015.(FN).



SALEEM AHMAD,
SUB REGISTRAR I PESHAWAR

OFFICE OF THE SUB REGISTRAR I PESHAWAR

Endst No 47 SRP-I

Dated 27th February 2015

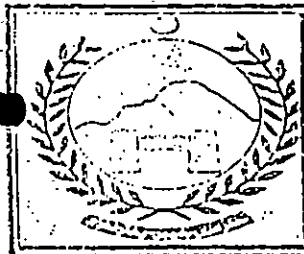
Copy of the above is forwarded to the :

1. Accountant General Khyber Pakhunkhwa, Peshawar.
2. Deputy Commissioner Peshawar w/r to the above please.
3. PS to Senior Member Board of Revue Khyber Pakhtunkhwa Peshawar.
4. Director Land Record/Inspector General Registration, Khyber Pakhunkhwa Peshawar.
5. Assistant Secretary (Estt:) Board of Revenu Khyber Pakhunkhwa Peshawar

SALEEM AHMAD,
SUB REGISTRAR I PESHAWAR

ATTESTED





GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

(REGULATION WING)

NO. SOR.VI (E&AD)1-4/2005/Vol-II

Dated Peshawar, 27th February, 2013.

Establishment Department
Govt. of Khyber Pakhtunkhwa
Secretary
Dated: 28-2-2013

To
[Handwritten signature]

1. The Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
2. The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Commissioners, in Khyber Pakhtunkhwa.

Subject: CONSTITUTION PETITION NO.23 OF 2012 OUT OF SUO MOTO CASE NO. 3/2012 (PETITION BY MS. ANITA TURAB FOR PROTECTION OF CIVIL SERVANTS REGISTERED UNDER ARTICLE 184 (3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.)

Sir,

I am directed to refer to the subject noted above and to state that the Supreme Court of Pakistan vide the subject cited judgment has enunciated the following principles of Law with regard to protection and conduct of civil servants.

(i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.

(ii) Tenure, Posting and Transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

[Handwritten notes: AS II, SR, 4/3]

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ATTESTED

[Handwritten signature]

- (iii) **Illegal Orders:** Civil Servants owe their first and foremost allegiance to the law and the constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- (iv) **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

2. I am, therefore, directed to request you to note the above principles of law for strict compliance.

Yours faithfully,

naizam

(NAJ-MUS-SAHAR)
SECTION OFFICER (REG-VI)

Encl: as above.

A copy is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Registrar; Peshawar High Court, Peshwar.
6. The Secretary Khyber Pakhtunkhwa, Public Service Commission.
7. All Addl: Secretaries Establishment & Administration Department.
8. All Deputy Secretaries in Establishment & Administration Department.

naizam

SECTION OFFICER (REG-VI)

ATTESTED

[Signature]
[Signature]

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2015

1. Saleem Ahmad, S/o Tila Muhammad, R/o House Mohallah Sultan Abad, outside Lahori Gate, Peshawar City.

APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa, through its Chief Secretary and others.

RESPONDENTS

**APPLICATION FOR SUSPENDING THE
OPERATION OF THE IMPUGNED ORDER
NO. LR-IV/P.T/SR/2901-22 dated 19-12-2014
PASSED BY THE RESPONDENT NO. 2, TILL
THE DISPOSAL OF MAIN APPEAL.**

Respectfully Sheweth:-

1. That the appellant has filed service appeal along with this application in which no date has been fixed so far.
2. That the facts enumerated and grounds taken in the body of service appeal may kindly be considered as an integral part of this application, which make out an excellent prima facie case in favour of the appellant.
3. That the impugned order was passed on the basis of political interference, favoritism / nepotism and also in utter violation of Posting & Transfer Policy as well as law laid down by august Supreme Court of Pakistan in case reported in **PLD-2013-SC-195**.
4. That the appellant was transferred within a short span of time which clearly indicates that this action of the Competent Authority was fallacious, malicious

and politically motivated. This was obviously done to accommodate his blue eyed chap. Therefore, the impugned order is not warranted under the law.

5. That in case the operation of the impugned order is not suspended, the very purpose of appeal would be defeated and it would become infructuous as well.

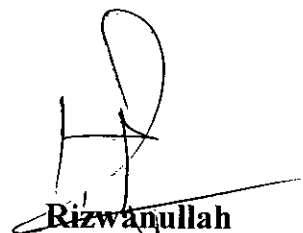
It is, therefore, humbly prayed that the impugned order No. LR-IV/P.T/SR/2901-22 dated 19-12-2014 passed by the respondent No.2 may graciously be suspended till the disposal of main appeal.

