


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

2607/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18/12/2023	<p>The appeal of Mr. Abdullah Shah presented today by Mr. Fazal Shah Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi is given to the counsel for the appellant.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 2607/2023

Abdullah Shah. Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa & others. Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal with affidavit		1-5
2.	Application for suspension of impugned Order with Affidavit		6-7
3.	Copy of Domicile Certificate, Certificate of Patwar Exam & Office Order dated 21.10.2009	A & B	8-13
4.	Copies of documents & Application dated 31.05.2022	C & D	14-20
5.	Copy of NOC, Relieving Order dt. 14.09.2022, Order dt. 14.09.2022, Office Order dt. 15.09.2022, Arrival Report & Office Order dated 01.12.2022	E & F	21-27
6.	Copy of Comments & Judgment dated 05.09.2023	G & H	28-39
7.	Copy of Office Order dated 13.09.2023	I	40
8.	Copy of Departmental Appeal dated 15.09.2023	J	41-43
9.	Vakalat Nama		44

Dated: 19.12.2023

Appellant

Through

Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

OFFICE:-

Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841

Email:-

fazalshahmohmand@gmail.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 2607/2023

Abdullah Shah, Patwari, District Hangu. Appellant

V E R S U S

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. Assistant Secretary Establishment, Board of Revenue, Peshawar.
4. Deputy Commissioner, Hangu.
5. Deputy Commissioner, Peshawar.
6. Commissioner, Peshawar Division, Peshawar. . . . Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE OFFICE ORDER DATED 13.09.2023 WHEREBY THE APPELLANT HAS BEEN RELIEVED FROM THE POST OF PATWARI IN DISTRICT PESHAWAR AND REVERTED BACK TO THE POST OF PATWARI IN DISTRICT HANGU AND AGAINST WHICH REPRESENTATION DATED 15.09.2023 OF THE APPELLANT HAS NOT BEEN RESPONDED SO FOR, DESPITE THE LAPSE OF STATUTORY PERIOD OF NINETY DAYS.

PRAYER:-

On acceptance of this appeal the impugned Office Order dated 13.09.2023, may kindly be set aside and the appellant may kindly be allowed to serve on the post of Patwari at District Peshawar.

Respectfully Submitted:-

1. That the appellant is the permanent resident of District Peshawar who after admission in Patwar Training School appeared in examination and passed the Patwar examination in the year 2009 and was appointed as Patwari by respondent No 4 in District Hangu vide Office Order dated 21.10.2009 and since appointment the appellant performed his duties with honesty and full devotion and to the entire satisfaction of his high ups. **(Copy of Domicile Certificate, Certificate of Patwar Exam & Office Order dated 21.10.2009 is enclosed as Annexure A & B).**
2. That in the year 2019-2020 some Patwari's belonging from other Districts and appointed in District Hangu, upon application and after getting were transferred to the District of their Domicile and the appellant upon coming to know of vacant posts of Patwari's at District Peshawar, also accordingly submitted application for the purpose on 31.05.2022. **(Copies of documents & Application dated 31.05.2022 is enclosed as Annexure C & D).**
3. That accordingly NOC was granted by the competent authority, the appellant was relieved from District Hangu vide Office Order dated 14.09.2022 and the services of the appellant were placed at the disposal of Deputy Commissioner, Peshawar vide Order dated 14.09.2022 and the appellant was adjusted as Patwari against the vacant post vide Office Order dated 15.09.2022, and after reporting arrival, the appellant was posted to Patwar Halqa, Mian Gujar by respondent No.5 vide Office Order dated 01.12.2022. **(Copy of NOC, Relieving Order dated 14.09.2022, Order dated 14.09.2022, Office Order dated 15.09.2022, Arrival Report & Office Order dated 01.12.2022 is enclosed as Annexure E & F).**

4. That against the posting and transfer of the appellant, some Patwar Candidates, approached the honorable Peshawar High Court, Peshawar by filing Writ Petition No 4903-P/2022 wherein comments were filed by the respondents and finally after hearing the parties, the transfer Order of the appellant was set aside and the appellant was ordered to be reverted to his original post at District Hangu vide Judgment & Order dated 05.09.2023. **(Copy of Comments & Judgment dated 05.09.2023 is enclosed as Annexure G & H).**
5. That accordingly the appellant was reverted against his original post of Patwari at District Hangu by respondent No.5 vide Office Order dated 13.09.2023. **(Copy of Office Order dated 13.09.2023 is enclosed as Annexure I).**
6. That the appellant preferred Departmental appeal on 15.09.2023 which has not been responded so far despite the lapse of more than the statutory period of ninety days. **(Copy of Departmental Appeal dated 15.09.2023 is enclosed as Annexure J).**
7. That the impugned Office Order dated 13.09.2023 is against the law, facts and principles of justice on grounds, inter-alia, as follows:-

G R O U N D S :-

- A. That the impugned Office Order dated 13.09.2023 is illegal, unlawful, without lawful authority and void ab-initio.
- B. That the appellant has not treated in accordance with law and rules on the subject which being his fundamental right as per Article 4, 10 and 25 of the Constitution and law of the land.

- C. That the impugned Order is void being issued by an authority not vested with such powers, as the appellant was transferred to District Peshawar by respondents No 2 and 3 while the impugned order has been passed by respondent No 5, on this score alone the impugned Order is liable to be set at naught.
- D. That Inter-District Transfer is very much covered by the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 law and such employees have only to suffer in terms of seniority, thus too the impugned order is liable to be set aside.
- E. That the appellant has been discriminated, as number of such transfers have been allowed while the appellant is discriminated in violation of Constitution and law of the land.
- F. That it is worth to mention that the writ petitioners were not even aggrieved, as they were most junior patwar candidates and since 2016, appointment to the post of Patwari is not made according to seniority list of patwar candidates rather the said posts are duly advertised and filled in the prescribed manner through test and interview.
- G. That the appellant had served in District Peshawar for sufficient time and as such valuable rights had accrued in his favor.
- H. That the impugned Order is in violation of law on the subject, as even still vacant posts of Patwari's at District Peshawar are available, hence too the impugned Order is liable to be struck down.
- I. That the impugned Notification smacks malafide, as the appellant is treated in manner not known to law.

- J. That the appellant is victimized for no omission or commission on his part.
- K. That the appellant seeks the permission of this Hon'ble Tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:- 18-12-2023

Through

Appellant

Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

Baseer Ahmad Shah

&

Ibad ur Rehman Khalil
Advocates Peshawar

AFFIDAVIT

I, Abdullah Shah, Patwari, District Hangu, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In Re:

Service Appeal No _____/2023

Abdullah Shah. Applicant/Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa & others. Respondents

APPLICATION FOR THE SUSPENSION OF
IMPUGNED OFFICE ORDER DATED
13.09.2023, TILL THE FINAL DISPOSAL OF
TITLED APPEAL.

Respectfully Submitted:-

1. That the above titled appeal is being filed today, in which no date of hearing has been fixed so far.
2. That the facts and grounds of appeal may kindly be considered as integral part of this application.
3. That the applicant/appellant has got good prima facie case and is sanguine of its success.
4. That the balance of convenience also lies in favor of the applicant/appellant.
5. That the impugned Order is void and if the impugned order is not suspended the applicant/appellant will suffer irreparable loss.

It is therefore prayed that on acceptance of this application, the impugned Office order dated 13-09-2023, may kindly be suspended till the final disposal of the titled appeal.

Dated:- 18-12-2023

Through

Applicant/Appellant

Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

Baseer Ahmad Shah

&

Ibad ur Rehman Khalil
Advocates Peshawar

AFFIDAVIT

I, Abdullah Shah, Patwari, District Hangu, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

DEPONENT

8

A

-12

Reply/2



DOMICILE CERTIFICATE

I Declare that I was born of parents who are permanently domiciled in the North West Frontier Province, having been born in this Province.

