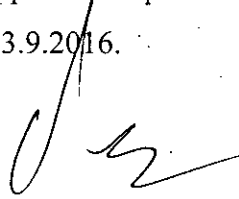


13.05.2016

Counsel for the appellant, Mr Mukhtiar Ali, Supdt. alongwith Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. Adjourned for arguments on 23.9.2016.

Member



Member



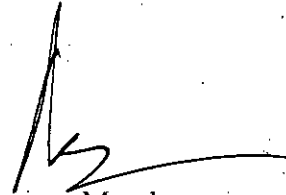
23.09.2016

Clerk to counsel for the appellant and Mr. Mukhtiar Ali, Supdt alongwith Addl: AG for respondents present. Arguments could not be heard due to general strike of the Bar. To come up for arguments on 18.01.2017.

Member



Member



18.01.2017

Counsel for appellant and Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Ziaullah, GP for respondents present. Learned counsel for appellant stated at the bar that the grievances of appellant have been redressed and he does not want to press this service appeal. He also requested for withdrawal of the instant appeal. The request is accepted. Signature of learned counsel for appellant is taken on side of order sheet as a token of proof and this appeal stands dismissed as withdrawn. File be consigned to the record room.


ANNOUNCED

18.01.2017

(AHMAD HASSAN)  
MEMBER



(ASHFAQUE TAJ)  
MEMBER



*I want to withdraw my Present Appeal*

12.08.2015


Counsel for the appellant and Mukhtiar Ali, Suptd  
alongwith Mr. Ziaulhah, GP for the respondents present.  
Arguments could not be heard due to Learned Member (Judicial)  
is on leave. To come up for arguments on 5-11-2015.

  
Member

05.11.2015

Counsel for the appellant and Assistant AG for official  
respondents No. 1 & 2 present. Learned counsel for the appellant  
requested for adjournment. Adjourned to 13-1-16 for  
arguments.

  
Member

  
Member

13.01.2016

Counsel for the appellant and Addl: A.G for official  
respondents present. Since the learned Member (Judicial) is on leave  
therefore, case is adjourned to 13.5.16 for the same.

  
Reader

16.10.2014

Counsel for the appellant, and Mr. Muhammad Jan, GP with Mr. Muhammad Imran, Reader for respondent No. 1 present and reply filed. Copy handed over to counsel for the appellant. Respondent No.2 already filed written reply. Fresh notice be issued to respondent No. 3 for submission of written reply by way of last chance on 09.12.2014.

  
MEMBER

9.12.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Amjad Imran, Reader and Mukhtiar Ali, Supdt for respondents No. 1 & 2 present. None is available on behalf of respondent No.3. The Tribunal is incomplete. To come up for the same on 11.2.2015.

  
READER

11.02.2015

Counsel for the appellant and Mr. Mir Qasim, Assistant Secretary for respondent No. 2 alongwith Addl: A.G for official respondents No. 2 present. None present for private respondent No. 3 despite service, hence proceeded against ex-parte. Rejoinder submitted. The case is assigned to D.B for final hearing for 12.08.2015.

  
Chairman

31.01.2014

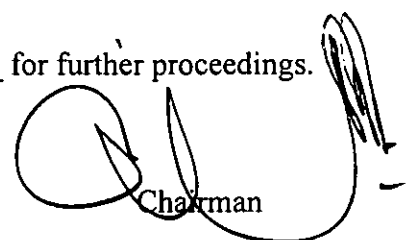
Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned transfer order dated 16.07.2013, the appellant filed departmental appeal on 21.07.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 25.11.2013. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 25.04.2014.

*Appellant's Deposition  
of Process Fee Security  
Rs. 18000 Bank Receipt  
attached with file*

  
Member

31.01.2014

This case be put before the Final Bench 11 for further proceedings.