Dated: 24-3-2015



Appellant/Applicant

Through



Rizwanullah
M.A. LL.B
Advocate High Court, Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2015

1. Saleem Ahmad, S/o Tila Muhammad, R/o House Mohallah Sultan Abad, outside Lahori Gate, Peshawar City.

APPELLANT

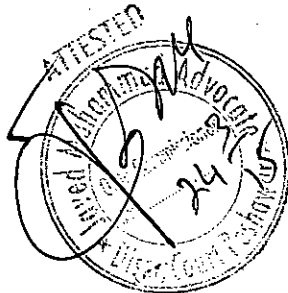
VERSUS

1. The Government of Khyber Pakhtunkhwa, through its Chief Secretary and others.

RESPONDENTS

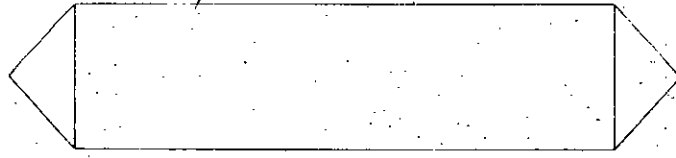
AFFIDAVIT

I, Saleem Ahmad, S/o Tila Muhammad, R/o House Mohallah Sultan Abad, outside Lahori Gate, Peshawar City, do hereby solemnly affirm and declare that the contents of the accompanied Stay Application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



Saleem Ahmad
Deponent

بعدالت حساب حیدر میں ملک و سٹریٹس ٹریبونل پشاور



Service Appeal

2015ء پنجاب ایڈووکیٹ

Saleem Ahmad

موز

بنام

VS

مقدمہ

Inspector General of Registration دعویٰ

KPK, Peshawar & others

م.ج.

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام پشاور کیلئے لٹو الٹرا پڈو لٹو

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقررتا لٹ و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے
اور اس کا ساختہ پر داخست منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندز ہے۔

Handwritten signature and date: 2015

2015

سامراج

21

المرقوم

الع د گ راد الع

کے لٹو

پشاور

مقام

POWER OF ATTORNEY

In the Court of KPK Service Tribunal Peshawar.
Saleem Ahmad

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

The Govt of KPK and others. } Defendant
} Respondent No-4
} Accused
}

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

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

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

and Sajid Amin Advocate my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or 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 executions, 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 authorizes hereby conferred on the Advocate wherever 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 all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be 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 be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

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

Accepted
SAJID AMIN
Advocate, Peshawar


Ijaz Anwar
Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3 G-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph:091-5272154 Mob:0333-9107225

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.242/2015

Saleem Ahmed s/o Tila Muhammad R/O House Mohallah Sultan Abad, outside Lahor Gate,
Peshawar City Petitioner

Versus

Government of Khyber Pakhtunkhwa through Senior Member, Board of Revenue and
Others..... Respondents

REPLY ON BEHALF OF RESPONDENTS NO.1 TO 3

Respectfully sheweth:

PRELIMINARY OBJECTIONS

1. Matters of posting/transfer do not fall within the ambit of Service Tribunal. A separate forum under (Para-1 sub para xiv) of the Provincial Posting/Transfer Policy has been provided.
2. The appeal is badly time barred.
3. The appellant has misstated the fact that a Departmental Appeal was instituted on 23.12.2014 which infact was instituted on 13.1.2015.

ON FACTS.

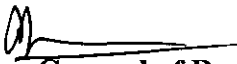
1. Incorrect. Plain reading of the cited order will show that the appellant an Head Registration Muharrir was directed to report to office of Sub-Registrar-I Peshawar. Assumption of charge of posts of Sub-Registrar in compliance with the aforementioned order is of no consequences.
2. Incorrect. Reports of corruption through a petition writer surfaced time and again but could not be substantiated through solid evidence.
3. The Chief Executive has the prerogative to make recommendations in matters of posting/transfers, which may be accepted or not accepted by the Competent Authority.
4. Incorrect. As the appellant is an Head Registration Moharrir he was posted as Sub Registrar Dir Upper on Current Charge Basis which is in accordance with rules.
5. Incorrect. The appellant has filed the Departmental Appeal on 13.1.2015 and has mis-stated that Departmental Appeal was filed on 23.12.2014 (Annexure-A). The time for filing of appeal against transfer orders is 07 days as prescribed in para (xiv) of the Posgting/Transfer Policy. Therefore the appeal was time barred.
6. Incorrect. The appellant filed Departmental Appeal on 13.1.2015 while he was already in Honourable Peshawar High Court Peshawar through Writ Petition dated 23.12.2014 where he succeeded in getting suspension order from the Honourable Peshawar High Court, Peshawar on 5.1.2015. As the impugned order had been suspended, there was no cause to dispose off the Departmental Appeal.
7. Pertains to facts.
8. Correct to the extent of order passed by Peshawar High Court Peshawar on 5.1.2015.
9. Incorrect. The respondents were not cited as respondents in the Contempt application, nor any notice to the effect was received.
10. Incorrect. Direction was issued to Deputy Commissioner Peshawar to comply with the order of Peshawar High Court Peshawar.
11. Needs no comments.

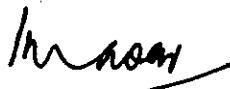
12. Incorrect. As the Service Tribunal has not been vested jurisdiction in matters of posting/transfers, the appeal is not maintainable.

GROUND.