I was born at Village/Mohallah Hazar Khawari
Moodagi Tehsil Peshawar District Peshawar
A. Shah

SIGNATURE OF THE APPLICANT

Date 28-6-2001

28/6/01
12/7/01

Pursuance to the declaration dated 28-6-2001 filed by Mr. Abdullah Shah SD of Rahma Shah Tehsil Peshawar District Peshawar

I have satisfied myself from my personal knowledge/enquiry through that the said parents who are permanent residents of North West Frontier Province having been born within the District of

This day of 20.....



MAGISTRATE 1ST CLASS

Countersigned

DEPUTY COMMISSIONER

AMAM
ASST. COMMISSIONER
OF DISTRICT
Peshawar

(9)

(12-A)

لقد تم كجاء في - كرسى عبد الله شاه
والد (محمد) ملك شاه هزار فوانه كا
مطابق ادبياتى با شذو - نيزان
كه زياد اولاد كا نكند بى اين ظاهره -

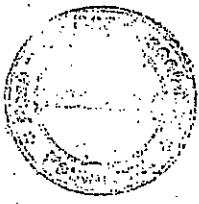
محمد شير محمد
مفعل

Countersigned the above
verification.

Abdur-Rehman Khan
Advocate
(Signature)

Recommended on the
Verdict of the
Advocate
(Signature)

(Signature)
11-7-2001



(Signature)

REGISTERED

(10)

18

Replied

OFFICE OF THE
DIRECTOR LAND RECORDS AND SURVEY
GENERAL OF PESHAWAR DIVISION

No. _____
Date: 19/08/2008

To

The Settlement Officer,
Chitral.

Subject: ADMISSION IN PATWAR TRAINING SCHOOL

Memo:

In continuation of this office memo: NO. 6787/LR-I/P.T, dated, 28/07/2008 and 6931/LR-I/P.Training, dated, 09/08/2008, the following of the District noted their names are directed to report to Settlement Officer, Chitral alongwith original documents for undergoing Patwar Training subject to the verification of documents.

S.No.	Name & Parantage	District	Date of birth	Qualification
1.	Zia-ur-Rehman s/o Atta-ur-Rehman	Manshra		FSc
2	Shakeel Ahmad s/o Ghulam Sarwar	Manshra		FSc
3	S.Zaheer Shah s/o S.Mubarik Shah	Manshra	10-02-10990	FA
4	Muhammad Zain-ulbadin Khan	Lakki Marwat	25-08-1989	FA
5	Imran Ullah s/o Asmatullah Khan.	Lakki Marwat		F.A
6	Zaminullah s/o Zalay Mir Khan.	Bannu	25-04-1987	FA
7	Naib Rehman s/o Ghani-ur- Rehman	Bannu	29-01-1988	FA
8	Muhammad Israr Khan s/o Zar Muhammad Khan	Bannu	17-04-1983	FA
9	Fawad Khan s/o Mir Sadat Khan	Bannu	12-02-1989	FA
10	Bilal Khan s/o Hamidullah	Nowshera	20-04-1988	FA
11	Shabeer Hussain s/o Sher Hussain	Peshawar	15-12-1982	FA
12	Muhammad Imran s/o Muhammad Rehman	Nowshera	02-12-1985	FA
13	Farooq Shah s/o Fazli Dayan	Charsadda	02-02-1979	FA
14	Fawad Khan s/o Muhammad Iqbal	Peshawar		FA
15	Bashirullah s/o Muhammad Aslam Khan	Peshawar	04-04-1987	FA
16	Muhammad Ibrar Khan s/o Nisar Ali Khan	Nowshera	03-05-1987	FA
17	Muhammad Jawad s/o Ibadullah.	Peshawar		FA
18	Amanullah s/o Abdur Rasheed		03-04-1989	FA
19	Mushtaq s/o Zar Wali	Peshawar	28-09-1987	FA
20	Touqeer Ahmad Khan s/o Riaz Khan	Abbottabad	16-1-1982	FA
21	Muhammad Shahid s/o Abdul Sattar	Kohat	06-02-1984	FA
22	Muhammad Sajid s/o Ayub Khan	Kohat	24-09-1982	FA
23	Zufiqar Ali s/o Mubarik Shah	Kohat		FA
24	Hafizur-Rehman s/o Habibur Rehman.	Charsadda	05-03-1986	FA
25	Qaiser Melmood s/o Muhammad Suleman	Abbottabad	27-07-1982	FA
26	Yasir Shehzad s/o Sheryar	Charsadda		FA
27	Naveed Akhtar s/o Musaud Akhtar	Nowshera		FA
28	Saqib Hussain Mubarik Rehman	Manshra		FA

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29	Umair Ali s/o Abdur Rehman	Mansehra		FA
30	Zahid Ayub s/o Muhammad Ayub	Mansehra		FA
31	Imran s/o Muntaz	Mansehra		FA
32	Syed Naeem Shah s/o Muhammad Hussain	Mansehra		FA
33	Mubashar Alam s/o Khursheed Alam	Haripur	12-10-1988	FA
34	Umar Shehzad s/o Abdul Karim	Haripur	16-01-1988	FA
35	Abdul Wajid s/o Aurang Zeb	Haripur	27-03-1982	FA
36	Abdullah Shah s/o Rehmat Shah	Peshawar	12-03-1984	FA

DIRECTOR LAND RECORDS,
N.W.F.P.

Endst: No. 7047-SL /LR-I/P.Training

Copy forwarded to the:-

District Officers (R & E)/Collectors, Peshawar, Mansehra, Abbottabad,
Bannu, Lakki Marwat, Charsadda, Nowshera and Haripur


DIRECTOR LAND RECORDS,
N.W.F.P.

ATTESTED

12

ڈائریکٹوریٹ آف لینڈ ریکارڈز و صوبہ سرحد

سرٹیفیکیٹ امتحان پٹوار

تصدیق کی جاتی ہے کہ مسی عمر السید صاحب ولد رطبت پٹوار

ساکن نے زیر رول نمبر 2022

امتحان پٹوار جو بمقام نے ستمبر 2009 میں شامل ہوا اس کی تاریخ پیدائش بمطابق سکول
شقیٹ ہے جس کا مضمون درتجہ ذیل ہے۔

تفصیل مضامین

نمبر شمار	مضامین	کل نمبر	پاس	نیل	کیفیت
۱	حساب	۴۰	۲۰		
۲	ساحت	۴۰	۲۹		
۳	زبانی امتحان ساحت	۴۰	۳۵		
۴	دستور العمل کاغذات اراضی وغیرہ	۸۰	۶۰		
۵	دستور العمل کاغذات اراضی وغیرہ زبانی امتحان	۴۰	۳۵		
۶	انقول کاغذات	۱۰۰	۵۳		
۷	کام روئے پیمائش	۱۰۰	۵۰		
۸	المضمون نویسی و ترمیمی	۵۰	۲۶		
۹	تالون شریعت عشر	۴۰	۳۰		

دستخط ڈائریکٹر لینڈ ریکارڈز و صوبہ سرحد

SUPERINTENDENT
LAND RECORDS, NWFP
PESHAWAR

It is certified that Mr. S/O
has passed patwar School Examination from Patwar Training School at
under Roll No

Superintendent
Land Records NWFP

REGISTERED

B

13

4

Annexure - A

OFFICE OF THE
DISTRICT OFFICER,
REVENUE & ESTATE HANGU

No. 1878 /DO(R&E)
Date, 21/10/2009

OFFICE ORDER

Reference letter No. 2704/Admn/V-II dated 19/10/09.

Mr. Abdullahi Shah s/o Rehmat Shah of District Peshawar is appointed Asst. Secy.
as Patwari purely on temporary basis.

