

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 403/2016

Date of institution ... 15.04.2016

Date of judgment ... 28.05.2018

Qamar Badshah S/o Zabta Khan, Patwari Candidate
Tehsil Takht Bhai District Mardan, Presently serving as
Irrigation Patwari Mardan.

... (Appellant)

VERSUS

1. Commissioner Mardan Division Mardan.
2. Deputy Commissioner Mardan.

... (Respondents)

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APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER OF RESPONDENT NO. 1 DATED 07.03.2016 VIDE WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT IS DISMISSED AND ORDER OF RESPONDENT NO. 2 DATED 24.06.2015, WHEREBY, APPELLANT IS APPOINTED AS A REVENUE PATWARI IN REVENUE SIDE MARDAN AS AFRESH APPOINTMENT, WHILE APPELLANT IS ENTITLED TO RE-TRANSFER FROM PATWARI HALQA IRRIGATION DEPARTMENT MARDAN TO PATWARI HALQA REVENUE SIDE MARDAN BEING EMPLOYEE OF REVENUE PATWARI TO HIS PARENT DEPARTMENT ON AVAILABILITY OF VACANT POST AS A PATWARI AND ALTERNATIVE SERVICE OF THE APPELLANT ALREADY RENDERED IN SETTLEMENT OPERATION MARDAN AND IRRIGATION DEPARTMENT MAY PLEASE BE COUNTED FOR PENSIONER BENEFITS AND PAY PROTECTION.

Mr. Yaqoob Khan, Advocate.

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: -

Learned counsel

for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Arguments heard and record perused.

M. Amin
28.5.2018

2. Brief facts of the case as per present service appeal are that the appellant passed Patwari examination in the year 1985 and got Patwar passed certificate from Patwar Academy. The appellant was enlisted as patwar candidate in the list of Patwar candidate Mardan. The appellant was appointed as Patwari in a settlement operation Mardan vide appointment order dated 16.12.1985. That due to winding off settlement operation Mardan, the appellant was posted as Patwari Halqa Irrigation Mardan vide order dated 14.12.1996 on deputation, Therefore appellant was relieved from settlement operation Mardan vide order dated 19.01.1997. That now due to availability of post, the appellant was appointed as Revenue Patwari vide order dated 24.06.2015 but with immediate effect. That the appellant filed departmental appeal which was dismissed vide order dated 07.03.2016 copy of the same was received on 14.04.2016 hence, the present service appeal. The prayer of the appellant is that the impugned appointment order dated 24.06.2015 be modified as transfer order from Patwari Irrigation Department to Patwari Revenue Mardan or in the alternative services of the appellant already rendered in the settlement operation Mardan and Irrigation Department may be counted for the pensionary benefits and pay protection on joining the appellant as Patwari Revenue Mardan.

3. Learned counsel for the appellant contended that the appellant has passed Patwar exam in the year 1985. It was further contended that the appellant was enlisted as Patwar candidate and was appointed in a settlement operation Mardan as Patwari vide order dated 16.12.1985. It was further contended that after winding off settlement operation Mardan, the appellant was posted as Patwari Halqa Irrigation Mardan and the appellant served in the Irrigation Department with the satisfaction of his superior. It was further contended that the appellant was appointed as Patwari by the competent authority vide order dated 24.06.2015 on regular basis but with immediate effect. Although the

*Mr. M. M. M. M.
28.5.2018*

respondent-department was required to transfer the appellant from Irrigation Department to Revenue Department through impugned order of appointment of the appellant as Patwari therefore the impugned order to extent of immediate effect is illegal and liable to be rectified. It was further contended that in the alternative the service rendered by the appellant in settlement operation and Irrigation Department be counted for pensionary benefits.

4. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that settlement was project. He further contended that he left project post and joined Irrigation Department and was not serving in Revenue Side. It was further contended that there is no concept in rules to transfer Patwari from other department to Revenue side. It was further contended that the service of the appellant in settlement operation and Irrigation Department was temporary and his appointment order was not passed on recommendation of Departmental Selection Committee therefore, the appellant was rightly appointed vide order dated 24.03.2015 with immediate effect and prayed for dismissal of appeal.

5. Record reveals that the settlement operation was Project. The appointment of the appellant in settlement operation was not made on recommendation of Departmental Selection Committee. The appellant was relieved from settlement operation when he joined the Irrigation Department on deputation. The impugned appointment order dated 24.06.2015 passed by the competent authority on the recommendation of Departmental Selection Committee was fresh appointment. Clause-Vii of the impugned appointment order dated 24.06.2015 shows that the appellant despite being overage, was appointed as Patwari revenue on the strength of judgment of Worthy Peshawar High Court as he rendered services in settlement operation.

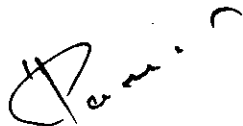
*M. J. Khan
28.5.2018*

6. Perusal of the record shows that the appellant was not transferred rather freshly appointed vide impugned order on his own request as Patwari candidate, but he did not report is arrival thus not accepted impugned order.

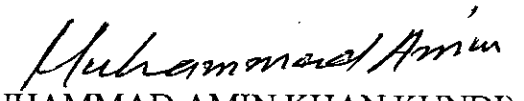
7. No case was made out for treating the impugned order as transfer order, similarly no case was made out for the protection of the pay of the appellant and protection of his services rendered in settlement operation Mardan and Irrigation Department.

8. As a sequel to the above, the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.05.2018




(MUHAMMAD HAMID MUGHAL)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

23.04.2018 Learned District Attorney present. To come up before proper bench for further proceedings/order on 09.05.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member


09.05.2018 The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come on 28.05.2018



READER

28.05.2018 Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

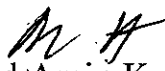
ANNOUNCED
28.05.2018


(MUHAMMAD HAMID MUGHAL)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

22.03.2018


Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney for the respondents present. Arguments heard. To come up for order on 29.03.2018 before D.B



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

29.03.2013

Clerk of the counsel for appellant and Deputy District Attorney for the respondents present. To come up ^{before} for proper ~~before~~ ^{Be} order

 order on 9-4-18
(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

09.04.2018

Appellant in person and Mr. Ziaullah, DDA alongwith Mr. Ali Akbar, ADK for respondents present. Adjourned. To come up for order on 23.04.2018 before D.B.


(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

27.03.2017

Appellant in person and Assistant AG for respondents present. Appellant submitted rejoinder and requested for adjournment as his counsel is not available today. Adjourned for final hearing to 19.07.2017 before D.B.



Member


Chairman

19.07.2017

Appellant in person present. Mr. Ali Akbar, AADK alongwith Mr. Ziaullah, Deputy District Attorney for the respondents also present. Due to strike of the bar learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 31.10.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

31.10.2017

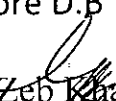
Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Mukhtiar Ali, Assistant Secretary and Mr. Ali Akbar, AADK for the respondents present. Appellant seeks adjournment as his counsel is not in attendance today. Adjournment granted. To come up for arguments on 18.01.2018 before the D.B.