  
Chairman

25.4.2014


Appellant in person, Mr. Muhammad Jan, GP with Muhammad Khan, Senior Clerk for respondent No.1, Mukhtiar Ali, Supdt. for respondent No.2 and private respondent No.3 in person present. Written reply of respondent No.2 received. Copy handed over to appellant. Respondents No. 1 and 3 requested for further time. To come up for written reply of respondents No. 1 and 3 on 26.6.2014.

MEMBER  


MEMBER  


26.6.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary for respondent No.2 present who already filed written reply. Fresh notices be issued to respondents No. 1 & 3. To come up for written reply of respondents No. 1 & 3 on 16.10.2014.

MEMBER  



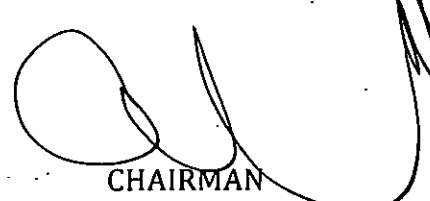
MEMBER  


Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1550/2013


| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate  |
|-------|---------------------------|---|
| 1     |                           | 3   |
| 1     | 27/11/2013                | <p>The appeal of Mr. Faizullah Khan resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><br/>REGISTRAR</p> |
| 2     | 3-12-2013                 | <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>31-1-2014</u>.</p> <p style="text-align: right;"><br/>CHAIRMAN</p>  |

The appeal of Mr. Faizullah Khan Head Clerk Revenue D.C office Bannu received today i.e. on 25.11.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Law under which appeal is filed is not mentioned.
- 2- Annexures of the appeal may be attested.
- 3- Memorandum of appeal may be got signed by the appellant.
- 4- Wakalat nama in favour of appellant is not attached with the appeal which may be placed on file.
- 5- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal

No. 1679 /S.T,

Dt. 26/11 /2013.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Saadullah Khan Marwat adv. Pesh.

g/w, The appeal is filed v/s 4 of the S-T Act, 1974. Rest of the objections are dealt with. Resubmitted w.  
by

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

S.A No. 1550 /2013

Faiz Ullah Khan

Versus

Commissioner & others

**I N D E X**

| S.# | Description of Documents          | Annex | Page |
|-----|-----------------------------------|-------|------|
| 1.  | Memo of Appeal                    |       | 1-3  |
| 2.  | Posting as NT, 17.04.2013         | "A"   | 4    |
| 3.  | Impugned Notification, 16.07.2013 | "B"   | 5-6  |
| 4.  | Representation, 21.07.2013        | "C"   | 7-8  |

*Faizullah Khan*

Appellant

Through

*Saadullah Khan Marwat*

Dated 20.11.2013

(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,  
Shoba Bazar, Peshawar.

Ph: 0300-5872676

1

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

S.A No. 1550 /2013

Faizullah Khan, Head Clerk Revenue,  
Deputy Commissioner Office, Bannu . . . . . Appellant

Versus

1. Commissioner, Bannu Division, Bannu.
2. ✓ Senior Member, Board of Revenue,  
Peshawar.
3. Inayat Ullah Khan, Naib Tehsildar,  
Kakki, District Bannu . . . . . Respondents

1580  
25/11/13

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL AGAINST OFFICE ORDER NO.  
1109-16/PO/ESTT/13, DATED 16.07.2013  
OF RESPONDENT NO. 1, WHEREBY  
APPELLANT WAS TRANSFERRED FROM  
THE POST OF NAIB TEHSILDAR KAKKI TO  
THE POST OF HEAD CLERK REVENUE FOR  
NO LEGAL REASON.**

25/11/13

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**Respectfully Sheweth:**

1. That appellant is serving the department for the last 32 years with devotion. In the year, 2010, he was posted as District Qanungo, Bannu in Deputy Commissioner Office, Bannu and after completion of more than 3 years service as such, he was transferred from the said office to the post of Naib Tehsildar, Kakki vide order dated 17.04.2013 by Commissioner, Bannu Division, Bannu. (Copy as annex "A")