The temporary appointment will not confer any right to seniority or
exemption from requisite qualification necessary for appointment as Patwari under rules.

Superintendent (Lit-
Board of Revenue
Khyber Pakhtunkhwa)

Asst. Secy.
District Officer
Revenue & Estate
Hangu

Even No. & Date 1878-37/10/09 21-10-2009
Copy forwarder to
1) Secretary Board of Revenue Peshawar.
2) District Coordination Officer Hangu
3) Official concerned for compliance.

[Signature]
SUPERINTENDENT
D/O DEPUTY COMMISSIONER
HANGU

ASST
[Signature]
22/10/09

District Officer
Revenue & Estate
Hangu

BETTER COPY

(18)

OFFICE OF THE
DISTRICT OFFICER
REVENUE & ESTATE HANGU

No.1878/DO(R&E)
Date. 21/10/2009

OFFICE ORDER

Reference letter No.2704/Admn/V-II dated 19/10/09.

Mr. Abdullah Shah s/o Rehmat Shah of District Peshawar is appointed as Patwari purely on temporary basis.

The temporary appointment will not confer any right to seniority or exemption from requisite qualification necessary for appointment as Patwari under rules.

Sd/-
District Officer
Revenue & Estate
Hangu

Even No. & Date 1279-81/1000/ 21-10-2009

Copy forwarded to:

- 1) Secretary Board of Revenue Peshawar.
- 2) District Coordination Officer Hangu.
- 3) Official concerned for compliance.

/
District Officer
Revenue & Estate
Hangu



31 Reply/19
Deputy Commissioner Hangu
Tel: 0925 / 621175 - 621466 - 622366 - 623968
Fax: 0925 / 620050, Email: dc.hangu@gmail.com
No. 1743 / 129 / Estab/DC(H)
Dated: 09/04/2019

NO OBJECTION CERTIFICATE

Mr. Hazrat Ali Jan s/o Ghaffar Ali is serving as Patwari (BPS-09) in the office of the undersigned since 04.11.2010. This office has no objection if the said official applies for the post of Patwari (BPS-09) in his parent District Charsadda

S. Iqbal
Deputy Commissioner
Hangu At

Endst: No. & Even dated

Copy to:

1. The Deputy Commissioner Charsadda,
2. The Assistant Commissioner, Hangu.
3. PS to Commissioner Kohat Division, Kohat.
4. Mr. Hazrat Ali Jan, Patwari (BPS-09) w/r to his application dated 08.04.2019.

S. Iqbal
Deputy Commissioner
Hangu At

~~ATTESTED~~

Muhammad Ali Ghani
Speaker
Pakhtunkhwa Assembly

حکومت جناب سینیٹر محمد پورڈا آف ریونیو خیرپور محتوی السبقہ
29
درخواست نمبر 29 - درخواست نمبر سے جاری شدہ میں ٹرانسفر کیے جانے

Reply

17/11/19

جناب عالی

سائل حسب ذیل عرض رساں ہے
1- یہ کہ سائل ضلع لٹا و کما مستقل ریاستی باشندہ ہے اور ضلع چارسدہ کا
یہ دو مسائل ہیں لٹریٹ -

2- یہ کہ سائل نے سال 2008ء میں باقاعدہ طور پر پٹوار ٹرنٹیٹ حاصل کر کے پٹوار
امتیاز نمبر بول نمبر 282 پاس کیا ہے لیکن ٹرنٹیٹ امتحان پٹوار لف درخواست پڑا ہے۔
3- یہ کہ سائل نے سال 2009ء میں بطور پٹواری تعینات کیے گئے آگے جناب کا افسر

آگے عددر درخواست دی تھی اور اس وقت تک جناب سینیٹر محمد پورڈا آف ریونیو صاحبہ نے
لٹریٹ نمبر Admin. VII/27154 مورخہ 20-10-19 کو ضلع منگلو میں سائل کا بطور پٹواری تعینات
کا نوٹیفکیشن جاری فرمایا۔ حال کے بعد جناب ڈسٹرکٹ آفیسر ریونیو پٹوار لف درخواست پڑا ہے
سے آگے آرڈر بھی جاری ہو گیا۔ (قرولٹ پر دو لٹریٹ درخواستیں پڑا ہے)

4- یہ کہ سائل نے پٹواری ایسی خدمات سر انجام دینا شروع کر دیے ہیں جن
کا طرز عمل پٹواری ایسی خدمات سر انجام دینا شروع کر دیے ہیں جن
اور یہ عرض کر رہا ہے کہ سائل نے ضلع منگلو میں تعینات ہے۔ حالانکہ جس وقت کہ سائل
بھی ضلع لٹا و کما مستقل ریاستی ہے بلکہ میرا اہلوان نام پٹوار

سرکاری گھنٹی ہے۔ لیکن اس کے باوجود سائل نے 10 سال قبل کما فی مجلس
بچوں سے دوری بھی برائت کرنا ہے۔
5- یہ کہ اب ضلع منگلو میں پٹواریوں کی تقریباً 24 عدد آسامیاں خالی ہیں اور میرا نام اس وقت سب سے
لست میں 8 ویں نمبر پر ہے۔ جسکی وجہ سے سائل ضلع چارسدہ بطور پٹواری ایسی خدمات سر
کرنے کا چاہتا ہے۔

لیکن آگے جناب سے ایسی سہولت نہ ہو کہ میرا یہ سائل کی ما سالہ سرورس
اور تالیف اور چھپواریوں کے ذریعے سے سائل کو ضلع منگلو سے ٹرانسفر کیا جائے
میں کسی بھی خالی آسامی پر بطور پٹواری تعینات کرنا کا حکم صادر فرما کر منظور فرمایا
سائل کا حقیقی دعا گو رہے گا۔

5/12/19
حکومت علی جان

Signature

17/11/19

گورنمنٹ جناب سنیئر سیکریٹری بورڈ آف ریونیو (S.M.B.R) حیدرآباد

جناب عالی

گزارش ہے کہ سائل صدمہ 41/11 کی لبر پوری قطعہ 17/101-25708/16-3
میں تفتیش کی جا رہی ہے اور اس کے چوتھے نمبر درجہ امتحان پاس ہے اور قطعہ
چار سترہ سے تعلق رکھتا ہے اور حال میں یہ قطعہ حیدر
آباد میں موجود ہے اور اس پر کوئی نمبر درجہ
سینئر آرٹسٹ مانی جا رہا ہے کہ سائل کا (D.P.C) نمبر
بطور نمبر درجہ قطعہ حیدرآباد میں تفتیش کی جا رہی
ہے سائل ساری عمر دعاؤں سے مبرا

انعامت

17/101-25708/16-3

حیدرآباد میں جا پوری قطعہ 17/101-25708/16-3

MBR III
To Process
AS/Estab

10333 9334438
Mushiq Ahmad Ghani
Speaker
Muztar Mahmood
Member
Muztar Mahmood
Member

AS/Estab
28/11

ATTESTED

S.M.B.R

28/11



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.

Peshawar dated the 11 /02/2020.

ORDER

No. Estt:VII/Posting/ Transfer/Hangu/_____ The Competent Authority is pleased to place the services of Mr. Hazrat Ali Jan Patwari, Hangu District at the disposal of Deputy Commissioner Charsadda being domicile holder of Charsadda in light of NOC issued vide letter No. 1243/129/Estab/DC(H) dated 09.04.2019 with immediate effect in the public interest subject to the following conditions:-


1. His name will be placed at the bottom of seniority list of Patwaris of Charsadda District.
2. He will not claim his previous services rendered in District Hangu.
3. His adjustment in District Charsadda will be subject to availability of post of Patwari.