Member


Chairman

18.01.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney along with Ali Akbar A.A.D.K for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file and requested for adjournment. Adjourned. to come up for arguments on 22.03.2018 before D.B


(Gul Zeb Khan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

27.10.2016

None present for the appellant. Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 27.12.2016 before S.B.


Member

27.12.2016

Appellant in person and Asst: AG for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 01.02.2017 before S.B.


Chairman

01.02.2017

Counsel for the appellant and Addl. AG alongwith Ali Akbar, AADK for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 27.03.2017.

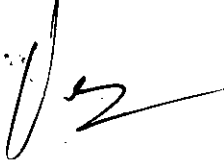

Chairman

20.05.2016

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned order dated 24.06.2015 vide which he was appointed as afresh in Revenue Department whereas he was entitled to be re-transferred from Irrigation Department to Revenue Department because he was basically employee of Revenue Department and was transferred on deputation to Irrigation Department. Against the impugned order appellant filed departmental appeal which was rejected vide order dated 07.03.2016, hence the present appeal.

Appellant Deposited
Security & Process Fee

Since the matter pertains to the terms and conditions of service of the appellant and the appeal in hand is also within time, therefore, the same is admitted for regular hearing subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 09.08.2016 before S.B.


Member

09.08.2016

Appellant in person and Additional AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 27.10.2016 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 403/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15.04.2016	<p>The appeal of Mr. Qamar Badshah presented today by Mr. Yaqub Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	25-4-16.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>28.4.16</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	28.4.2016	<p>Appellant in person present. Seeks adjournment due to strike of the bar. Adjourned for preliminary hearing to 20.5.2016 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p>

Before The Service Tribunal KPK, Peshawar

Service Appeal No. 403 /2016

Qamar BadshahAppellant

VERSUS

Commissioner Mardan etcRespondents

S.No	Descriptions	Annex:	Pages	
			From	to
1	Grounds of appeal		1	6
2	Copy of indera je nam	"A"	7	11
3	Copy Appointment order	"B"	12	15
4	Copy of the order dated 14/12/96	"C"	-	16
5	Copy of order dated 19/01/97	"D"	-	17
6	Copy of application	"E"	-	18
7	Copy of order dated 24/06/2015	"F"	-	19
8	Copy of departmental appeal and order dated 07/03/2016	"G"	20	26
9	Wakalat Nama		-	27

Dated 14/04/2016

Petitioner

قادر بادشاہ

Through

Yaqoob Khan

Yaqoob Khan advocate High Court
at Distt: Courts Mardan

Before The Service Tribunal KPK, Peshawar

①

Service Appeal No. 403 /2016

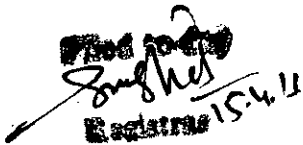
N.W.F. Province
Service Tribunal
Diary No. 382
Dated 15-4-2016

Qamar Badshah S/o Zabta Khan , Patwari Candidate Tehsil
Takht Bhai Distt: Mardan, presently serving as Irrigation Patwari
MardanAppellant

VERSUS

1. Commissioner Mardan Division Mardan
2. Deputy commissioner MardanRespondent

Appeal U/S-4 of KPK, Service Tribunal Act 1974,
against the order of respondent No.1 dated
07/03/2016 vide which the departmental appeal of
the appellant is dismissed and order of
respondent No.2 dated 24/06/2015, whereby,
appellant is appointed as a Rev: Patwari in Rev:
side Mardan as afresh appointment, while
appellant is entitled to re-transfer from patwari
Halqa Irrigation department Mardan to patwari
Halqa Rev: side Mardan being employee of Rev:
patwari to his parent department on availability
of vacant post as a patwari and alternative service
of the appellant already rendered in settlement
operation Mardan and irrigation department may
please be counted for pensioner benefit and pay
protection.


15-4-11

Respectfully sheweth;

1. That appellant is posted as a irrigation patwari in irrigation department Mardan.
2. That appellant has passed patwari examination in the year 1985 and got patwar passed certificate from patwar Academy.
3. That appellant was enlisted as patwar candidate in the list of patwar candidates Mardan. *(Copy of the same is hereby attached as Annex: "A")*.
4. That appellant was appointed as a settlement operation Mardan on 16/12/1985 vide appointment order dated 16/12/1985. *(Copy order is attached as Annex: "B")*.
5. That due to winding off settlement operation Mardan and requisition of irrigation department, appellant was transferred from patwari Halqa Mardan to Patwari Halqa irrigation Mardan vide order dated 14/12/1996 on deputation. *(Copy of order is attached as Annex: "C")*.
6. That appellant was relieved from settlement operation Mardan after completion of all codal formalities vide order dated 19/01/1997. *(Copy of order is attached as Annex: "D")*.
7. That appellant has served in the irrigation department with entire satisfaction of his superior and there is no any complaint has been received against appellant.

8. That appellant has filed various applications for his transfer from irrigation department to Rev: side Mardan but in vain and finally, appellant approached to the worthy Commissioner Mardan through departmental appeal , who accepted the appeal of appellant with the “ that as and when vacancy fall vacant in Rev: side Mardan” he should be adjusted as a Rev: Patwari vide order/ judgment of Commissioner Mardan. *(Copy of application is attached as Annex: “E”)*.

9. That now due to the availability of post, appellant is appointed as a Rev: Patwari in Rev: side Mardan as afresh patwari, while appellant is entitled for transfer from Patwari Halqa irrigation department to patwari Halqa a Rev: side Mardan vide impugned order dated 24/06/2015, which is illegal, against law and facts. *(Copy of order is attached as Anenx” F)*.

10. That appellant filed an appeal before respondent No.1 which is dismissed vide order/judgment dated 07/03/2016 received on 14/04/2016, which is illegal , against law and facts. *(Copy of the departmental appeal and order is attached as Annex: “G”)*.

11. That respondent No.1 has decided the departmental appeal of the appellant on 07/03/2016, and appellant filed application for the receiving attested copy of the said judgment in the office of respondent No.1 but respondent No.1 delivered the said attested judgment to the appellant on 14/04/2016, hence filed the instant appeal before this Hon’able Tribunal, so the appeal of the appellant is within time.

(4)

12. That order/ judgment of respondent No.1 dated 07/03/2016 received on 14/04/2016 is illegal , against law and facts and appellant is entitled for transfer from irrigation department to Revenue Department or in alternative appellant is entitled for the benefit of service of appellant already rendered in settlement operation Mardan and irrigation department w.e.f 16/12/1985 till today on the following grounds.

GROUND:

A. Because appellant has passed patwari examination from patwari Academy under control of Rev: hierarchy ie SMBER & DLR KPK Peshawar and issued patwar passed certificate by SMBER & DLR KPK Peshawar and appellant was entitled as patwar candidate in indera-j-Nama Register.

B. Because appellant was appointed as a settlement patwari in settlement operation Mardan vide order dated 16/12/1985 and due to winding off settlement operation Mardan, appellant was transferred from settlement operation Mardan to patwari Halqa irrigation department on deputation basis vide order dated 14/12/1996, so now appellant is entitled for transfer from irrigation department to Rev: side Mardan.

