

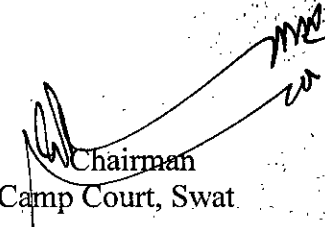
31.01.2018

Counsel for the appellant present and Addl: AG alongwith Farhad Ullah, Computer Operator for official respondent and private respondent No. 5 in person present.

Counsel for the appellant after the arguing the case at some length has requested this Tribunal that since respondent no. 5 has attained superannuation on 14.11.2017 and the appellant has been appointed as regular TRA from 15.02.2016 and at the present the grievances of the appellant has been redressed. That he would withdraw this appeal by reserving his right to sue afresh in case his right violated in future.

In view of the above the present appeal is dismissed as withdrawn. File be consigned to the record room.


Member


Chairman
Camp Court, Swat

ANNOUNCED
31.01.2018



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Tel# 0946-9240458
Email: secretarytocmd@gmail.com

Dated 14 / 11 / 2017

OFFICE ORDER.

No. 40107 /2/60/Estt; In terms of provisions of Rule-20 of the Khyber Pakhtunkhwa, Civil Servants Revised Leave Rules, 1981 and instructions there-under issued from time to time, sanction is hereby accorded to the encashment of Leave Preparatory to Retirement, equal to 365 days in favour of Mr. Kifayatullah, District Revenue Accountant (BPS-15); office of the Deputy Commissioner, Buner.

In terms of Section-13 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973, the officer shall stand retired from service on 30.11.2017 (AN), on attaining the age of superannuation, as his date of birth is 01.12.1957.

By Order

COMMISSIONER MALAKAND DIVISION

No. 40108-13 /2/60/Estt

Copy forwarded to:-

1. The Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner, Buner with reference to his Memo: No. 2/2/Acctt:/DC(B)/15681-82, dated 06.11.2017.
3. The District Accounts Officer, Buner.
4. The official concerned.
5. Office Order File.

Office Of The DC Buner
Serial No8793.....
Branch.....
Signature.....
22-11-17

SECRETARY TO COMMISSIONER
MALAKAND DIVISION


Am.
DC VB

02.05.2017

Appellant in person present. Mr. Sultan Zeb Naib Tehsildar alongwith Mr. Muhammad Zubair, District Attorney for official respondents No. 1 to 3 and private respondent No. 4 in person also present. Due to non-availability of learned counsel for the appellant as well as incomplete bench arguments could not be heard. To come up for rejoinder and arguments on 06.09.2017 before D.B at Camp Court Swat.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat.

06.09.2017

 Appellant in person and Mr. Muhammad Zubair, District Attorney alongwith Mr. Mukhtiar Ali, Asst: Secretary and Mr. Farhad ullah, Computer Operator for the respondents present. Counsel for the appellant is not in attendance. Appellant seeks adjournment. Adjourned.. To come up for final hearing on 06.12.2017 before the D.B at camp court, Swat.

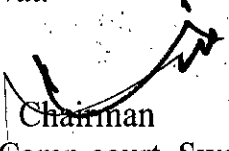

Member


Chairman
Camp court, Swat.

06.12.2017

Appellant in person and Mian Amir Qadar, District Attorney alongwith Farhadullah, Computer Operator for the official respondents and private respondent No. 4 in person present. Counsel for the appellant has not turned up from Peshawar. Seeks adjournment. To come up for arguments on 31.01.2018 before the D.B at camp court, Swat.



Member


Chairman
Camp court, Swat

05.10.2016


Counsel for the appellant and Mr. Muhammad Zubair, Sr.GP for the respondents present. Counsel for the appellant seeks adjournment. Adjourned for final hearing to 06.12.2016 before the D.B at camp court, Swat.


Member


Chairman
Camp court, Swat

06.12.2016


Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. The bench is incomplete, therefore, arguments could not be heard. To come up for final hearing before D.B on 08.02.2017 at camp court, Swat.


Chairman
Camp court, Swat

08.02.2017

Appellant in person and Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Muhammad Zubair, Senior Government Pleader for the official respondents and counsel for private respondent No. 4 present. Appellant requested for adjournment as his counsel has not turned up from Peshawar. To come up for final hearing on 02.05.2017 before D.B at camp court, Swat.