By order of
Senior Member

No. Estt:VII/Posting/ Transfer/Hangu/ 5406-10

Copy forwarded to the:-

1. Deputy Commissioner Hangu with reference to his NOC letter No. 1243/129/Estab/DC(H) dated 09.04.2019.
2. Deputy Commissioner Charsadda.
3. District Accounts Officer Hangu & Charsadda.
4. Official concerned.
5. Office Order File.


Assistant Secretary (Estt.)

ATTESTED

18

22

Reply 17

GOVERNMENT OF NWFP
REVENUE DEPARTMENT

No. 14999 / Admn: VI
Peshawar dated the 30/06/2005

To

The District Coordination Officer,
Lower Dir.


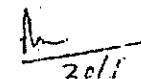
SUBJECT: MEETING OF DEPARTMENTAL PROMOTION/ SELECTIVE
COMMITTEE

1/1532

Reference your letter No. 5942/DCO/Estt/(R&E) Dat
25-06-2005.

If suitable candidates belonging to your district are available to
appointed as Patwaris they may be considered in DPC meeting to be conven
and chaired by your good-self, with District Officer (Revenue & Estate
Collector and representative of Board of Revenue, NWFP, as members.

However, if such candidates are not available, then recruitme
can be made from candidates of other districts who are possessing the requir
qualification of education, training etc and are within the age limit. Befo
making such selection all codal/ legal formalities, may kindly be observed.


Secretary,
Board of Revenue, NWFP.

20/6

CS CamScanner

~~RECEIVED~~

Ka-11/10

21

خدمت جناب ریڈیٹنگ ماسٹر جناب ضلع منٹو

درخواست نمبر: عنوان NOC برائے سادہ

جناب عالی!

مودبانہ گزارش ہے کہ سائل ضلع منٹو میں پٹواری کے پوسٹ کا کام کر رہا ہے۔

اور بحیثیت TRA حروف سمر انجام دے رہا ہے۔

یہ کہ سائل کا تعلق بنیادی طور پر ضلع پشاور سے ہے۔ اور ضلع پشاور کا ڈوس سائل پھولڈ ہے۔

یہ کہ سائل کو ڈیپٹی پٹر آئے جانے کیلئے روزانہ لٹی گاڑیاں تبدیل کرنا پڑتی ہے

اس لیے استدعا کی جاتی ہے کہ سائل کو ضلع پشاور بناد کے لکھے NOC جاری

کرنے میں توجہ فرمائیے

محین تراز شش ماہی

فقط مزیدہ آداب

العارض

مورخ 2022/05/31

آلیا علی محمد اللہ شاہ پٹواری / TRA ضلع منٹو

Handwritten signature



Deputy Commissioner Hangu

Tel: (0925) 621175 - 623968 - 622138

Fax: 0925-620050, Email: dchangu@gmail.com

No. 2270 /Estab/DC (H)

Dated: 09.06.2022

20

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

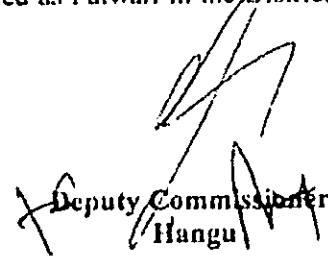
Subject: **NO OBJECTION CERTIFICATE**

Sir!

Kindly refer to the application dated 31.05.2022 (attached in original) submitted by Mr. Abdullah Shah Patwari, requesting therein for NOC.

The official is serving in this office / district as Patwari / TRA and hails from District Peshawar having valid domicile of it.

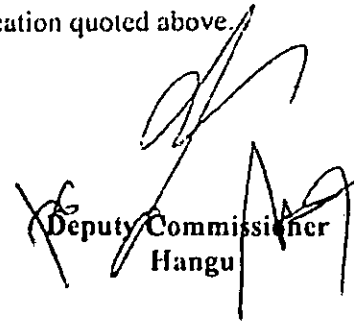
This office has no objection if he is transferred / adjusted as Patwari in the District of his domicile i.e District Peshawar.


Deputy Commissioner
Hangu

Endst: No & Date Even

Copy forwarded to the:-

Mr. Abdullah Shah, Patwari/TRA Thall w/r to his application quoted above.


Deputy Commissioner
Hangu



21

E

THE DEPUTY COMMISSIONER, PESHAWAR
Tel: 091-9212301 U2, Fax: 091-9212303, DC Peshawar

No. 1111/2022 /DK

Dated: 07 Sept-2022

To

The Assistant Secretary (Estt),
Revenue & Estate Department,
Government of Khyber Pakhtunkhwa, Peshawar

Subject: REQUEST FOR TRANSFER FROM DISTRICT HANGU TO DISTRICT PESHAWAR.

Reference your letter No. Estt-VIUPosting/Transfer/Hangu/2119/111 dated
05.03.2022 on the subject cited above

This office has 02 posts vacant for Patwari (BP-09) and has no objection if
appropriate orders are issued by your good office

ADDL. DEPUTY COMMISSIONER
PESHAWAR

Endst. No. and Date Even:

Copy forwarded to the PS to the Deputy Commissioner Peshawar

ADDL. DEPUTY COMMISSIONER
PESHAWAR

23



Deputy Commissioner Hangu
Tel: 0999/621115, 621866-622166, 623968
Fax: 0999/620020, Email: dc.hangu@punjab.gov.pk
In: 417 JAFIC (II)
Issued: 14. 1. 22 - 12022

BULKING ORDER


In pursuance of the Order No. F-30.VIII/Post/Transfer/Hangu/24214-20, dated 14-09-2022 issued by Assistant Secretary (East), Board of Revenue & Estate Department, Peshawar, Mr. Abdulrah Khan, Patwarri District Hangu is hereby relieved today on 14-09-2022 (AN) from the post of Patwarri office of Deputy Commissioner, Hangu with immediate effect.


Deputy Commissioner
Hangu

Even No. & Date:

Copy to:

- i. Commissioner, Kohat Division, Kohat.
- ii. Deputy Commissioner, Peshawar.
- iii. Additional Deputy Commissioner (General), Hangu.
- iv. Assistant Commissioner, Hangu.
- v. Assistant Secretary (East), Board of Revenue & Estate Department, Peshawar w/r to above.
- vi. Additional Assistant Commissioner (Revenue), Hangu.
- vii. Additional Assistant Commissioner, Thall.
- viii. District Accounts Officer, Peshawar & Hangu.
- ix. Accounts Officer, DC office for necessary action.
- x. Superintendent, DC office, Hangu.
- xi. Tehsilدار, Hangu & Thall.
- xii. Naib Tehsilدار, Hangu & Donba


Deputy Commissioner
Hangu



Deputy Commissioner Hangu

Tel: 0925/621175-621466-622366-623968

Fax: 0925/620050, Email: dcchangu@gmail.com

No.417/TA/DC(H)

Dated: 14/09/2022

RELIEVING ORDER:

In pursuance of the Order No.Esst:VII/Posting/Transfer/Hangu/24314-20, dated 14-09-2022 issued by Assistant Secretary (Estt), Board of Revenue & Estate Department, Peshawar, **Mr. Abdullah Shah, Patwari District Hangu** is hereby relieved **Today on 14-09-2022 (AN)** from the post of Patwaar office of Deputy Commissioner, Hangu with immediate effect.

Sd/-

**Deputy Commissioner
Hangu**

Even No. & Date:-

Copy to:

- i. Commissioner, Kohat division, Kohat.
- ii. Deputy Commissioner, Peshawar.
- iii. Additional Deputy Commissioner (General), Hangu.
- iv. Assistant Commissioner, Hangu.
- v. Assistant Secretary (Estt), Board of Revenue & Estate Department, Peshawar r/w to above.
- vi. Additional Assistant Commissioner (Revenue), Hangu.
- vii. Additional Assistant Commissioner Thall.
- viii. District Accounts Officer, Peshawar & Hangu.
- ix. Accounts Officer, DC office for necessary action.
- x. Superintendent, DC office, Hangu.
- xi. Tehsildars, Hangu & Thall.
- xii. Naib Tehsildars, Hangu & Doaba.