(5)

C. Because appellant has served in settlement operation Mardan and irrigation department Mardan more than 29 years and he is receiving monthly salary to time of Rs, 27,430/- per month, while on the fresh appointment, appellant monthly salary is fixed Rs, 14,000/- per month along with allowance, which is Rs, 13,430/- per months is lesser salary from his previous salary, therefore appellant has got losses from his fresh appointment.

D. Because impugned fresh appointment order of appellant dated 24/06/2015 is illegal, against law and facts and liable to modified to the extent of appellant may please be considered as a transferred order of appellant.

E. That as per the reported judgment of Federal Service Tribunal, PLC 2008 CS-482, judgment of this Hon'able Tribunal titled as "Ali zaman Vs Secretary Education etc and Momen Khan Vs Secretary Education etc" were granted pay protection and pensioner benefit to the civil servants for the service already rendered in previous department and as per reported judgment of Apex Supreme Court of Pakistan, (SCMR 1996P-1185) appellant is also entitled for the same benefit too.

It is, therefore, most humbly prayed that on acceptance of this appeal, that order of respondent no.1 dated 07/03/2016 may please be set aside and impugned appointment order of appellant dated 24/06/2015 may please be modified to the extent of appellant that appellant may please be transferred from patwari Halqa irrigation department Mardan to patwari Halqa Rev: side Mardan with all back benefits. In alternative, service of the appellant already rendered and settlement operation Mardan and irrigation department may please be counted for pensioner benefit and pay protection may please be granted to the appellant of the said service. Any other relief deemed fit may also be graciously awarded.

Dated 14/04/2016

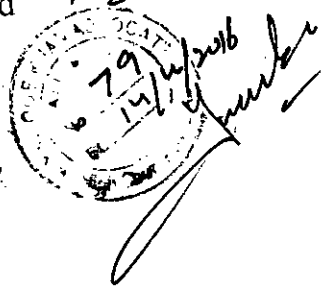
Petitioner Yaqoob Khan

Through Yaqoob Khan
Yaqoob Khan advocate High Court
at Distt: Courts Mardan.

AFFIDAVIT

That the contents of the appeal are true and correct to the best of my knowledge and belief.

Deponent Yaqoob Khan

Attested


Aux

LIST OF PATWAR PASSED CANDIDATES IN DISTRICT MARDAN.

S.No	No as per Inderaje Nam Register.	Name, Father's Name	Tehsil/ District	Date of birth	Academic qualification	Date & place of passing Patwar Exam;	Signature of Officer directing only to be made with date	Remarks
1. ✓	12	Qamar Badshah s/o Zabta Khan	Takht Bhai/ Mardan	10/10/1963	F.A	1985 Mardan.	29/12/1985	
2.	13	Waris Khan s/o Mian Jafar Shah	Takht Bhai/ Mardan.	3/11/1962	F.A	---do---	---do---	
3. ✓	14	Shad Ali s/o Munir Khan	Takht Bhai/ Mardan	10/2/1966	Metric	---do---	8/12/1985	
4.	15	Abdur Rehman s/o Yaqub Khan	Mardan/ Mardan	13/4/1963	F.A	---do---	---do---	
5.	16	Mohammad Iqbal s/o Abdul Malik	Mardan/ Mardan	3/12/1959	Metric	---do---	---do---	
6.	17	Jamshed s/o Badshah Khan	Takht Bhai/ Mardan	1.2.1966	---do---	---do---	---do---	
7.	18	Aftab Gul s/o Sheikh Ahmad	Mardan/ Mardan	10.4.1966	---do---	---do---	---do---	
8.	19	Riaz Alam Shah s/o Mohammad Aslam Shah	Takht Bhai/ Mardan	1.1.1961	---do---	---do---	---do---	
9.	20	Mohammad Sadiq s/o Mohammad Iqbal	Katlang/ Mardan	15.12.1963	---do---	---do---	---do---	
10.	21	Mohammad Riaz s/o Mohammad Umar	Takht Bhai/ Mardan.	20.11.1959	F.A	---do---	---do---	

Aux
20/12/85

اجل شاہ پوری

(2)

11.	22	Faqir Hussain s/o Mian Dad	Mardan/ Mardan.	5.4.1962	F.A	---do---	---do---	
12.	23	Farman Ali s/o Abdul Khaliq	Mardan/ Mardan	4.2.1963	F.A	---do---	---do---	SNT Chirtal
13.	24	Jamal Shah s/o Mohammad Ishaq	Takht Bhai/ Mardan	7.10.1965	Metric	---do---	---do---	
14.	25	Shaukat Ali s/o Akbar Khan	Takht Bhai/ Mardan.	5.11.1966	---do---	1988 Batkhela	---do---	
15.	26	Shah Jehan s/o Mohamimad	Takht Bhai/ Mardan.	1.3.1960	---do---	---do---	---do---	
16.	27	Javed Ali s/o Mohibullah	Takht Bhai/ Mardan.	15.2.1959	F.A.	1987 Jehlam	---do---	
17.	28	Jamal-ud-Din s/o Shamsu-ud-Din	Takht Bhai/ Mardan	12.12.1965	Metric	1988 Batkhela	---do---	SNT Chitral
18.	29	Aurang Khan s/o Munjra Khan	Mardan/ Mardan.	10.6.1957	---do---	---do---	---do---	
19.	30	Hazrat Ghulam s/o Said Ghulam	Katlang/ Mardan.	8.5.1963	---do---	---do---	---do---	NT Dir
20	31	Nasim-ur-Rehman s/o Gul Rehman	Takht Bhai/ Mardan	1.4.1955	---do---	1974 Peshawar	29.1.1989	
21	32	Murtaza Khan s/o Abdullah Khan	Takht Bhai/ Mardan.	18.4.1968	---do---	1988 Batkhela	20.6.1989	
22.	33	Dost Mohammad s/o Essa Khan	Mardan/ Mardan.	11.1.1971	D.Com	1996 Kohat	29.12.1994	
23	34	Abdul Khaliq s/o Abdul Hameed	Takht Bhai/ Mardan	20.5.1972	BSc	---do---	15.2.1995	

(3)

adjusted in Mansehra South... concerned district and can be... quota

اجمل شاہ پٹواری

24	35	Arshad Ali s/o Zarif Khan	Takht Bhai/ Mardan	20.2.1974	BA	---do---	1.1.1995	
25	36	Aslam Khan s/o Alam Khan	Mardan/ Mardan	3.1.1973	F.A	---do---	1.6.1995	
26	37	Fazle Malik s/o Abdul Hameed	Takht Bhai/ Mardan	23.3.1974	F.A	---do---	26.12.1995	
27	38	Zard Ali s/o Sawab Gul	Takht Bhai/ Mardan	14.11.1972	B.A.	1995 D.I.K	26.12.1995	
28	39	Arab Khan s/o Muqarab Khan	Katlang/ Mardan	15.3.1974	F.A	1996 Kohat	18.3.1997	
29	40	Niaz Ali s/o Mukhtiar	Mardan/ Mardan	11.2.1973	F.A	---do---	15.1.1998	
30	41	Shahab Khan s/o Sakht Dil	Mardan/ Mardan	3.4.1973	B.A	1995 D.I.K	13.7.2001	
31	42	Shah Nadeem s/o Hamesh Gul	Mardan/ Mardan	2.4.1983	BSc	2003 Karak	17.11.2003	
32	43	Said Imran Ali Shah s/o Sardar Ali	Mardan/ Mardan	1.4.1981	F.A	2006 Chitral	9.3.2007	Kgo Dir
33	44	Fawad Ali s/o Jehan Zeb	Mardan/ Mardan	18.4.1987	Metric	2006 Chitral	26.9.2007	
34	45	Sajjad Ali s/o Tor Gul	Takht Bhai/ Mardan	11.3.1982	F.A	2009 Peshawar	12.9.2009	
35	46	Taj Wali Khan s/o Gul Rehman	Takht Bhai/ Mardan		F.A	---do---	---do---	
36	47	Imran s/o Noor Mohammad	Takht Bhai/ Mardan	15.10.1985	F.A	---do---	---do---	
37	48	Adnan Fida s/o Fida Hussain	Mardan/ Mardan	4.7.1988	B.A	---do---	---do---	