27/11/13



2. That without any reason and justification, appellant, after 3 months, was transferred from the post of Naib Tehsildar to the office of Deputy Commissioner, Bannu as Head Clerk Revenue, Bannu and R.No.3, who was waiting for posting was posted as Naib Tehsildar, Kakki at the place of appellant vide order dated 16.07.2013 by the said authority. (Copy as annex "B")
3. That on 21.07.2013, appellant submitted representation before R.No.2 which is not decided so far. (Copy as annex "C")

Hence this appeal, inter alia, on the following grounds:-

**GROUND S :**

- a. That appellant was remained posted as District Qanungo in the office of Deputy Commissioner, Bannu and served for more than 3<sup>1/2</sup> years without any complaint.
- b. That on 17.04.2013, appellant was posted as Naib Tehsildar, Kakki, however, without any reason and justification, he was posted as Head Clerk Revenue in the office of Deputy Commissioner, Bannu and R.No.3, who was waiting for posting, was posted as Naib Tehsildar, Kakki vide order dated 16.07.2013.
- c. That appellant had served in the office of Deputy Commissioner, Bannu for more than 3<sup>1/2</sup> years and was liable to be transferred from the said post to another one after completion of normal tenure, so he was transferred on 17.04.2013 and was posted as Naib Tehsildar, Kakki.
- d. That R.No.3, who was waiting for posting shall have to be posted as Head Clerk, Revenue and not at the post


of appellant but due to some consideration, appellant was again posted in the office of Deputy Commissioner, Bannu.



- e. That in short span of time, appellant was transferred for no legal reason and posted as such by violating the law on the subject.
- f. That repeated transfers were highly condemned by the apex Court. The impugned transfer order is not in the interest of public service but in the interest of the said Naib Tehsildar, R.No.3.
- g. That the impugned order is based on favoritism and malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, the impugned office order dated 16.07.2013 of respondent No. 1 be set aside and order dated 17.04.2013 be restored with all service benefits.

**INTERIM RELIEF:**

By keeping in view the aforesaid facts and circumstances of the case, operation of the impugned order be suspended till the decision of the case.

Through  Appellant  
Saadullah Khan Marwat

  
Arbab Saif-ul-Kamal  
&   
Robina Naz,  
Advocates,

Dated: 20.11.2013



**A** **4**

**OFFICE OF  
THE COMMISSIONER  
BANNU DIVISION**

P.O. Box 12, Postal code 28100, Bannu

No. 554-75/PO/Estab/13.

Dated. 17 / April, 2013.

Phone 0928 - 9270044 & 9270220

Fax : 0928 - 9270041

e-mail : [commissioner-bannu@hotmail.com](mailto:commissioner-bannu@hotmail.com)

**ORDER :**

In pursuance of the directives of the Election Commission of Pakistan conveyed vide Establishment Department, Government of Khyber Pakhtunkhwa letter bearing No. SO(E-1)E7AD/9-48/2012, Dated 13.04.2013, following postings/ transfers amongst the Tehsildar and Naib Tehsildar of this Division is ordered as under:

| S. No. | Name                                   | From  | To   |
|--------|--|---|--|
| 1.     | Qaiser Khan Kundi<br>Tehsildar (BS-16) | Tehsildar Domail, District<br>Bannu             | Political Tehsildar FR<br>Bannu against the vacant<br>seat                   |
| 2.     | Tariq Saleem<br>Tehsildar (BS-16)      | WAPDA Recovery<br>Tehsildar, Bannu              | Tehsildar Domail, District<br>Bannu<br>(Vice S No. 1)                        |
| 3.     | Azizullah Jan<br>Tehsildar (BS-16)     | Political Tehsildar Dossali,<br>NWA             | Tehsildar Lakki  |
| 4.     | Sikander Khan<br>Naib Tehsildar        | Tehsildar (OPS)<br>Lakki                        | Naib Tehsildar Domail,<br>District Bannu                                     |
| 5.     | Rashid Khan<br>Naib Tehsildar          | Naib Tehsildar Domail,<br>District Bannu        | Naib Tehsildar, Irrigation<br>Department Bannu.<br>(against the vacant seat) |
| 6.     | Faizullah,<br>Naib Tehsildar           | District Kanungoo Bannu                         | Naib Tehsildar Kakki,<br>District Bannu<br>(against the vacant seat)         |
| 7.     | Muhammad Alam,<br>Naib Tehsildar       | Political Naib Tehsildar<br>FR Lakki            | HVC, Commissioner<br>Office Bannu<br>(against the vacant seat)               |
| 8.     | Gohar Ali,<br>Naib Tehsildar (BS-14)   | Naib Tehsildar Bannu                            | Naib Tehsildar, Serai<br>Naurang, District Lakki<br>Marwat                   |
| 9.     | Munir Khan<br>Naib Tehsildar           | Naib Tehsildar Tajori,<br>District Lakki Marwat | Political Naib Tehsildar<br>FR Lakki<br>(Vice S No. 7)                       |
| 10.    | Yasir Khan Kundi,<br>Naib Tehsildar    | Naib Tehsildar,<br>Serai Naurang.               | Naib Tehsildar <del>Bannu</del><br>(Vice C No. 9) <del>Tajori</del>          |
| 11.    | Haqdad Khan<br>Naib Tehsildar          | Naib Tehsildar, Lakki<br>Saddar                 | Naib Tehsildar, Bannu<br>(Vice C No. 8)                                      |

*Attested*  
*[Signature]*

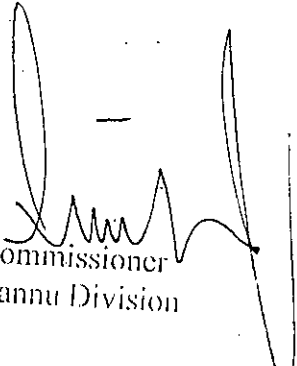
*[Signature]*  
Commissioner  
Bannu Division

Even No. & Date.

5

Copy to.

1. The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
2. The Additional Chief Secretary FATA, Peshawar.
3. The Deputy Commissioner Bannu.
4. The Deputy Commissioner, Lakki Marwat.
5. The Assistant Political Agent, FR Bannu.
6. The Assistant to Commissioner (Revenue), Bannu.
7. The Section Officer (E-1), Establishment Department, Peshawar.
8. District Comptroller of Accounts Bannu/Lakki Marwat
9. Officers/Officials Concerned.
10. Office File.

  
Commissioner  
Bannu Division

Received  
by



**THE COMMISSIONER  
BANNU DIVISION**

Dated. 16 / July, 2013.  
Phone 0928 - 9270044 & 9270220  
Fax 0928 - 9270041  
e-mail: [commissioner-bannu@hotmail.com](mailto:commissioner-bannu@hotmail.com)

**OFFICE ORDER:**

In pursuance of the Chief Secretary Khyber Pakhtunkhwa letter bearing No. PSO/CS/1-1/2013, Dated 11.07.2013, following postings/transfers amongst the Tehsildars/Naib Tehsildars of this Division are hereby ordered in the best interest of public service.

| S No. | Name of Tehsildar/<br>Naib Tehsildar | From                                       | To   |
|-------|--------------------------------------|--|--|
| 1.    | Mr. Muhammad Ayub<br>(BS-16)         | Tehsildar Bannu                            | Political Tehsildar Mirali, North Waziristan Agency (Relieving Muhammad Nawaz for further training/report to BOR, Peshawar). |
| 2.    | Mr. Abdul Ghaffar<br>(BS-16)         | Tehsildar, Serai Naurang,                  | Tehsildar Bannu (vice S No. 1)   |
| 3.    | Mr. Shalauwaz<br>(BS-16)             | Stamp Inspector, Commissioner Office Bannu | Tehsildar, Serai Naurang (vice S No. 2)  |
| 4.    | Mr. Mushtaq Ahmad<br>(BS-16)         | Waiting for posting                        | Stamp Inspector, Commissioner Office Bannu (vice S No. 3)  |
| 5.    | Mr. Fatchullah<br>(BS-16)            | On arrival from FATA Secretariat           | Political Tehsildar Dossali, NWA.  |
| 6.    | Mr. Inayatullah Khan<br>(BS-14)      | Waiting for posting                        | Naib Tehsildar Kakki, District Bannu.  |
| 7.    | Mr. Faizullah Khan.<br>(BS-14)       | Naib Tehsildar Kakki, District Bannu.      | IIC/R DC Office Bannu against vacant post.   |
| 8.    | Mr. Muhammad Iqbal<br>(BS-14)        | PT Garyum (OPS) NWA                        | PNT Razmak, NWA  |