Sd/-

**Deputy Commissioner
Hangu**


(23)

RS

14/9/22

CHARGE RELINQUISH REPORT


In compliance with Deputy Commissioner Hangu office order No. 417/EA/DC(H) dated 14-09-2022, I Abdullah Shah. (Patwari District Hangu) is hereby relinquished charge of the post of Patwar, Hangu today on 14-09-2022 (After Noon).


(Abdullah Shah)
Patwari, Hangu.




No. 418 / Estt:/ (DC)-Hangu. Dated: 14-09-2022.

Copy forwarded to :-

1. The Commissioner, Kohat Division, Kohat.
2. The Deputy Commissioner, Peshawar.
3. The Additional Deputy Commissioner (G), Hangu.
4. The Assistant Commissioner, Hangu.
5. The Assistant Secretary (Estt). Board of Revenue, Govt. of Khyber Pakhtunkhwa, Peshawar.
6. The Additional Assistant Commissioner (Rev.), Hangu.
7. The District Accounts Officer, Peshawar & Hangu.
8. The Account Officer, DC Office, Hangu.
9. The Tehsildars, Hangu & Thal.
10. The Naib Tehsildars, Hangu & Thal.


Deputy Commissioner
Hangu

24

	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.	
 091-9213989	Peshawar Dated the <u>14</u> /09/2022	 091-9214208

ORDER

No. Estt:VII/Posting/Transfer/Hangu/ 24314-20 The Competent Authority is pleased to place the services of Mr. Abdullah Shah Patwari, District Hangu at the disposal of Deputy Commissioner Peshawar being domicile holder of district Peshawar in light of NOC issued by Deputy Commissioner, Hangu vide letter No. 2996/P/T-Revenue(Estab)/DC(H) dated 15.09.2020 and Deputy Commissioner, Peshawar vide letter No. 74/9/ADC/DK, dated 02.09.2022 with immediate effect in the public interest subject to the following conditions:-


1. His name will be placed at the bottom of seniority list of Patwaris of Peshawar District. He will not claim seniority with retrospective effect.
2. His adjustment in District Peshawar will be subject to availability of post of Patwari.

With the approval of
Competent Authority

No. & Date Even.

Copy forwarded to the:-

1. Deputy Commissioner, Hangu.
2. Deputy Commissioner, Peshawar.
3. District Accounts Officers, Hangu & Peshawar.
4. Official concerned.
5. Office Order File.


(NOOR KHAN)
Assistant Secretary (Estt)
Board of Revenue



THE DEPUTY COMMISSIONER, PESHAWAR
Tel: 091-9212301-02, Fax: 091-9212303, DC Peshawar

25

No. 7518/DC(P)/DK

Dated: 15-09-2022

OFFICE ORDER

In pursuance to order No.Estt-VII/posting/transfer/Hangu/24314-20 dated 14-09-2022 issued by Assistant Secretary (Estt.) Board of Revenue Khyber Pakhtunkhwa, placing services of Mr. Abdullah Shah S/o Rahmat Shah Patwari at the disposal of this office and subsequent to his arrival report vide dated 14-09-2022, he is adjusted against the vacant post of Patwari (BPS-09) in this office with immediate effect with the condition that his name will be placed at the bottom of the Seniority List of Patwaris of District Peshawar and he will not claim seniority with retrospective effect.

-Sd/-

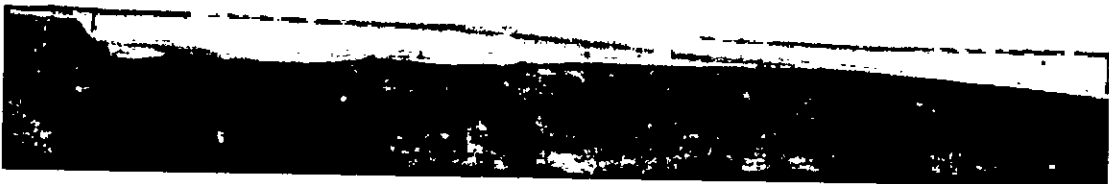
DEPUTY COMMISSIONER
PESHAWAR

Endst: No. and Date Even:

Copy forwarded to the:

1. Assistant Secretary (Estt.) Board of Revenue Khyber Pakhtunkhwa w.r.t. his order referred above.
2. PS to Commissioner Peshawar Division, Peshawar.
3. Deputy Commissioner Hangu with the request to provide LPC and Service Book of the above noted official for further necessary action.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Accounts Office DC office Peshawar.
6. PS to Deputy Commissioner Peshawar.
7. Official concerned for strict compliance.

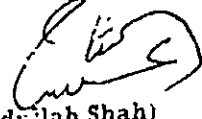
ADDITIONAL DEPUTY COMMISSIONER
PESHAWAR



26

ARRIVAL REPORT

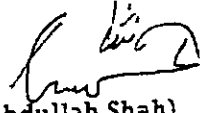
In compliance to Government of Khyber Pakhtunkhwa, Board of Revenue, Revenue & Estate Department Order No.Estt:VII/Posting/Transfer/Hangu/24314-20 dated 14.09.2022, I, Abdullah Shah, Patwari submit my arrival report today on 14.09.2022 (F.N) in the office of Deputy Commissioner Peshawar.



(Abdullah Shah)
Patwari (BPS-09)

Copy forwarded to:-

1. Accountant General, Khyber Pakhtunkhwa.
2. P.S to Assistant Secretary (Estt), BOR, Revenue & Estate Department.
3. P.S Deputy Commissioner, Peshawar.
4. PS to Deputy Commissioner Hangu.
5. Personal File.



(Abdullah Shah)
Patwari (BPS-09)

RBC
A
or



THE DEPUTY COMMISSIONER, PESHAWAR
Tel: 091-9212301-02, Fax: 091-9212303 DCPeshawar

B
27
F

No. 7403/DC(P)/DK

Dated: Thursday, December 1, 2022

OFFICE ORDER

The following posting/transfer of the Patwari are hereby ordered with immediate effect in the larger public interest.

S.NO	NAME OF PATWARI	FROM PATWAR HALQA	TO PATWAR HALQA
1	Mr. Muhammad Asif	PDA	Tehsil Pappan
2	Mr. Abdullah Shah	Waiting for posting	Mian Gajar
3	Mr. Fazal - E - Akbar	NTOK Saddar	Tehsil - F

Note: One working day is allowed for joining time

DEPUTY COMMISSIONER
PESHAWAR

Endst: No, and Date Even:

Copy of the above is forwarded to the

1. Assistant Commissioner - City, Shahalam, Peshawar
2. PS to Deputy Commissioner, Peshawar.
3. Tehsildar - City, Shahalam, Peshawar.
4. Officials concerned for strict compliance.

DEPUTY COMMISSIONER,
PESHAWAR

27

THE DEPUTY COMMISSIONER PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303 DCPeshawar

No. 7403/DC(P)/DK

Dated: Thursday, December 1, 2022**OFFICE ORDER**

The following posting/transfer of the following are hereby ordered with immediate effect in the larger public interest.

S.NO	NAME OF PATWARI	FROM PATWAR HALQA	TO PATWAR HALQA
1	Mr. Muhammad Asif	PDA	Tehkal Payyan
2	Mr. Abdullah Shah	Waiting for posting	Mian Gujar
3	Mr. Fazal – E – Akbar	NTOK Saddar	Tehkal - 1

Note: One working days is allowed for joining time.

Sd/-

DEPUTY COMMISSIONER
PESHAWAR

Endst: No. and Date Even:

Copy of the above is forwarded to the:-

1. Assistant Commissioner – City Shahalam, Peshawar.
2. PS to Deputy Commissioner, Peshawar.
3. Tehsildar – City, Shahalam, Peshawar.
4. Officials concerned for strict compliance.