appointed / adjusted in Mansehra Settlement in their concerned district and can be

6

38	49	Ali Ahmad s/o Said Jafar	Mardan/ Mardan	1.3.1984	F.A	---do---	---do---	
39	50	Sangeen Khan s/o Pervez Khan	Mardan/ Mardan	3.11.1984	F.A	---do---	---do---	
40	51	Kashif Ali s/o Mohammad Ayaz	Takht Bhai/ Mardan	15.3.1988	F.A	---do---	---do---	
41	52	Sikandar Khan s/o Masal Khan	Takht Bhai/ Mardan	15.3.1983	F.A	2010 Karak	---do---	
42	53	Fahaad s/o Fazal Ghufan	Mardan/ Mardan	10.3.1990	F.A	---do---	24.5.2011	
43	54	Matiullah s/o Rehman Ullah	Katlang/ Mardan	5.2.1989	F.A	---do---	---do---	
44	55	Irfan Ullah s/o Hukam Khan	Mardan/ Mardan	14.4.1986	F.A	---do---	---do---	
45	56	Imtiaz Ahmad s/o Akbar Said	Mardan/ Mardan	3.3.1990	F.A	---do---	---do---	
46	57	Shahab S/o Umar Said	Mardan/ Mardan	15.2.1989	F.A	---do---	---do---	
47	58	Mohammad Iqbal s/o Saad Ullah Khan	Takht Bhai/ Mardan	5.3.1983	F.A	---do---	---do---	
48	59	Ali Ahmad S/o Ali Haidar	Takht Bhai/ Mardan	3.4.1988	F.A	---do---	---do---	
49	60	Syed Abid Hussain s/o S. Hazrat Hussain	Mardan/ Mardan	5.4.1979	F.A	---do---	---do---	
50	61	Ezhar Ali s/o Murad Ali	Mardan/ Mardan	16.4.1984	F.A	---do---	---do---	
51	62	Ishtiaz s/o Ghulam Nabi	Takht Bhai/ Mardan	16.2.1990	F.A	2009 Peshawar	30.9.2011	

appointed / adjusted in Mansehra Settlement against zonal quota
against zonal quota

reference to above Land Record

13

اجل شاه پوزی

52	63	Kashif Farman s/o Farman Ali	Mardan/ Mardan	1.4.1987	M.A	2010 Karak	---do---	
53	64	Ajmal Shan s/o Asghar Shah	Mardan/ Mardan	6.4.1989	B.A	---do---	---do---	
54	65	Bilal Ahmad S/o Sher Mohammad	Mardan/ Mardan	2.9.1988	F.A	---do---	---do---	
55	66	Wazir Sher s/o Mir Hashim	Mardan/ Mardan	8.4.1986	F.A	---do---	---do---	
56	67	Imran s/o Dost Mohammad	Takht Bhai/ Mardan	18.3.1988	B.A	---do---	---do---	

M. H. Shah



M. H. Shah
District Officer (R&E)
Mardan.

11

appointed / adjusted in Mansehra Settlement against zonal quota
to above Direct

EXTRACT OF LETTER

Ann B
12

On the receipt of result of Patwar Examination held in July 1985 at, Mardan vide Director Land Record N.W.F.P, Notification No. 2646/DLR/LR-4 dated: 1-12-1985 the following Patwaries candidates are hereby appointed and posted in Mardan Tehsil with immediate effect in the interest of public and Govt: after Production of Medical fitness Certificates from the concerned authority. Their appointment is purely on temporary basis and ~~can~~ can be terminated at any time with out any notice or showing reason:-

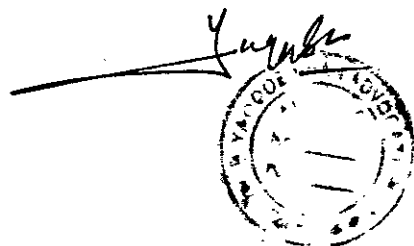
S.No.	Name of Patwari Candidate	From	To:	Remarks
1.	Habib Ur Rehman	Nearly Appointed (Asst: Patwari Mardan)		
2.	x x x x	x x	x xx	x
23.	x x x x	x x	x x	x
// 24.	Qamar Badshah	-do-		Patwari Vill: Shahbaz Garhi.
25.	x x x x	x x	x x	x
52.	x x x x	x x	x x	x

Endrst: No. 5848-56-/So-E-33

Dated: 16/12/1985.

Sd x x x x
Settlement Officer
Mardan

Certified true copy:-



CERTIFICATE

on record of hospital of ...
1965 at ...
No. 26/10/1965

Name of Patient /
No. Certificate

Name of ...

Name of ...

Name of ...

Name of ...

Name of ...

Name of ...

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23. Sultan Bahadur.

24. Qamar Badshah.

25. Gohar Shah.

26. Pasal Ghafoor.

27. Mohd Afzal Khan.

28. Waris Khan.

29. Gulab Khan.

30. Jasat Gul.

31. Mohammad Umar.

32. Sandar Ali.

33. Pasal Haddad.

34. Ali Khan.

35. Salam.

36. Ghafur Ali.

37. Mizwanillah.

38. Jamia Ali.

39. Aisar Mohammad.

40. Amir Mohammad.

41. G. W. Said.

42. Jehan Seb. S. No. 26.

43. Arshad Khan.

44. Toubar Haroon.

45. Sayyad.

46. Said Umar.

47. Ahmad Said.

48. Enayatur Rehman.

49. Nur Mohammad.

50. Ahmad Ali.

51. Said Akbar.

Newly Apptd.

-do-

-do-

Patwari
Mian Khan.

Newly Apptd.

-do-

-do-

-do-

-do-

-do-

Patwari-halqa
Gusai.

Patwari
Arabi Banda.

Newly Apptd.

Patwari
Bulshali.

Newly Apptd.

-do-

-do-

-do-

-do-

-do-

-do-

Patwari
Pirsai.

Newly Apptd.

-do-

-do-

Patwari
Shakar Tangi.

Newly Apptd.

-do-

-do-

Patwari Vill
Dewan Khel.

Patwari Vill
Shah Bagg.