216-19

**Note:** Political Tehsildar Dossali, will hold the additional charge of PT Garyum in addition to his own duties.

Sd/-  
Commissioner  
Bannu Division

Even No. & Date  
Copy to.

1. The Senior Member Board of Revenue Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Law & Order, FATA Secretariat, Peshawar.
3. The Deputy Commissioner Bannu.
4. The Deputy Commissioner Lakki Marwat.
5. The Political Agent, North Waziristan Agency.
6. The District Comptroller of Accounts Bannu/Lakki Marwat.
7. Official concerned.
8. Office file.

PS

*Handwritten signature*

*Handwritten signature*

Assistant to Commissioner

C  
1  
7

**BEFORE SENIOR MEMBER BOARD OF REVENUE,**  
**PESHAWAR**

D.A No. \_\_\_\_\_/2013

Faizullah Khan, Head Clerk Revenue,  
Deputy Commissioner Office, Bannu. .... Appellant

Versus

1. Commissioner, Bannu Division, Bannu.
2. Inayat Ullah Khan, Naib Tehsildar, Kakki  
District Bannu. .... Respondents

Subject: APPEAL AGAINST OFFICE ORDER NO. 1109-  
16/PO/ESAB/13, DATED 16.07.2013 OF R.NO.1 WHEREBY  
APPELLANT WAS TRANSFERRED FROM THE POST OF  
NAIB TEHSILDAR, KAKKI TO THE POST OF HEAD  
CLERK, REVENUE, DEPUTY COMMISSIONER OFFICE,  
BANNU FOR NO LEGAL REASON AND R.NO.2 WAS  
POSTED AT MY POST.

Respected Sir,

1. That appellant is serving the department for the last 32 years with devotion. In the year, 2010, appellant was posted as District Qanoongo, Bannu in Deputy Commissioner Office, Bannu and after completion of more than 3 years service as such, appellant was transferred from the said office to the post of Naib Tehsildar, Kakki vide order dated 17.04.2013 by Commissioner, Bannu Division, Bannu.
2. That without any reason and justification appellant, after 3 months, was transferred from the post of Naib Tehsildar to the office of Deputy Commissioner, Bannu as Head Clerk Revenue, Bannu and R.No.2, Inayat Ullah Khan who was waiting for posting was posted as Naib Tehsildar, Kakki at the place of appellant vide order dated 16.07.2013 by the said authority.

- a. That appellant remained posted as District Qanoongo in the office of Deputy Commissioner, Bannu and served for more than 3<sup>1/2</sup> years.
- b. That on 17.04.2013, appellant was posted as Naib Tehsildar, Kakki, however, without any reason and justification, I was posted as Head Clerk Revenue in the office of Deputy Commissioner, Bannu and R.No.2, Inayat Ullah who was waiting for posting, was posted as Naib Tehsildar, Kakki vide order dated 16.07.2013 at my post.
- c. That appellant had served in the office of Deputy Commissioner, Bannu for more than 3<sup>1/2</sup> years and was liable to be transferred from the said post to another one as per routine, so he was transferred on 17.04.2013 and was posted as Naib Tehsildar, Kakki after completion of normal tenure.
- d. That R.No.2, Inayat Ullah Khan, Naib Tehsildar who was waiting for posting should be posted as Head Clerk, Revenue and not at the post of appellant but due to some consideration, he was again posted in the office of Deputy Commissioner, Bannu.
- e. That in short span of time, appellant was transferred for no legal reason and posted as such by violating the law on the subject.
- f. That repeated transfers has highly condemned by the apex Court. The impugned transfer order is not in the interest of public service but in the interest of the said Naib Tehsildar.
- g. That the impugned order is based on favoritism and malafide.