- A. Incorrect. The appellant was never posted as Sub Registrar-I Peshawar. There were complaints of corruptions, therefore the appellant was posted out of Peshawar on administrative grounds in accordance with Posting/Transfer Policy.
- B. Incorrect. The Supreme Court of Pakistan does not restrict transfers on administrative grounds prior to completion of tenure.
- C. Respondent No.4 did obtain a recommendation, however, the transfer was made on administrative grounds.
- D. Incorrect. As explained in Paras A to C above.
- E. Incorrect. The appellant was never posted as Sub Registrar-I Peshawar, therefore he was no claim to the post.
- F. As in Paras A to C above.
- G. Incorrect. Reasons for transfer have been put forward for information of August Tribunal.
- H. Incorrect. The official has already spent 1 year and 3 months as against maximum tenure of 2 years and exercised authority not vested in him.
- I. Incorrect. No discrimination has been done with the appellant.
- J. Incorrect. There is no legal infirmity in the transfer orders.
- K. Arguments are restricted to pleadings.

It is therefore, prayed that the appeal instituted in quorum non judice, badly time barred, and without merit may be dismissed with costs.



Inspector General of Registration,
Khyber Pakhtunkhwa
(Respondent No.3)


Senior Member,
Board of Revenue, Khyber Pakhtunkhwa
(Respondent No.2)



AFFIDAVIT

I, Saad Ullah Superintending litigation Board of Revenue Peshawar do here by solemnly affirm and declare that the contents of the replay on behalf of Respondents No. 2 & 3 are true and correct to the best of my knowledge and belief and that nothing has been kept or concealed from this Hon'ble Tribunal.


Deponent
Saad Ullah
16/01-4901861-3

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.242/2015

Saleem Ahmed s/o Tila Muhammad R/O House Mohallah Sultan Abad, outside Lahor Gate,
Peshawar City Petitioner

Versus

Government of Khyber Pakhtunkhwa through Senior Member, Board of Revenue and
Others..... Respondents

**REPLY ON BEHALF OF RESPONDENTS NO.1 TO 3 TO THE
APPLICATION OF APPELLANT FOR SUSPENSION**

Respectfully Sheweth:

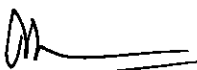
PRELIMINARY OBJECTIONS:


1. The appellant has intentionally tried to mislead the Tribunal by annexing copy of Departmental Appeal with incorrect date, therefore the application may be dismissed.
2. Earlier on, the applicant tried to mislead the Repondent No.2 by informing him that his service appeal had been accepted by the Tribunal. The appellant is in the habit of misstating facts.

ON FACTS:

1. Pertains to record.
2. Denied. The appellant may be instructed to produce his transfer order as Sub Registrar-I Peshawar. The appeal has weak grounds and is likely to fail.
3. Incorrect. Detail reply has been given in parawise comments on Appeal.
4. Incorrect. The appellant was transferred on administrtive grounds.
5. Incorrect. The implementation of impugned order will have not effect on the Appeal, as the appellant had complied with the order earlier, and upon its suspension assumed charge as Sub Registrar-I Peshawar.

It is, therefore, humbly prayed that the Stay Application may be dismissed with costs.

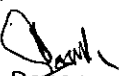

Inspector General of Registration,
Khyber Pakhtunkhwa
Respondent No.3


Senior Member
Board of Revenue, Khyber Paktunkhwa
Respondent No.2

AFFIDAVIT

I, Saad Ullah Superintending litigation Board of Revenue Peshawar do here by solemnly affirm and declare that the contents of the replay on behalf of Respondents No. 2 & 3 are true and correct to the best of my knowledge and belief and that noting has been kept or concealed from this Hon'ble Tribunal.




Deponent
Saad Ullah

To.

The Senior Member,
Board of Revenue.

Subject:

DEPARTMENTAL APPEAL FOR CANCELLATION ORDER
NO. LR-IV/PT/SR-2901-22, DATED 19.12.2014.

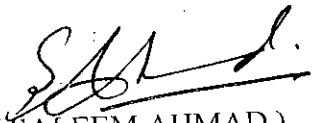
R/Sir,

The following submission are placed for your kind perusal.

1. I had been transferred and posted as Head Registration Moharrir Swat on 20.2.2012 (copy enclosed).
2. I was posted as Sub Registrar Kabal District Swat On 12.2.2013 (copy enclosed).
3. I performed my duties in District Swat for more than one and a half year.
4. I was posted as Sub Registrar Peshawar on 04.9.2013 and served my duties to the entire satisfaction of officers and even no single complaint during the period has been made. But due to unknown reasons I was again transferred to District Dir Upper on 19.12.2014 and one Mr. Muhammad Iqbal has been posted in place of applicant.
5. It is pertinent to mention here that Mr. Muhammad Iqbal had already served in District Peshawar for more than 3 years.
6. My childrens are studying in Peshawar and due to my frequent transfers, it will disturb their studies.

In view of above it is humbly requested that order No. LR-IV/PT/SR-2901-22, dated 19.12.2014 may kindly be set a side please.