Patwari Vill
Pindal.

Patwari Vill
Barisot.

Patwari Vill
Mian Khan.

Patwari Vill
Sangao.

Patwari Vill
Leek Pardi.

Patwari Vill
Kotkai.

Patwari Vill
Kati Garhi.

Patwari Vill
Arabi.

Patwari Vill
Dhari/Jhauda/Dhar.

Patwari Vill
Char Gul.

Patwari Vill
Jungarha.

Patwari Vill
Palo Dheri.

Patwari Vill
Jalal Ismaizai.

Patwari Vill
Chak Shawa.

Patwari Vill
Sori Malandari.

Patwari Vill
Pitao Malandari.

Patwari Vill
Garho.

Patwari Vill
Pirsai.

Asstt: Patwari
Bulshali.

Patwari Vill
Janday.

Patwari Vill
Shakar Tangi.

Asstt: Patwari
Sawal Dher.

Asstt: Patwari
Chargul.

Asstt: Patwari
Shahdar Garhi.

Patwari Vill
Kung.

Appellant

52. Khalid Khan. *

Newly Appd.

Patwardi
Shahkhan

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OFFICE OF THE SETTLEMENT OFFICER, MARDAN.

No. 5848-56 / SOR. 12-33.

Dated: 16/12/1985

16/12/1985

- Copy forwarded to the:-
1. Director, Land Records, EWTF, Peshawar.
 2. Extra Assistant Settlement Officer, Mardan.
 3. District Accounts Officer, Mardan.
 4. Settlement Tehsildar, Mardan.
 - 5/7 All Settlement Naib Tehsildars, Mardan Tehsil.
 6. Accounts Section (local).
 9. Revenue Bill Clerk, Mardan.
- For information and necessary action.

KHALID

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[Circular stamp]

D7618

LAST PAY CERTIFICATE.

(15)

Last Pay Certificate of Mr. Qamar Badshah, Patwari.
 the Deputy Commissioner, Office, Mardan.
 proceeding to Transfer.
 to Irrigation Department, Mardan.
 2. He has been paid upto 23.12.1996 (AM).

at the following rates;—

Particulars.	Pay.
Substantive Pay	2,172-00
Officiating Pay	310-00
Exchange Compensation Allowance	15-00
	15-00
	90-00
	153-00
	<u>TOTAL: 2775-00</u>

Deductions.

1. GPF: 95-00 PM: IVILES/MR-1971 ESS.
2. G.I. 1-57 PM: 3. BF: 10-00 PM.

3. He made over charge of the Office of the Deputy Commissioner
Office, Mardan.
 on the After noon of 23.12.1996

4. Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

5. He has been paid leave salary as detailed below. Deductions have been made as noted on the reverse.

Period.	Rate.	Amount.
From to at Rs a month.
From to at Rs a month.
From to at Rs a month.

6. He is entitled to draw the following:—
7. He is also entitled to joining time for days.
8. The detailed to the Income-tax recovered from him up to the date from the beginning of the current year are noted on the reverse.

No. 197/RBC. Dated 02/12/1997
 Copy forwarded to the Executive
Engineers, Irrigation Department, Mardan. (Designation),
 (Signature)
 (Designation) Settlement Officer
MARDAN.
 Attested

OFFICE OF THE
SUPERINTENDING ENGINEER
NORTHERN IRRIGATION CIRCLE MARDAN.

Aux C
(16)

No. 9614-15/57-E,

Dated Mardan the 19/12/1926.

OFFICE ORDER.

Mr. Qamar Bad Shah, Patwari attached to the office of Settlement Officer, Mardan, is hereby transferred/ posted to the office of Executive Engineer, Mardan Irrigation Division, Mardan against the existing vacancy in the interest of public service with immediate effect.


He will ~~have to~~ be placed at the bottom of seniority list of Patwaris.

[Signature]
Superintending Engineer,
Northern Irrigation Circle,
Mardan.

Copy to the:-

1. Settlement Officer, Mardan with reference to his No. 2668/SO-Mardan/E, dated 8.12.1926 for information and necessary action. The patwari may be relieved to join his new assignment.
2. Executive Engineer, Mardan Irrigation Division Mardan. for information.

Superintending Engineer,
Northern Irrigation Circle,
Mardan.

Attended
[Signature]


OFFICE ORDER.

Aux D
17 (17) (17)

Consequent upon his appointment as Patwari in the Irrigation Department, Mr. Qamar Badshah, Settlement Patwari Hidan Purcho, Circle Baizai is hereby relieved of his duties with effect from 23/12/1996 (A.N), on deputation basis and his lien in this office is hereby retained.

[Signature]
(ZULAIR SHAH KHAN)
Settlement Officer,
Mardan.

OFFICE OF THE SETTLEMENT OFFICER, MARDAN.

No. 72-76 /SO-Mardan/A-51.


Dated Mardan the 19/1/1997.

Copy forwarded to the:-

1. Superintending Engineer Northern Irrigation Circle Mardan with Reference to his No. 9614-15/57-B, dated 14/12/1996 for information and necessary action.
2. District Accounts Officer, Mardan.
3. Extra Assistant Settlement Officer, Mardan.
4. Establishment Section (Local).
5. Official Concerned.

Settlement Officer,
Mardan.

KHALID*

Attested
Yousef


جناب صاحب دین کی بخشش صاحب / قلم کار صاحب مردان

درخواست مجدد تبدیل کرنے سائل محکمہ رینار سے
محکمہ مال بوجہ تکمیل معاد Deputation

جناب عالی :- درخواست حسب ذیل ملاحظہ فرمائیے

۱۔ یہ کہ سائل / سٹوری سال 1985 سے بطور سٹوری حلقہ مردان
نہ اساتذہ صاحبان نوکری انجام دے رہا ہے

۲۔ یہ کہ سال 1996 میں بوقت اقصیٰ کامروڈ سبڈ ولسٹ /
محکمہ مال سے محکمہ رینار بطور سٹوری / Deputation / عارضی طور / تبادلہ
کیا گیا ہے اور کہا گیا کہ جب بھی محکمہ مال لوٹے گا وہی معوں کے آپ کو واپس
تبدیل کر دیں گے۔

۳۔ یہ کہ اب کافی اساتذہ محکمہ مال میں کافی معوں کے ہیں اور سائل کا ریزرو نام
میں نمبر بھی موجود نزدیک ہے ہیں وہ محکمہ مال میں واپس تبدیل
کرنے کا سائل مستعدی ہے

اس لئے یہ کہ نسبتاً خودی درخواست ہذا سائل کو محکمہ رینار سے
محکمہ مال میں تبدیل کرنے کا امکان صادر فرمایا جائے

فرمان بادشاہ سٹوری حلقہ محکمہ مال مردان

بادشاہ

OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

Anx
19

OFFICE ORDER

On the recommendation of departmental selection Committee, dated 18.06.2015, Mr. Qamar Badshah son of Zabta Khan r/o Takht Bai Tehsil Takht Bai District Mardan is hereby appointed as Patwari (BPS-9) plus usual allowances on regular basis on initial stage of the time scale in the office of the Deputy Commissioner, Mardan with immediate effect subject to the following terms and conditions:-

1. He shall be for all intents and purposes be civil servant.
 2. He shall be governed by the Khyber Pakhtunkhwa civil servant Act 1973, all the laws applicable to the civil servants and Rules made there under.
 3. He shall be on probation for a period of one year which may be extended.
 4. His services will be liable to termination at any time without assigning any reason before the expiry of the period of his probation/extended period of probation. In case he wishes to resign at any time a month's notice shall be necessary or in lieu thereof a month's pay shall be forfeited.
 5. He shall produce Medical fitness certificate from the medical Superintendent for the purpose.
 6. The concerned Universities / Board etc will verify his academic degree/certificate, which, if found fake/ bogus may render his service terminated.
 7. He shall produce the old service book if service rendered in Settlement operation as per judgment of Peshawar High court as there is no age limit for those candidates who rendered service in settlement operation and waiting for their appointment.
1. If the above terms and conditions of appointment are acceptable to him, he shall report his arrival to this office within 15 days after issuance of this office order i.e. on or before 08th July 2015, failing which his appointment shall be deemed cancelled.