It is, therefore, most humbly requested that the impugned order dated 16.07.2013 of the Commissioner, Bannu Division, Bannu be set aside and order dated 17.04.2013 be restored with all service benefits.

Dated 21.07.2013.

Appellant

*sd/-*  
Faizullah Khan

*sd/-*  
13





BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeals No: 1550 of 2013

Faizullah Khan ..... Appellant

VERSUS

Senior Member, Board of Revenue, ..... Respondent

COMMENTS ON BEHALF OF RESPONDENTS NO.2

PRELIMINARY OBJECTIONS.

1. The appeal is badly time barred.
2. The appellant has no locus standi to bring the present Service Appeal.
3. The appellant is estopped by his own conduct to bring the present Service Appeal.
4. The appellant has no grounds in support of his Appeal and no cause of action.
5. That the appeal is not maintainable and bad for mis-joinder & non-joinder of parties.

RESPECTFULLY SHEWETH

ON FACTS

1. Correct to the extent that the appellant was transferred from the post of District Kanungo Bannu and posted as Naib Tehsildar.
2. Posting/ transfer is part of service and can any time be made by the Competent Authority.
3. Incorrect. Appeal of the appellant has been rejected on 05/12/2013 (Annexure-A).


ON GROUNDS.

- a. No comments. Pertains to record.
- b. As in Para 2 of the facts.
- c. As in preceding Para.
- d. Incorrect. Posting/ transfer order was made to improve public service/ public interest.
- e. Incorrect. No violation was made.
- f. Each and every case/ appeal has its own merits and demerits.
- g. Incorrect. No discrimination was made.

In view of the above, the service appeal has no merits and may be dismissed with costs.

INTERIM RELIEF:

The pray for granting of interim relief, having no legal and lawful weightage at all, may kindly be dismissed.

  
Respondent No.2

Co. Bannu Division  
No. 25/186-1/91  
Dated 12.9.2013

... ..  
... ..

189  
...

In response to this office letter at page 89/C, the Commissioner, Bannu Division has forwarded parawise comments with the request to dismissed the instant appeal as his transfer was made in light of the Provincial Government instructions regarding weeding out of ill reputed elements (Flag-A).

It is submitted that the appellant Mr. Faizullah Khan was transferred and posted as HVC, Bannu from the post of Naib Tehsildar Kaki by the Commissioner, ~~Kohat~~ <sup>Bannu</sup> Division against which the appellant filed a departmental appeal vide page-87/C, on which this office sought comments from Commissioner, ~~Kohat~~ <sup>Bannu</sup> vide page-89/C. Now the Commissioner, ~~Kohat~~ <sup>Bannu</sup> submitted his comments stating therein that the official was transferred in light of the Provincial Government instruction regarding weeding out of ill reputed element and requested for dismissal of the appeal.

PS/SMER  
By No. 110/13  
Date  
Govt. of Punjab Rawalpindi

If officers agree we may file the appeal/representation of the application (Page-87-C) in light of the comments communicated by the Commissioner, Bannu Division or otherwise.

Submitted for perusal and appropriate order please.

S; Estt.  
A.S. (Estt)

(for Bannu)

Estt: V

24/9/13

24/9/13 23-8

Call petitioner

Replies.

26-9-2013

... .. for

Next date 8-11-13 Next date 5-12-13

14/10/13  
26-9-13  
10/11

## BOARD OF REVENUE

92

The official has failed to turn up again. Comments of Commissioner Bannu perused, which indicate that official does not carry a good reputation and was transferred in line with Provincial Government instructions. I see no weight in the representation which is filed.

Mr. Masood  
Secy R & D.  
5-12-2013.