Your's faithfully


(SALEEM AHMAD)

Sub Registrar.

DLR.

P. with comments -

lms

13-1-2015

LR-IV
14-1-14

PS/SMBR
Dy No. 279
Date 13-1-2015
Govt. of Khyber Pakhtunkhwa

بعدالت

Before Chairman Service Tribunal Peshawar, KPK

Service Appeal No. 242/2015

Appellant

2015ء پنجاب

13-4-2015

مورخہ

بنام

Jabeem Ahmad

مقدمہ

vs

دعویٰ

Govt of KPK, through chief
Secretary and others

جرم

باعث تحریر آنکہ

13-4-2015

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام پشاور کیلئے کامران ایڈولف

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور مستثنیٰ نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Attested & Accepted
Saman Javed
Adv
13-4-2015

2015ء

ماہ اپریل

13

المرقوم

العہد گاہ العہد

کے لئے منظور ہے۔

پشاور

مقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.242/2015

Saleem Ahmad. Versus. Govt. of KPK & others

REPLY ON BEHALF OF RESPONDENT NO.4

Respectfully Sheweth:

Preliminary Objections:

a. That the service appeal of the appellant is premature, as he filed departmental appeal, on 13.01.2015, before the Senior Member Board of Revenue and the SMBR marked the same to DLR on the same date for comments and, thereafter, he rushed to the Honourable Peshawar High Court, Peshawar, from where he without waiting for the result of the departmental appeal, suspended the operation of the impugned transfer order.

b. That the appellant has committed offence of forgery, by inserting a fictitious date upon the departmental appeal as 23.12.2014, whereas, there is no departmental appeal of the appellant filed on 23.12.2014 in the office.

025
13.04.15

- c. That, thus appellant has concealed the true fact that he filed departmental appeal on 13.01.2015 and mis-stated to have filed departmental appeal on 23.12.2014, thus he has not come to this Honourable Tribunal with clean hands and solely on this ground, due to misconduct of the appellant, the appeal is liable to be dismissed. The respondent reserves the right to request for initiation of disciplinary proceedings/ criminal proceedings against the appellant for committing offence of forgery and mis-statement before this Honourable Tribunal and respondent No.4 has filed application u/s 476 Cr.P.C against the appellant before this Honourable Tribunal. (Attested copy of the departmental appeal dated 13.01.2015 is attached as annexure "R/1").
- d. That the appeal is premature and as per consistent judgments of the superior courts and this Honourable Tribunal, a premature appeal is not even to be taken by the Registrar and is not to be placed before the Tribunal.
- e. That appellant has got no locus standi.
- f. That appellant has not come to this Honourable Tribunal with clean hands.

- g. That appellant is estopped due to his own conduct.
- h. That as per section 10 of the Civil Servants Act, 1973, a civil servant can be transferred anywhere.

ON FACTS:

1. That para No.1 of the appeal is correct.
2. That para No.2 of the appeal is concerned with record and subject to proof.
3. That para No.3 of the appeal is not correct in its present form, the respondent has used his independent mind and passed the impugned transfer order. The appellant has not used any political influence or any other outside influence and answering respondent has filed an application to all the offices, including the Chief Minister, as his transfers were in far-flung areas. The Chief Minister of the Province, as per 18th Constitutional Amendment, is the Chief Executive of the Province and is the controlling authority of all the Departments and offices and it cannot be termed to be a political figure, because after taking oath of his office as Chief Executive of the Province, he is the head of all the Departments, so the assertion of the appellant are based on misconception, regarding misconduct

alleging against the answering respondent, whereas he himself has committed a clear misconduct for which he can be even ousted out of the service and can be sentenced and convicted.

4. That para No.4 of the appeal is incorrect, hence denied. Appellant was transferred, vide order dated 19.12.2014, which shows that he was transferred in public interest and there is no copy to any high-up/ Chief Minister, Khyber Pakhtunkhwa.
5. That para No.5 of the appeal is incorrect, hence denied specifically. The appellant has filed the departmental appeal on 13.01.2015 and he has falsely asserted on affidavit that he filed departmental appeal on 23.12.2014 the detail reply has been given in the preliminary objections.
6. That para No.6 of the appeal is incorrect, hence denied. He filed departmental appeal on 13.01.2015 and has forged date as 23.12.2014 on departmental appeal attached as annexure "E" on page 14 of the service appeal, the appellant has adopted a novel method of filing departmental appeal on 13.01.2015, whereas he was already in the Hon'ble Peshawar High Court, Peshawar through Writ Petition dated

23.12.2014, succeeded in obtaining suspension order from the Hon'ble Peshawar High Court, Peshawar, on 05.01.2015, due to mis-statement that the Tribunal was not functional, thus when he already suspended the impugned order from the Honourable Peshawar High Court, Peshawar and the matter was subjudice before the Hon'ble Peshawar High Court, Peshawar, then the departmental appeal can't be decided in presence of suspension order from the Hon'ble Peshawar High Court, Peshawar. Even for the Writ Petition, it is mandatory that the available remedies are to be exhausted first and when no remedy is available, then the Writ Petition can be filed.