Deputy Commissioner,
Mardan

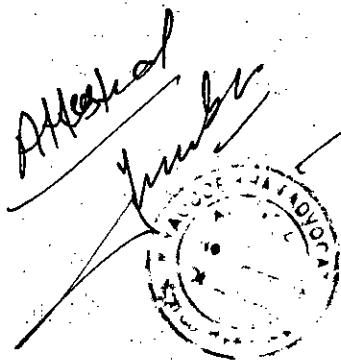
No.250-53/DK/HVC

Dated Mardan the 24/06/2015

Copy forwarded for information and necessary action to the:

1. The Secretary-I, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. District Comptroller of Accounts, Mardan.
3. Medical Superintendent, D.H.Q, Hospital, Mardan. He is requested to make necessary arrangements for Medical Board in order to medically examine the above named official and intimate the date fixed for the purpose.
4. Mr. Qamar Badshah son of Zabta Khan r/o Takht Bai Tehsil Takht Bai District Mardan.

Deputy Commissioner,
Mardan



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07/03/16

08/07/15



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IN THE COURT OF COMMISSIONER MARDAN DIVISION, MARDAN.

Qamar Bacha Patwari

Appellant

Versus

Deputy Commissioner/District Collector Mardan

Respondent

Case No.....
Dated of institution: 08/07/2015
Dated of Decision: 07/03/2016

APPEAL/REPRESENTATION AGAINST THE ORDER OF RESPONDENT DATED 24/06/2015, WHEREBY APPELLANT IS APPOINTED AS A REVENUE PATWARI IN REVENUE SIDE MARDAN WHILE APPELLANT IS ENTITLED TO TRANSFER OF APPELLANT FROM PATWARI HALQA IRRIGATION DEPARTMENT MARDAN TO PATWARI HALQA REVENUE SIDE MARDAN BEING CANDIDATE OF REVENUE SIDE MARDAN ON AVAILABILITY OF THE POST.

ORDER:-

Through this appeal the appellant has assailed the order of respondent dated 24/06/2015, whereby appellant is appointed as a revenue patwari in revenue side Mardan while appellant is entitled to transfer of appellant from patwari halqa irrigation department Mardan to patwari halqa revenue side Mardan being candidate of revenue side Mardan on availability of the post.

Brief facts of the case are that the appellant was appointed as Settlement Patwari in Settlement Operation Mardan vide order dated 16/12/1985. Due to winding up of Settlement Operation Mardan, the appellant was transferred from Settlement Operation Mardan to Irrigation Department Mardan vide order dated 14/12/1996 and relieved from duty on 23/12/1996 (AN) on deputation basis and his lien in this office was retained vide order dated 19/01/1997. Due to patwari candidate of District Mardan, the appellant properly applied for appointment as revenue patwari in the revenue side Mardan through proper channel, which was allowed and the appellant was appointed as revenue patwari in revenue side Mardan vide order dated 24/06/2015 on regular basis. The appellant filed the instant appeal/representation before this court for re-fixation of pay and that his previous service already rendered in Settlement Operation Mardan and Irrigation Department w.e.f. 16/12/1985 to 23/06/2015 be counted towards pension benefits/pay protection and further contended that appellant is entitled for transfer from Irrigation Department Mardan to revenue side Mardan as a revenue patwari against the vacant post and request for modification of order of respondent dated 24/06/2015 to the extent that appellant may please be transferred to the post of revenue patwari instead of fresh appointment.

Contd....P/2

See Page no

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14/04/16

Appellant alongwith his counsel present. Representative of Deputy Commissioner/District Collector Mardan also present and submitted parawise comments which is placed on file. Arguments of the learned counsel for the appellant heard and case file as well as parawise comments of the Deputy Commissioner /District Collector, Mardan thoroughly perused.

From perusal of record of the case and arguments advanced at the bar, it reveals that the appellant has not complied the order of respondent i.e. Deputy Commissioner Mardan dated 24/06/2015, hence, the appellant has got no cause of action, therefore, the instant appeal is merit less and is hereby dismissed. No order as to costs.

File be consigned to record room after necessary completion.

Announced.
07/03/2016

Order

[Signature]
Commissioner
Mardan Division, Mardan



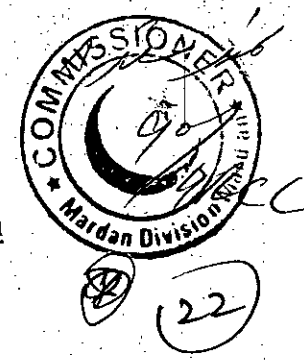
No. 865
Date of Application 05/04/06
Name of Applicant [Signature]
Wards 800 Fee 86
Urgent Fee [Signature]
Sign of Copyist [Signature]
Duty of Proprietor 14/04/06

ATTESTED

[Signature]
Examiner/Reader to
Commissioner Court
Mardan Division Mardan
14/04/06

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07/08
07/06
08/07
08/15



Before The Commissioner Mardan Division Mardan

Qamar Badshah S/o Zabta Khan , Patwari Candidate Tehsil
Takht Bhai Distt: Mardan, presently serving as Irrigation Patwari
MardanAppellant

VERSUS

D.C Mardan.....Respondent

Reader
08/07/15

Appeal against the order of respondent dated
24/06/2015 , whereby, appellant is appointed as a
Rev: Patwari in Rev: side Mardan , while
appellant is entitled to transfer from patwari
Halqa Irrigation department Mardan to patwari
Halqa Rev: side Mardan being employee of Rev:
patwari to his parent department on availability
of vacant post as a patwari.

Respectfully sheweth;

1. That appellant is posted as a irrigation patwari in irrigation department Mardan.
2. That appellant has passed patwari examination in the year 1985 and got patwar passed certificate from patwar Academy.
3. That appellant was enlisted as patwar candidate in the list of patwar candidates Mardan. (Copy of the same is hereby attached).