Sd/-

DEPUTY COMMISSIONER
PESHAWAR

28

59

②

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition No. 4903/2022.

Mr. Muhammad Sulaiman S/o Qaisar-Ud-Din & 06 others.

VERSUS

Senior Member Board of Revenue and others.

PRELIMINARY OBJECTIONS.

1. The petitioner has got no cause of action.
2. The Petitioners have not come to the court with clean hands.
3. The instant petition is barred by law.

PARAWISE COMMENTS OF RESPONDENT NO. 1, 2, 3 & 5 ARE AS UNDER:-

1. Pertains to record.
2. Incorrect. No doubt that the respondent No. 6 belongs to district Peshawar but he was appointed in district Hangu as there was no eligible candidate for appointment as Patwari. Such like appointments were also made in district Dir Lower in light of letter dated 03.06.2005. The appointment of respondent No. 6 in district Hangu was same in nature therefore he was appointed as Patwari in district Hangu (Annexure-A).
3. Incorrect. The services of respondent No. 6 were placed at the disposal of Deputy Commissioner, Peshawar in light of NOCs issued by both the Deputy Commissioners, and with the following conditions:-
 1. His name will be placed at the bottom of seniority list of Patwaris of Peshawar District. He will not claim seniority with retrospective effect.
 2. His adjustment in District Peshawar will be subject to availability of post of Patwari (Annexure-B).
4. Correct to the extent that posting order of respondent No. 6 was issued on 01.12.2022. further to mention here that no objection was raised what so ever by any of the Patwari of District Peshawar or District Hangu. The petitioners have no right to object transfer of Respondent No. 6 to Peshawar as they have no cause of action. Prior to appointment, the petitioners have to qualify the written test / interview and after getting merit their appointment will be made. At this stage they have no legal right to questioned the order of the respondent No. 6.
5. Incorrect. The order of the respondent No. 6 was passed by the Competent Authority and no illegality / irregularity was committed by both the Deputy Commissioners. The rights of the petitioners will be fully protected if they qualify the test / interview as and when concerned.

Comments PHC Eia: YD

ATTESTED
EXAMINED
Peshawar High Court
Peshawar

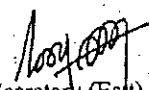
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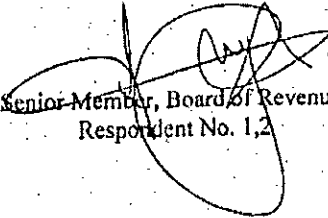
GROUNDS.

- A. Incorrect the order of respondent No. 6 was issued after completion of all legal formalities. The petitioners are not in Government service and their participating in written test and interview are fully protected. The posting of Respondent No. 6 is not a hurdle in appointment of the Petitioners.
- B. Incorrect. As explain in para - 4.
- C. Incorrect. He was placed at the disposal of District Peshawar after NOCs issued by both the Deputy Commissioners. Being private persons the petitioners have no right to agitate the same as they have no cause of action.
- D. Incorrect. As mention in para-C of the grounds.
- E. Incorrect. The petitioners have no cause of action. Presently the neither qualify the test / interview nor respondent No. 6 occupy the vacancy of the petitioners. As mentioned above their right will be fully protected if they make themselves eligible for appointment to the post of Patwari.
- F. Incorrect.
- G. The respondent will advance other grant and proofs at the time of hearing.

Keeping in view the above, the Writ Petition having no legal grounds may be dismissed with costs.


Deputy Commissioner, Peshawar
Respondent No. 5


Assistant Secretary (Estt)
Board of Revenue
Respondent No. 3


Senior Member, Board of Revenue,
Respondent No. 1,2

ATTESTED
EXAMINER
Peshawar High Court
Peshawar

30

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 4903-P/2022

Muhammad Sulaiman Son of Qaisar-ud-Din & 06 others.....Petitioners

VERSUS

Senior Member, Board of Revenue, Khyber Pakhtunkhwa & others.....Respondents

AFFIDAVIT

I, Ifrikhar Ahmad, Superintendent (Lit-1) Board of Revenue, KPK, do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments submitted on behalf of Respondent No.1,2,3 & 5 are correct as per available record and belief and that nothing has been concealed from this Honorable Court.

DEPONENT
C.N.I.C.NO.17301-1352025-3

Self 0333-9231862
(091) 9210463

Identified by:

Amir Khan
11-5-23

Advocate General
Khyber Pakhtunkhwa.

37619

ms
sup 2.1

23

11
Ifrikhar Ahmad
Peshawar
A.S

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8.7 of
the Oath-taking & Affidavit Act 1984

18 DEC 2023

Ali
11/5/23

30 (3) H

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. _____/2022



1. Muhammad Sulaiman S/o Qaisar Ud Din,
R/o Mohallah Ayub Khel Village Mashokhel, Peshawar.
2. Firdous Khan S/o Abdur Rahman,
R/o Mohallah Ayub Khel Village Mashokhel, Peshawar.
3. Syed Saad Ali Shah S/o Khurshid Shah,
R/o Kokar, charsadda Road, Peshawar.
4. Zohib Gul S/o Zahid Gul,
R/O Nothia Jadeed, Peshawar.
5. Muhammad Tahir S/o Ismail Khan,
R/o Ahmad Khel, Peshawar.
6. Younas Khan S/o Pervez Khan,
R/o Mohallah Ayub Khel Village Mashokhel, Peshawar.
7. Saddam Hussain S/o Mena Dar Khan,
R/o Pajjagi Road, Mohallah Saeedabad, Peshawar.

PETITIONERS

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. The Assistant Secretary Establishment Board of Revenue, Peshawar.
4. The Deputy Commissioner, Hangu.
5. The Deputy Commissioner, Peshawar.
6. Abdullah Shah, Patwar Halqa Mian Gujjar Peshawar.

RESPONDENTS

.....
ATTESTED
EXAMINER
Peshawar High Court
Peshawar

WRIT PETITION UNDER ARTICLE 199 (1) (i) & (ii)
DECLARING THE DECISION AND NOTIFICATION
OF THE AUTHORITY DATED 14.09.2022 AND
SUBSEQUENT ADJUSTMENT ORDER OF PRIVATE
RESPONDENT NO. 06 DATED 01.12.2022 AS
ILLEGAL, UNLAWFUL, WITHOUT LAWFUL
AUTHORITY AND IN VIOLATION OF CIVIL
SERVANTS APT RULES, 1989 (RULE-3 & 7) AS
WELL AS RECRUITMENT RULES LASTLY
AMENDED ON 25.11.2016 AND AS SUCH THE BOTH
DECISION OF COMPETENT AUTHORITY AND
ADJUSTMENT ORDER OF THE RESPONDENT NO. 6
ARE LIABLE TO BE STRUCK DOWN BEING
INEFFECTIVE UPON THE RIGHTS OF THE
PETITIONERS. ANY OTHER REMEDY WHICH THIS
AUGUST COURT DEEMS APPROPRIATE MAY
ALSO BE AWARDED IN FAVOUR OF
PETITIONERS.

RESPECTFULLY SHEWETH:

Brief facts giving rise to present petition are as under:-

1. That the petitioners are the law abiding citizens of Pakistan and belong to District Peshawar. The petitioners are the qualified Patwar Candidates and they are on waiting list of Patwar Candidate Register of the Revenue Department.
2. That the Private respondent No. 06 was initially appointed as Patwari at District Hangu despite the fact that he belongs to District Peshawar and thus he grab the right of that area.
3. That being blue eyed of the Revenue Department and order was passed upon the approval of the Competent Authority on 14.09.2022 whereby the services of the Respondent No. 06 (Abdullah Shah) were placed at the disposal of DC, Peshawar. Such order was in utter violation of law and rules. Copy of the order is attached as Annex-A.
4. That on the basis of the decision of the Competent Authority (Annex-A) the DC, Peshawar post him against the vacant post at Halqa Mian Gujjar Peshawar vide order dated 01.12.2022. Copy of the order is attached as Annexure-B.
5. That against such illegal, unlawful and without lawful authority decision, the petitioners having no other remedy but constrained to file the instant Writ petition on the following grounds amongst the other.