7. That para No.7 is incorrect denied, moreover, explained in the preceding paras.
8. That para No.8 of the appeal is correct to the extent of order of the Hon'ble Peshawar High Court, Peshawar, on 05.01.2015, moreover, explained in the preceding paras.
9. That para No.9 of the appeal is incorrect in its present form, hence denied. Contempt application for by the appellant has been dismissed alongwith the main Writ Petition. (Copy of the order of the High Court is attached as annexure "R/2").

10. That para No.10 of the appeal is correct to the extent of direction to respondent No.4 accordingly handed over the charge of the post of Sub Registrar-I Peshawar, in view of the order of the Hon'ble Peshawar High Court, Peshawar, however, after dismissal of his Writ Petition on 20.03.2015, respondent No.4 took over the charge on 24.03.2015 and was performing his duty as Sub Registrar-I Peshawar, however, the appellant under the garb of the status quo order dated 24.03.2015, took the charge from the answering respondent No.4 on 25.03.2015. (Copy of the charge reports on 24.03.2015 is attached as annexure "R/3").
11. That para No.11 is correct.
12. That para No.12 is incorrect, hence denied.

G R O U N D S:

- A. Ground "A" of the appeal is incorrect, hence denied. The competent authority can transfer any civil servant, including appellant to anywhere in the Province, as per section 10 of the Civil Servants Act, 1973 and the transfer order is not the result of any directions or influence from high-ups.

- B. Ground "B" of the appeal is incorrect, hence denied.
- C. Ground "C" of the appeal is incorrect, hence denied. No political influence has been used by respondent No.4 upon the officers.
- D. Ground "D" of the appeal is incorrect, hence denied, moreover, explained above.
- E. Ground "E" of the appeal is not correct in its present form, hence denied. Earlier to this transfer, respondent No.4 served in Mardan, then Lower Dir, Upper Dir and Swat and it is the prerogative of the respondent to post and adjust the relevant civil servants at appropriate place.
- F. Ground "F" of the appeal is incorrect, hence denied.
- G. Ground "G" of the appeal is incorrect, hence denied.
- H. Ground "H" of the appeal is incorrect, hence denied, moreover explained in preceding paras.
- I. Ground "I" of the appeal is incorrect, hence denied. The appellant failed to show as to what sort of injustice has been caused to him through the

impugned transfer order, he is to be paid his salary and other benefits, attached to the post at Peshawar and Swat equally.

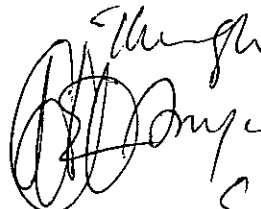
- J. Ground "J" of the appeal is incorrect, hence denied.
- K. That respondent also reserved the right to raise additional ground in rebuttal, if appellant is permitted.

It is, therefore, humbly prayed that the appeal of the appellant may please be dismissed with heavy costs.

Dated: 01.04.2015

Respondent No.4


Muhammad Iqbal
Sub-Registrar
Peshawar


Iftikhar
Justice Ali Adil
Supreme Court

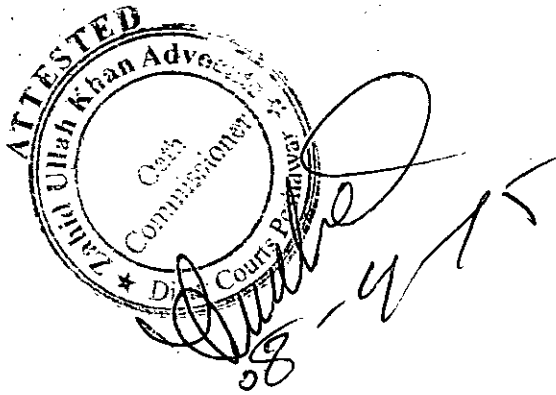
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.242/2015

Saleem Ahmad.....Versus.....Govt. of KPK & others

AFFIDAVIT

I, Muhammad Iqbal Sub-Registrar, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Reply** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.




DEPONENT

Ans R/1
DLR.
P. with comments
13-1-2015
LR-IV
14-1-14

To
The Senior Member,
Board of Revenue.

Subject: DEPARTMENTAL APPEAL FOR CANCELLATION ORDER
NO. LR-IV/PT/SR-2901-22, DATED 19.12.2014.