See Page
No 3
↓

14/09/06

4. That appellatant was appointed as a settlement operation Mardan on 16/12/1985 vide appointment order dated 16/12/1985. (Copy order is attached as Annex: "B").
5. That due to winding off settlement operation Mardan and requisition of irrigation department, appellatant was transferred from patwari Halqa Mardan to Patwari Halqa irrigation Mardan vide order dated 14/12/1996 on deputation. (Copy of order is attached as Annex: "C").
6. That appellatant was relieved from settlement operation Mardan after completion of all codal formalities vide order dated 19/01/1997. (Copy of order is attached as Annex: "D").
7. That appellatant has served in the irrigation department with entire satisfaction of his superior and there is no any complaint has been received against appellatant.
8. That appellatant has filed various applications for his transfer from irrigation department to Rev: side Mardan but in vain and finally, appellatant approached to the worthy Commissioner Mardan through departmental appeal, who accepted the appeal of appellatant with the "that as and when vacancy fall vacant in Rey; side Mardan" he should be adjusted as a Rev: Patwari vide order/ judgment of Commissioner Mardan. (Copy of ^{application} ~~judgment~~ is attached as Annex: "E").

ATTESTED

[Signature]
 Examiner/Reader to
 Commissioner Court
 Mardan Division Mardan
[Signature]

See Page no

3

14/04/06

9. That now due to the availability of post, appellant is appointed as a Rev: Patwari in Rev: side Mardan as afresh patwari, while appellant is entitled for transfer from Patwari Halqa irrigation department to patwari Halqa a Rev: side Mardan vide impugned order dated 24/06/2015, which is illegal, against law and facts and appellant is entitled for transfer from patwari Halqa irrigation Mardan to patwari Halqa Rev: side Mardan on the following grounds:- (copy of order is attached as Annex E)

(24)

GROUNDS:

A. Because appellant has passed patwari examination from patwari Academy under control of Rev: hierarchy ie SMBER & DLR KPK Peshawar and issued patwar passed certificate by SMBER & DLR KPK Peshawar and appellant was entitled as patwar candidate in indera-j-Nama Register.

B. Because appellant was appointed as a settlement patwari in settlement operation Mardan vide order dated 16/12/1985 and due to winding off settlement operation Mardan, appellant was transferred from settlement operation Mardan to patwari Halqa irrigation department on deputation basis vide order dated 14/12/1996, so now appellant is entitled for transfer from irrigation department to Rev: side Mardan.

C. Because appellant has served in settlement operation Mardan and irrigation department Mardan more than

See Page
No 4
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ATTESTED

Examiner/Reader to
Commissioner Court
Mardan District Mardan

14/04/06

14/04/06

29 years and he is receiving monthly salary to time of Rs, 27,430/- per month, while on the fresh appointment, appellant monthly salary is fixed Rs, 14,000/- per month along with allowance, which is Rs, 13,430/- per months is lesser salary from his previous salary, therefore appellant has got losses from his fresh appointment.

(B)
(25)

D. Because impugned fresh appointment order of appellant dated 24/06/2015 is illegal, against law and facts and liable to modified to the extent of appellant may please be considered as a transferred order of appellant.

It is, therefore, most humbly prayed that on acceptance of this appeal, impugned appointment order of appellant dated 24/06/2015 may please be modified to the extent of that appellant appellant may please be transferred from patwari Halqa irrigation department Mardan to patwari Halqa Rev: side Mardan with all back benefits. In alternative,

Service of appellant already suspended in S.O. Mardan. Please be counted for Pen. Summary benefits.

No. 885
 Date of Application 05/04/06
 Name of Applicant 20266
 Wards 1600 Fee 1600
 Urgent Fee _____
 Sign of Copyist _____
 Date of Preparation 14/04/06

protection may please be granted to the appellant. Any other relief deemed fit may also be graciously awarded.

Dated 08/07/2015

Petitioner [Signature]
 Examiner/Reader to Commissioner Court Mardan Division Mardan [Signature]

Through [Signature]
 Yaqoob Khan advocate High Court at Distt: Courts Mardan. 14/04/06

AFFIDAVIT

That the contents of the appeal are true and correct to the best of my knowledge and belief.

Deponent [Signature]

M AKBAR HOTI ADVOCATE
 High Court
 District Commissioner
 No. _____ Dated 14/4/06
 Distt. Courts Mardan

26

BEFORE THE COURT OF COMMISSIONER MARDAN DIVISION MARDAN.

Qamar Badshah S/O Zabta Khan, Patwari Candidate Tehsil Takht Bhai Appellant
V/S

Deputy Commissioner Mardan Respondent

APPEAL AGAINST THE ORDER OF RESPONDENT DATED 24.06.2015, WHEREBY APPELLANT IS APPOINTED AS A REV PATWARI IN REV SIDE MARDAN WHILE APPELLANT IS ENTITLED TO TRANSFER FROM PATWARI HALQA IRRIGATION DEPARTMENT MARDAN TO PATWARI HALQA REV. SIDE MARDAN BEING EMPLOYEE OF REV. PATWARI TO HIS PARENT DEPARTMENT ON AVAILABILITY OF VACANT POST AS A PATWARI

Respectfully Sheweth:

Preliminary Objections:

1. The Petitioner has got no cause of action.
2. The appeal is hopelessly time-barred.
3. The Petitioner has not come to court with clean hands.
4. This Court has got no jurisdiction.
- 5.

Parawise Comments:

Reply on Facts:

1. Pertains to record hence no comments may be offered.
2. As above.
3. Correct.
4. Pertains to record, hence no comments may be offered.
5. Pertains to record.
6. As above.
7. Irrelevant as this office has not questioned his character.
8. Incorrect, no such application or appeal has been filed.
9. Incorrect. As per rules, Patwaris are always appointed afresh from the Register of Inderaj-E-Nam and on Tehsil basis. There is no concept of transfer on revenue side from another department.

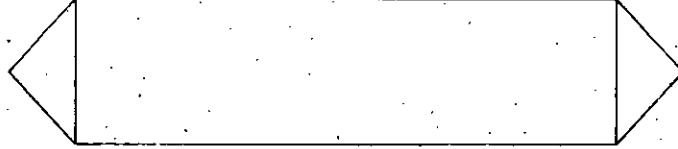
REPLY ON GROUNDS:

- A. Pertains to record, hence no comments may be offered.
- B. The appellant has been transferred from settlement operation not from revenue side. Settlement is just a project. He had left the project and joined the regular service in Irrigation department. Now on revenue side he can not be transferred, as per rules this office made appointments of Patwaris on revenue side from the Register of Inderaj-E-Nam on Tehsil basis and on their turn i.e. on seniority.
- C. As per rules this office appoints Patwaris from the Patwar Register of Inderaj-E-Nam, hence the appellant, being a candidate, was also offered appointment letter wherein his appointment was fresh and on initial stage. It is to the appellant either to accept the terms and conditions of the impugned order or not, which has not been accepted by him as he has not reported his arrival within the stipulated time mentioned in the appointment order.
- D. Incorrect. The office order referred to is in accordance with law and rules and there is no concept of transfer from other department to revenue side.

As there is no concept and rules to transfer Patwaris from another department to revenue, hence the appeal remains weightless, therefore it is requested to be dismissed in limine.