ATTESTED
EXAMINED
Peshawar High Court
Peshawar

33

Judgment Sheet
IN THE PESHAWAR HIGH COURT,
PESHAWAR.

JUDICIAL DEPARTMENT.

JUDGMENT



Writ Petition No.4903-P/2022.

Date of hearing 05.09.2023.

Muhammad Salman etc

Vs

**Government of Khyber Pakhtunkhwa
through Chief Secretary, Peshawar & others.**

**Petitioner (s) by: Mr. M. Asif Yousafzai
Advocate.**

**Respondent(s) by: Mr. Junaid Zaman AAG
(for respondents No.1 to
5) and Khalid Rehman
Advocate(for respondent
No.6).**

WIQAR AHMAD, J:-.Through instant
petition under Article 199 of the
Constitution of Islamic Republic of Pakistan
1973, petitioners have challenged impugned
order dated 01.12.2022, whereby upon
approval of competent authority, respondent
No.6 was transferred and posted in the
establishment of patwaris at Peshawar.

ATTESTED
EXAMINER
Peshawar High Court
Peshawar

2. As per contents of instant petition, initially respondent No.6 had been appointed as Patwari at District Hangu, Peshawar vide order dated 19.10.2009. Being domicile holder of District Peshawar, his services were placed at the disposal of Deputy Commissioner Peshawar Vide office order No. Estt: VII/Posting/Transfer/Hangu/24314-20 dated 14.09.2022, and in light of said order, subsequently he was posted/adjusted against the vacant post at Mian Gujjar by respondent No.5 vide order dated 01.12.2022. Aggrieved from said order, petitioners have approached this Court by filing instant writ petition.

3. Official respondents as well as private respondent No.6 submitted their parawise comments, wherein they denied stance of petitioners by raising various legal and factual objections.

4. Arguments of learned counsel for petitioners, learned counsel for private respondent as well as learned AAG on

ATTESTED
EXAMINER
Peshawar High Court
Peshawar

behalf of official respondents heard and record perused.

5. Perusal of record reveals that respondent No.6 (Abdullah Shah) was no doubt belonging to District Peshawar but he had got himself appointed against the post of Patwari at District Hangu. His appointment had not been made on merit or in a competing process but had only been made possible because of recommendation of the then Chief Minister of Khyber Pakhtunkhwa. His appointment has not been questioned in instant writ petition but his subsequent transfer and posting at District Peshawar has been impugned in instant writ petition. So far as his subsequent transfer and posting at District Peshawar is concerned, it is imported to be noted that he was holding a District cadre post at District Hangu. The establishment of Patwari Halqa at District Peshawar was different establishment wherein petitioners who are seven in numbers had been expecting their

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own appointment being enlisted for such recruitment at District Peshawar. It is case of petitioners before this Court that as a result of transfer and posting of respondent No.6, they had lost a post of Patwari Halqa in establishment of Patwaris at District Peshawar, for which they were having a legitimate expectation to participate in its recruitment process and to be appointed after getting successful. The Deputy Commissioner was competent authority for making appointment of Patwaris at District Peshawar but he had not initiated any request for hiring services of respondent No.6. It could not be established by official respondents that any special reason had been existing due to which the department required services of respondent No.6. He could not be demonstrated to have any special skill or expertise due to which his services could be needed to department. Like his earlier appointment, he had again moved an application to the SMBR and

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procured his order of transfer from establishment of Deputy Commissioner Hangu to establishment of Deputy Commissioner Peshawar. Mere grant of NOC by the two Deputy Commissioners would not justify colourable act of respondents in getting respondent No.6 adjusted in establishment of Patwaris at District Peshawar. Petitioners were having legitimate expectation of participating in recruitment process and appointment on the subject post therefore, they were also found to be having valid cause of grievance for filing instant writ petition. Posting and transfer of respondent No.6 was found to be the result of favoritism and could not be justified by respondents in their comments.

This Court in its earlier judgment dated 20.01.2009 rendered in Writ Petition No.335/2007 had also intervened in a similar case, wherein it was held;

"On the other hand, petitioner on the available record which remained uncontroverted was

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the senior most candidate of Patwar and was on top of the merit list and deserved to be appointed on any vacancy to accrue in future but was ignored. When the Revenue Department is not honouring its own record maintained by it with regard to seniority and appointment of Patwari in a fair manner thus, has reduced its naught by such act and omission. The impugned order being without lawful authority and in violation of all laws regulating the subject matter, cannot be sustained. This was also the stance of official respondents when they were confronted with the legal position so emerging and the same stance was taken by the learned counsel for the official respondents that the impugned action taken is not defensible in law.

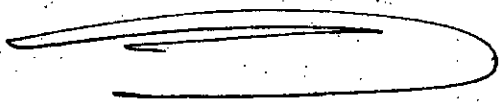
4. For the above stated reasons, this petition is admitted and is accordingly allowed. The impugned order of appointment and transfer of respondent No.5 is set aside and he shall be reverted back to initial place of posting at Chitral and be attached with the land settlement staff while petitioner be considered for appointment as per rules and merit discussed above on the post in question."

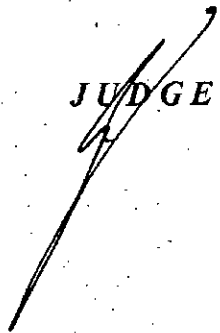
6. In light of what has been discussed above, petitioners have made out a case for intervention of this Court in its

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constitutional jurisdiction. This writ petition is allowed, the impugned transfer order of respondent No.6 stands set aside and he shall be reverted to his original post at District Hangu.


JUDGE


JUDGE

Date of hearing & announcement of judgment.....05.09.2023.
Date of preparation and signing of judgment 09.09.2023.

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Qanoon-e-Shahadat Act 1984
18 DEC 2023

25122
18-12-2023
Date of Presentation of Application.....
No of Pages..... 17-0
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Total..... 18-12-2023
Date of Preparation of Copy..... 18-12-2023
Date of Delivery of Copy.....
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THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, [7]DCPeshawar

No. 1054 /DC(P)

Dated: 13 -09 -2023

OFFICE ORDER

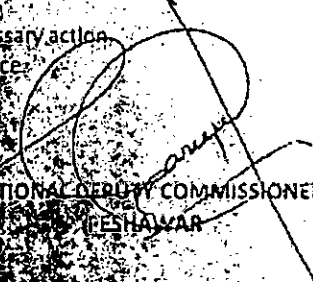
The Competent Authority has been pleased to order, in pursuance to the Peshawar High Court Peshawar Judgment dated 05-09-2023 in W.P. No.4903-P/2023 titled Muhammad Sulaiman VS Government of Khyber Pakhtunkhwa through Chief Secretary & Others, to relieve Mr. Abdollah Shah Patwari from the post of Patwari in District Peshawar to be reverted back to his original post in District Hangu conditionally till the decision of the higher courts.


ADDITIONAL DEPUTY COMMISSIONER (G)
PESHAWAR

Printed Name and Date Even:

Copy forwarded to the:

- (i) Senior Member Board of Revenue Khyber Pakhtunkhwa Peshawar.
- (ii) Deputy Commissioner Peshawar.
- (iii) Deputy Commissioner Hangu.
- (iv) Registrar Peshawar High Court Peshawar w.r.t. to the above order of the Honourable Peshawar High Court Peshawar.
- (v) Accounts officer of this office for further necessary action.
- (vi) Mr. Abdollah Shah Patwari for strict compliance.