R/Sir,


PS/SMBR
Dy No. 279
Date 13-1-2015
Sect. of Higher Postion 10/22

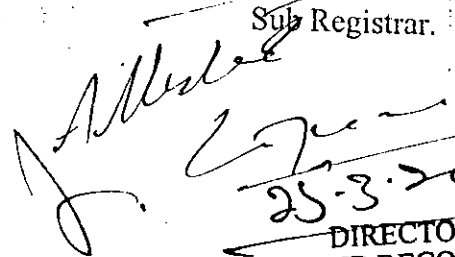
The following submission are placed for your kind perusal:

1. I had been transferred and posted as Head Registration Moharrir Swat on 20.2.2012 (copy enclosed).
2. I was posted as Sub Registrar Kabal District Swat On 12.2.2013 (copy enclosed).
3. I performed my duties in District Swat for more than one and a half year.
4. I was posted as Sub Registrar Peshawar on 04.9.2013 and served my duties to the entire satisfaction of officers and even no single complaint during the period has been made. But due to unknown reasons I was again transferred to District Dir Upper on 19.12.2014 and one Mr. Muhammad Iqbal has been posted in place of applicant.
5. It is pertinent to mention here that Mr. Muhammad Iqbal had already served in District Peshawar for more than 3 years.
6. My childrens are studying in Peshawar and due to my frequent transfers, it will disturb their studies.

In view of above it is humbly requested that order No. LR-IV/PT/SR-2901-22, dated 19.12.2014 may kindly be set a side please.

Your's faithfully


(SALEEM AHMAD)
Sub Registrar.


25-3-2015
DIRECTOR
LAND RECORDS,
KHYBER PAKHTUNKHWA

(11) Aux R/2

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 3917-P 2014

Saleem Ahmad S/o Tila Muhammad R/o House No. 281-T,
Mohallah Sultan Abad, Outside Lahori Gate, Peshawar
City.....(Petitioner)

V E R S U S

1. Inspector General of Registration, Khyber Pakhtunkhwa, Peshawar.
2. Senior Member Board of Revenue (SMBR) Khyber Pakhtunkhwa, Peshawar.
3. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
4. Muhammad Iqbal Sub-Registrar, Peshawar.
.....(Respondents)

WRIT PETITION UNDER ARTICLE 199

Of the Constitution of Islamic republic of Pakistan, 1973.

May it please this Hon'ble Court:

The petitioner, while having no other efficacious and adequate remedy, very humbly seeks permission to plead his grievance and beseeches for solace as follows:

ATTESTED

EXAMINER
Peshawar High Court

26 MAR 2015

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR

(12)

JUDICIAL DEPARTMENT

W.P. No.3917-P of 2014 with interim relief with
COC 15-P of 2015.

JUDGMENT



Date of hearing 20.03.2015.....

Petitioner (by) *Ghulam Nabi Advocate*

Respondents (by) *M/s. Qiaz Anwar & Anjid Ali Advocate*
Syed Raisan Ali Shah Advocate for Respondent No. 2

MUSARRAT HILALI, J.:- Petitioner,

through instant petition, seeks issuance of an

appropriate writ declaring the impugned Notification

dated 19.12.2014 of respondent No.2, whereby he

has been transferred and posted as Sub-Registrar,

Dir Upper as illegal and without lawful authority,

hence be set aside.

2. The grievance of the petitioner is that

previously he was transferred from Kabal Swat and

posted as Sub-Registrar, Peshawar vide order

dated 4.9.2013. While performing his duties in the

said capacity, he was allegedly transferred from

ATTESTED

EXAMINER
Peshawar High Court.

26 MAR 2015

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Peshawar and posted as Sub-Registrar, Dir Upper
vide order dated 19.12.2014, which according to
him, is politically motivated.

(13)

3. Initially, on 5.1.2015, this court vide order dated 5.1.2015 suspended the impugned Notification dated 19.12.104 to the extent of posting/transfer of petitioner on the ground that Service Tribunal was not functional.

4. According to the petitioner, respondent No.2 was not implementing the said order of this court, therefore, he filed COC petition for initiating contempt proceedings against him.

5. Admittedly, the petitioner is a civil servant and the relief sought by him relates to terms and conditions of his service for which only the Service Tribunal has the exclusive jurisdiction to adjudicate upon the matter. This court under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 has no jurisdiction to entertain this petition, therefore, the same is not maintainable as

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ATTESTED

EXAMINER
Peshawar High Court

25 MAR 2015

14

such dismissed. However, the petitioner may approach the Service Tribunal for redressal of his grievance, if need be.

Since the Service Tribunal is now functioning and as we have dismissed the main petition, therefore, COC 15-P of 2015 having become superfluous also stands disposed of.

سفٹ وازر احمد سبلی
سفٹ مسز فاطمہ حیدری

JUDGE

JUDGE

Announced:
20.03.2015

(Sadiq Shah, PS)

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Qanun-e-Mahkamat Order 1984

26 MAR 2015

17546

Date of Presentation of Application 26-3-15

No of Pages 10 P

Copying fee /

Urgent Fee /

Total 20-00

Date of Preparation of Copy 26-3-15

Date Given For Delivery 26-3-15

Date of Delivery of Copy 26-3-15


officer M. Isbat



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CHARGE ASSUMPTION REPORT


In compliance of Peshawar High Court Peshawar order dated 20/03/2015 in writ petition No. 3917/2015. I Muhammad Iqbal Sub Registrar assume the charge of the post of Sub Registrar-I, Peshawar to day i.e. 24/03/2015 (A.N).