M. [Signature] 8/12/15

**Deputy Commissioner
Mardan (Respondent)**



2 منجانب
بنام محترم مردوں

حرم بادشاہ

14/4/2016

مورخہ
مقدمہ
دعوی
جرم

رسول

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام 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 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 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 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 ہوگا۔ 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۔

حرم بادشاہ

2016

14

14

المرقوم

العہدہ العہدہ العہدہ

کے لئے منظور ہے۔

Attested & Accepted

مقام

Handwritten signature and stamp.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Qamar Badshah S/O Zabta Khan, Patwari Candidte Tehsil Takht Bhai Appellant

V/S

1. Commissioner Mardan Division Mardan.
2. Deputy Commissioner Mardan Respondents

APPEAL U/S-4 OF KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER OF RESPONDENT NO.1 DATED 07.03.2016, VIDE WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT IS DISMISSED AND APPELLANT IS APPOINTED AS A REVENUE PATWARI IN REVENUE SIDE MARDAN AS AFRESH APPOINTED, WHILE APPELLANT IS APPOINTED AS RE-TRANSFER FROM PATWARI HALQA IRRIGATION DEPARTMENT MARDAN TO PATWARI HALQA REV: SIDE MARDAN BEING EMPLOYEE OF REV: PATWARI TO HIS PARENT DEPARTMENT ON AVAILABILITY OF VACANT POST AS A PATWARI AND ALTERNATIVE SERVICE OF THE APPELLANT ALREADY RENDERED IN SETTLEMENT OPERATION MARDAN AND IRRIGATION DEPARTMENT MAY PLEASE BE COUNTED FOR PENSIONARY BENEFITS AND PAY PROTECTION.

Joint Parawise Comments by Respondent No. 1 and Respondent No.2

Respectfully Sheweth:

Preliminary Objections:

1. That the appeal is hopelessly time-barred.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant has got no cause of action and locus standi.
4. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
5. That the appellant is estopped by his own conduct.
6. That the appeal is not maintainable in its present form.
7. That the Tribunal has no jurisdiction to entertain the appeal.

Parawise Comments:

Reply on Facts:

1. Pertains to record hence no comments may be offered.
2. As above.
3. Correct.
4. Pertains to record, hence no comments may be offered.
5. On winding up of the settlement project, its employees are terminable. As far as transfer of the appellant is concerned, he was transferred from settlement project (temporary service) to irrigation department, not from revenue side. So the contention of the appellant is misleading.
6. Related to record. However, he was not on the strength of revenue side as he was in project.
7. Pertains to his service in irrigation department.
8. Incorrect, no such application or appeal has not been filed; nor has any order been passed by the Commissioner Mardan Division Mardan.

9. Incorrect. As per rules, Patwaris are always appointed afresh from the Register of Inderaj-E-Nam, maintained for each sub Division. There is no concept of transfer on revenue side from another department; hence, the appellants was issued appointment order as per rules.

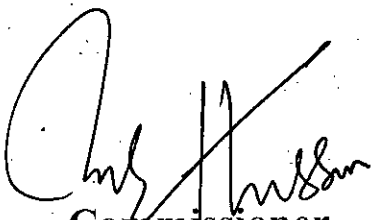
10. The appeal has been dismissed on merit.

11. Incorrect. The appeal was dismissed on merit. The appellants cannot be transferred from irrigation department to Revenue department as per rules. He has been appointed as afresh according to law.

REPLY ON GROUNDS:

- A. Pertains to record. However detailed reply has been given in Para No.9.
- B. Incorrect. The appellants has been transferred from settlement operation; not from revenue side. Settlement is just a project. He had left the project and joined the regular service in Irrigation department. Now on revenue side; he can not be transferred, as per rules this office made appointments of Patwaris on revenue side from the Register of Inderaj-E-Nam on Tehsil basis and on their turn i.e. on seniority.
- C. As per rules this office appoints Patwaris from the Patwar Register of Inderaj-E-Nam, hence the appellants, being a candidate, was also offered appointment letter, wherein his appointment was fresh. It was upto the appellants whether to accept the terms and conditions of the impugned order or otherwise, which he could not comply with as he failed in reporting his arrival within the stipulated time mentioned in the appointment order.
- D. Incorrect. The office order referred to is in accordance with law and rules and there is no concept of transfer from other department to revenue side.
- E. Incorrect. Each and every case has its own merit and the appellants is not entitled for any relief.

As there is no concept to transfer Patwaris from another department to revenue side, hence the appeal remains meritless; therefore it is requested to be dismissed with costs


Commissioner
 Mardan Division Mardan
 (Respondent #: 1)


Deputy Commissioner
 Mardan (Respondent #: 2)

Before the Service tribunal KPK Peshawar

In Appeal No. _____ 2016

Qamar BadshahAppellant

VERSUS

Commissioner etcRespondent

SUIT FOR RECOVERY

Respectfully Sheweth:

Replication on behalf of appellant

Preliminary Objections:-

All the preliminary objections are incorrect, misconceived, hence denied.

FACTS:-

1-4 Para No.1 to 4 of appeal of appellant have been admitted by respondents as correct.

5 that para No.5 of reply of respondents is incorrect, denied and that of appeal of appellant is correct.

6-7 that para No.6-7 are admitted by respondents as correct.

8 that para No.8 of reply of respondents is incorrect, denied and that of appeal of appellant is correct.

9 that pra no.9 of reply of respondents is incorrect, denied and thqt of appeal of appellant is correct. Moreover, when appellant is transferred from the post of patwari revenue side

Mardan o the post after completion of stipulated period of appellant, then appellant is entitled to re-transfer in his parent department or at least to continuous his service for pay protection and pensionary benefit as per law and judgments passed by superior courts.

- 10 that para No.10 is concerned with record.
11 that para No.11 of reply of respondents is incorrect. Denied and that of appeal of appellant is correct on the following grounds.

FACTS:-

That all Grounds mentioned in reply of respondents are incorrect, denied and those of appeal of appellant are correct.

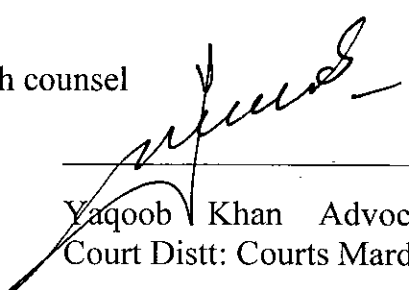
It is, therefore, humbly requested that appeal of appellant may please be accepted with cost.

Dated:-27/03/2017

Appellant

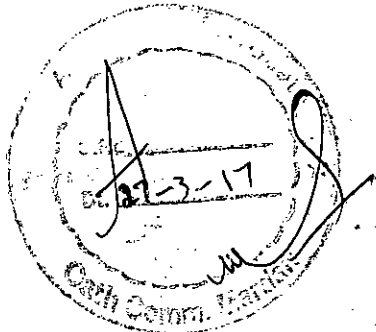

Qamar Badshah

Through counsel


Yaqoob Khan Advocate High
Court Distt: Courts Mardan

AFFIDAVIT

I, do hereby solemnly affirm and declare that the contents of the reply mentioned above are true and correct to the best of my knowledge and nothing has been concealed from this Hon'able court.



Deponent