ADDITIONAL DEPUTY COMMISSIONER (G)
PESHAWAR

(91)

To:- The Commissioner,
Peshawar Division Peshawar.

Subject: DEPARTMENTAL APPEAL UNDER RULE 4 OF THE SERVICE
TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER NO.
1054/DC(P) Dated 13.09.2023 passed
Deputy Commissioner Peshawar in compliance with Board of
Revenue Khyber Pakhtunkhwa order No. _____
Dated _____

Respectfully Sheweth

It is submitted that the appellant is aggrieved from the orders
cited above and hereby submit departmental appeal under Rule 4 of the
Service Tribunal Act, 1974, as under:-

FACTS

1. That the appellant is the bonafide resident of Village Hazar Khawani District Peshawar and has passed Patwar Training in the batch of Chitral 2009.
2. That due to non availability of vacant posts in Home District and urgent need of Patwari in District Hangu, the appellant was directed to work in District Hangu and properly appointed as Patwari vide order No. 1278/DO(R&E) dated 21.11.2009 (Photostat copy enclosed as a Annexure A).
3. That the appellant has served for a period more than 10 years in District Hangu and rendered meritorious services to the entire satisfaction of his superiors.
4. That on vacation of sufficient post of Patwari in his parent district, the appellant applied for transfer from District Hangu to District Peshawar and after getting NOC from both the Deputy Commissioners, transferred from District Hangu to District Peshawar vide order No. Hangu 124314-20 dated 14.9.2022 (Photostat copy enclosed as a Annexure B).
5. That the appellant has completed his probation period of one year on transfer from District Hangu to District Peshawar and confirmed Patwari of his Home District of Domicile as provided in APT Rules, 1989.
6. That the appellant is a senior most Patwar Candidate of District Peshawar then the respondents Patwari Candidates.
7. That some Junior Most Patwar Candidates namely Muhammad Suleman and six others who have passed Patwar Training in 2020, have filled a writ petition before the Peshawar High Court Peshawar vide Writ Petition No. No. 4903/2022 titled Muhammad Suleman Patwar Candidate and 6 others versus Govt. of Khyber Pakhtunkhwa through Chief Secretary and SMBR etc.

.....P/2

Secy:
 AC P/D:
 ACR/Ga:
 P/II PUP-II
 PS-To-Commissioner
 SUP:
 BRANCH:
 Diary No:
 Date: 9638-18-9-2023

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8. That joint parawise comments furnished by Board of Revenue etc is in favour of the appellatant but the dealing hand has not properly assisted the Advocate General and judgement passed in favour of the petitioners and against the Govt of Khyber Pakhtunkhwa due to which the appellatant suffered great loss.
9. That the respondent departmental was required to refer the case to Law Department for expert opinion but not done the procedure required for CPLA.
10. That the petitioners (Most Junior Patwar Candidates) has neither having any rights for appointment nor participated in any test/interview required for present procedure of appointment of Patwari under the existing rules.
11. That if the appellatant is dis-located from his parent district of domicile, the respondent Patwar Candidates will also not get the chance of appointment.
12. That sufficient posts of Patwari are lying vacant in the office of Deputy Commissioner Peshawar but due to ban imposed by the Election Commission of Pakistan, not yet advertised.
13. That due to transfer of the appellatant, neither the rights of the petitioners affected nor they are yet entitled for appointment being junior most Patwar candidates however, the appellatant was the senior most Patwar Candidate in his district of domicile.
14. That the appellatant has served for more than 10 years in District Hangu and more than one year in District Peshawar and is well trained and experience hand Patwari.
15. That if the appellatant is returned back to District Hangu, his post will not be availed by the petitioners nor the appellatant could at this belated stage, be accommodated in District Hangu and will suffer great service as well as financial loss and will remain linger on.
16. That the appellatant is aggrieved from the above mentioned impugned order hence the instant appeal on the following grounds:-

GROUNDS

- A. That the appellatant is the bonafide resident of District Peshawar.
- B. That the appellatant is a qualified and trained Patwari of District Peshawar.
- C. That the appellatant was proOerly appointed as a Patwari by the Competent Authority in District Hangu due to non availability of training Patwar Candidate in District Hangu and served for more than 10 years and was a confirmed Patwari.
- D. That after getting NOC from both the Districts, the appellatant was transferred from District Hangu to District Peshawar against the vacant post.

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- E. That the appellant has already been completed his second probation period in District Peshawar on 14.9.2023 and has been confirmed against the vacant post of Patwari in the district as provided in APT Rules, 1989.
- F. That as per present appointment policy, test/interview is compulsory for appointment as Patwari and the petitioners could not get the chance of appointment being most junior having no experience in the field of Patwar work.
- G. That the petitioners have been mis-guided by some opponents of the appellant and un-necessary filing complaints against the Board of Revenue and Deputy Commissioner Peshawar decisions/NOCs.
- H. That the petitioners have not cause of action, not with clean hands and political motivated and engineered by some one and their act is against the rules/policy and is liable to be dismissed and appellant is entitled to served on the present post being domicile of District Peshawar and is strained Patwari.
- G. That always sufficient post of Patwari are lying vacant but due to non advertisement and baseless delay in filling of the posts, such like issues created in the district service/cadre posts which is against the public interest and general public is suffering hence case may be referred to Election Commission of Pakistan for ban relaxation so that the vacant posts are filled in well in time and the grievances of the Patwar Candidate if passed the test/interview is redressed.
- G. That the orders passed by the Competent Authority in implementation of Writ Petition No. 4903/2022 is liable to be set aside.

PRAYER

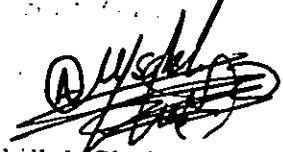
On acceptance of the instant appeal the impugned order may kindly be cancelled and the appellant may be allowed to serve in his parent District Peshawar for which he is entitled.

Therefore, it is requested that the impugned order may kindly be cancelled and the appellant may be allowed to serve on the present post.

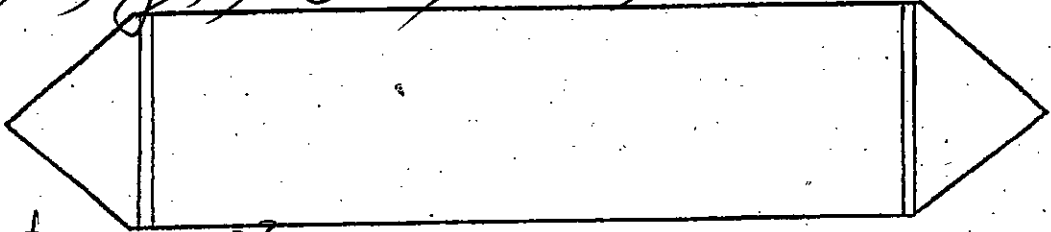
Thanking You Sir,

Yours Most Obedient Servant

Dated: 15-9-23


Abdullah Shah Patwari
District Peshawar.
Appellant

بعدالت کے پیروی سے متعلق فیصلہ



Appellant 2023ء منجانب
عبداللہ شہینام صاحب و ملبرہ

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

حاصل
عبداللہ شہینام صاحب
14/09/23

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لیسٹ سے کیلئے عضل سٹاہ مہمندہ / ASC / لیسٹ احمد سٹاہ صاحبہ اور عبداللہ شہینام صاحبہ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحبہ و صنف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحبہ کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ پر حلف دینے جو جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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 صاحبہ مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحبہ پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

(Handwritten signature)

المرقوم 18
ماہ دسمبر 2023ء

Allesha
Fazal Sheikh Mahman
کے لئے منظور ہے

بمقام لیسٹ
(Handwritten signature)