Muhammad Iqbal
Sub Registrar-I
Peshawar

24/3/2015

Copy forwarded to the:-

1. Registrar Peshawar High Court Peshawar for information.
2. Private Secretary to Senior Member Board of Revenue KPK.
3. Inspector General of Registration Khyber Pakhtunkhwa Peshawar.
4. Deputy Commissioner Peshawar.
- ✓ 5. Deputy Commissioner Swat.
6. District Accounts Officer, Peshawar.


Muhammad Iqbal
Sub Registrar-I
Peshawar

24/3/2015

No 80-85/SP-1
24/3/15

FOR APPELLANT
Secta

OFFICE OF THE
INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHWA.

Peshawar dated the 28/11/2012.

OFFICE ORDER.

No. _____ / LR-IV/12-G.

In compliance with the directive of Chief Minister, Khyber Pakhtunkhwa, the following posting/transfer of Sub-Registrars are hereby ordered with immediate effect in the interest of public.

S. No	Name of official	From	To
1	Muhammad Iqbal	Sub Registrar/ Lakki Marwat.	Sub Registrar-II Peshawar.
2	Ibrar Ahmad	Sub Registrar-II Peshawar.	Report to Commissioner Peshawar Division for further posting

(Note, Tehsildar, Lakki Marwat is hereby authorized to look after the work of Sub Registrar office Lakki Marwat till further order)

Sd
INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHWA.

No. 638-44 / LR-IV/12-G.

Copy forwarded to the:-

1. PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
2. PSO to Chief Minister, Khyber Pakhtunkhwa for information
3. Accountant General, Khyber Pakhtunkhwa.
4. District Officers (R&E), Lakki Marwat and Peshawar.
5. District Accounts Officers, Lakki Marwat and Peshawar.
6. Officials concerned.
7. Office order file.

In Cham
INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHWA

①

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, PESHAWAR

S.A.No.242/2015

Saleem Ahmad. Vs. Government & others

APPLICATION FOR VACATION OF STATUS

QUO ORDER DATED 24.03.2015

Respectfully Sheweth:

Applicant humbly submits as under:

1. That aforementioned appeal has been filed on 24.03.2015.
2. That appellant has shown filing of departmental appeal on 23.12.2014, whereas he filed departmental appeal on 13.01.2015 as obvious from attested copy of departmental appeal bearing Dy.No.279 dated 13.01.2015 and marked by Senior Member Board of Revenue to DLR on 13.01.2015. (Attested copies of departmental appeal dated 13.01.2015 and stay order dated 24.03.2015 are attached).
3. That thus appellant has fabricated a forged date upon departmental appeal as 23.12.2014, instead of 13.01.2015, to cover up the compulsory waiting period of 90 days (statutory period) and on the basis of false statement/ false submission/ fabricated departmental appeal succeeded in getting stay order from this Honourable Court.

Place on record:
8/4/2015

RECEIVED
2015
26/3/2015

- 4. That this conduct of appellant is sufficient for dismissal of appeal what to speak of continu^{ation} of stay order. *dr*
- 5. That as per section 476 Cr.P.C this Honourable Court can initiate criminal proceedings against appellant for fabricating false date on departmental appeal.
- 6. That since service appeal of the appellant is premature and cannot be admitted as per law and no stay order can be given.

It is, therefore, humbly requested that stay order dated 24.03.2015 may please be vacated.

Applicant *[Signature]*
 Mohammad Iqbal

Through

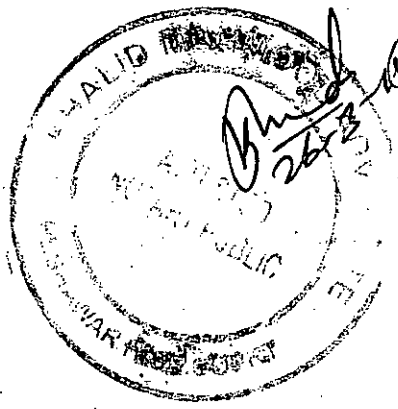
[Signature]
AMJAD ALI
 Advocate Supreme Court

Dated: 26.03.2015

AFFIDAVIT

I, Muhammad Iqbal Sub-Registrar, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the instant **Application** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.

[Signature]
 DEPONENT



DLR.

P. u. with comments - (3)

14/1

13-1-2015.

LR-IV

14-1-14

To

The Senior Member,
Board of Revenue.

Subject: DEPARTMENTAL APPEAL FOR CANCELLATION ORDER
NO. LR-IV/PT/SR-2901-22, DATED 19.12.2014.

R/Sir,

PS/SMBR
Dy No. 279
Date 13-1-2015
Govt. of Khyber Pakhtun Khwa

The following submission are placed for your kind perusal:

1. I had been transferred and posted as Head Registration Moharrir Swat on 20.2.2012 (copy enclosed).
2. I was posted as Sub Registrar Kabal District Swat On 12.2.2013 (copy enclosed).
3. I performed my duties in District Swat for more than one and a half year.
4. I was posted as Sub Registrar Peshawar on 04.9.2013 and served my duties to the entire satisfaction of officers and even no single complaint during the period has been made. But due to unknown reasons I was again transferred to District Dir Upper on 19.12.2014 and one Mr. Muhammad Iqbal has been posted in place of applicant.
5. It is pertinent to mention here that Mr. Muhammad Iqbal had already served in District Peshawar for more than 3 years.
6. My childrens are studying in Peshawar and due to my frequent transfers, it will disturb their studies.

In view of above it is humbly requested that order No. LR-IV/PT/SR-2901-22, dated 19.12.2014 may kindly be set a side please.

Your's faithfully

(SALEEM AHMAD)

Sub Registrar.

25-3-2015
DIRECTOR
LAND RECORDS,
KHYBER PAKHTUNKHWA

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR



Service Appeal No. 245 /2015

K.P. Province
Service Tribunal
Diary No. 245
Date 24-3-2015

Saleem Ahmad, S/o Tila Muhammad, R/o House Mohallah Sultan Abad, outside Lahori Gate, Peshawar City.

APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa, through its Chief Secretary.
2. Senior Member Board of Revenue (SMBR) Khyber Pakhtunkhwa, Peshawar.
3. Inspector General of Registration, Khyber Pakhtunkhwa, Peshawar.
4. Muhammad Iqbal, Sub-Registrar, Peshawar.

RESPONDENTS

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE PRE-
MATURE AND POLITICALLY MOTIVATED
TRANSFER ORDER NO. LR-IV/P.T/SR/2901-22
DATED 19-12-2014 PASSED BY THE
RESPONDENT NO.2 AGAINST WHICH A
DEPARTMENTAL APPEAL WAS PREFERRED
ON 23-12-2014 BUT THE SAME NOT
RESPONDED WITHIN THE STATUTORY
PERIOD OF LAW.

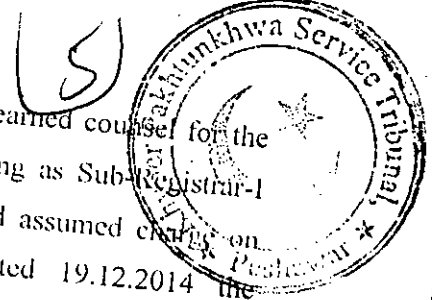
Filed to the
Registrar
24/3/15

Prayer in Appeal

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

By accepting this appeal, the impugned transfer order No. LR-IV/P.T/SR/2901-22 dated 19-12-2014 passed by the respondent No.2 may graciously be set aside being politically motivated, premature and passed in utter violation of Posting / Transfer Policy of Government of Khyber Pakhtunkhwa as well as law laid down by august Supreme Court of Pakistan in various judgments.



Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Sub-Registrar-I when posted vide order dated 04.09.2013 and assumed charge on 05.09.2013. That vide impugned order dated 19.12.2014 the appellant was transferred from Peshawar to Dir Upper on the basis of political interference as evident from letter dated 11.12.2014 (Annexure-C P.12). That the impugned order is pre-mature and not tenable being politically motivated. That against the said order departmental appeal was preferred on 23.12.2014 which was not responded within the statutory period and hence the instant service appeal on 24.03.2015.

That the august Peshawar High Court, Peshawar vide order dated 05.01.2015 passed in Writ Petition No. 3917-P/2014 had granted interim relief when the Tribunal was not functional.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 08.04.2015 before S.B. Notice of stay application be also issued to the respondents for the date fixed. Till then status-quo be maintained. *///*

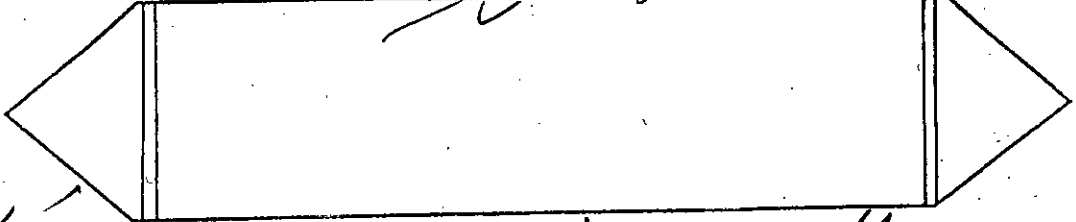
S.B.
Chairman

Certified to be true copy
[Signature]
Peshawar

Date of Presentation of *25.3.2015*
K... *800*
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25.3.2015
25.3.2015

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Court
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بعدالت روسی ٹریڈ سوسائٹی



2 مخمب بنام
سید فیض محمد
حکومت

موزخہ 26/3/2015
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکھ کر کارروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
دیکھ صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور سولی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی پیروی کرنے کا اختیار ہوگا۔ از بسورہ ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور دیکھ یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہونے سے باہر ہو تو دیکھ صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا اذکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 26
تاریخ 20

کے لئے منظور
Accepted
26/3/2015

بمقام
شہر اقبال سب