Member


Chairman
Camp court, Swat

02.05.2016


Appellant in person and Mr. Muhammad Zubair, SGP for the respondents present. Learned counsel for the appellant is stated to be busy before the august Supreme Court of Pakistan. Requested for adjournment. Last opportunity granted. To come up for final hearing before D.B on 07.06.2016 at Camp Court, Swat. Status quo be maintained. If the appellant failed to produce his counsel for arguments on the date fixed status quo shall stand vacated.



Member


Chairman
Camp Court Swat

06.06.16

Appellant in person and Mr. Muhammad Zubair, Sr.GP for official respondents No. 1 to 3 present. Counsel for the appellant has not turned up from Peshawar. To come up for final hearing before D.B on 02.08.2016 at camp court, Swat.


Member


Chairman
Camp Court, Swat.

02.08.2016

Appellant in person and Mr. Adalat Khan, District Finance Officer alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for arguments on 05.10.2016 before D.B at camp court, Swat.


Chairman
Camp court, Swat.


13.01.2016

Appellant in person, Mr.Sami-ur-Rehman, Assistant
alongwith Mian Amir Qadir, G.P for official respondents
No.. 1 to 3 and private respondent No.4 in person present.
Written reply by private respondent No.4 also submitted.
Rejoinder also submitted by appellant. The appeal is
assigned to D.B for final hearing for 8.3.2016 at Camp Court
Swat. Status-quo be maintained.


Chairman
Camp Court Swat

08.03.2016

Appellant in person and Mr.Sami-ur-Rehman, Assistant
alongwith, Mr. Amir Qadir, G.P. for official respondents present.
Due to non-availability of D.B as well as strike of the Bar,
arguments could not be heard. To come up for final hearing before
D.B on 05.4.2016 at Camp Court Swat. Status-quo be maintained.


Chairman
Camp Court Swat

05.04.2016

Appellant in person and Mr. Samiur Rahman, Asstt.
alongwith Amir Qadir, GP for the respondents present. Due to
non-availability of D.B arguments could not be heard. To come up
for final hearing before D.B on 02.05.2016 at Camp Court, Swat.
Status quo be maintained.


Chairman
Camp court, Swat.

26.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Tehsil Revenue Accountant at Daggar when transferred as Patwari Halqa Gwardara vide impugned order dated 13.8.2015 against which he preferred departmental appeal on 27.8.2015 which was rejected on 5.10.2015 and hence the instant service appeal on 19.10.2015.

That the impugned order is premature as the appellant was posted against the said post on 1.12.2014 and, furthermore, the appellant is a TRA and as such cannot be posted as Patwari Halqa.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 7.12.2015 at Camp Court Swat as the matter pertains to the territorial limits of Malakand Division. Notice of stay application be also issued for the date fixed. Status-quo be maintained.


Appellant Deposited
Security & Process Fee




Chairman

7.12.2015

Appellant in person, Mr. Sami-ur-Rehman, Assistant alongwith Assistant A.G for official respondents No.1 to 3 and private respondent No.4 in person present. Written reply by official respondents No.1 to 3 submitted. Private respondent No.4 requested for adjournment. To come up for written reply on behalf of private respondent No.4 on 13.01.2016 before S.B at Camp Court Swat. Status-quo be maintained.

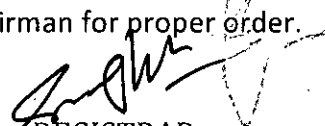


Chairman
Camp Court Swat

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1168/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19.10.2015	<p>The appeal of Mr. Muhammad Irfan presented today by Mr. Khushdil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>26-10-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1168 /2015

Muhammad Irfan,
Tehsil Revenue Accountant,
Daggar.....Applicant/Appellant

Versus

Deputy Commissioner,
District Buner and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-3
2.	Stay Application with Affidavit			4-5
3.	Copy of the impugned transfer order	13-08-2015	A	0-6
4.	Copy of departmental appeal before the respondent No.2	27-08-2015	B	7-12
5.	Copy of letter thereby comments was asked from Respondent No.2 on the departmental appeal of appellant	31-08-2015	C	0-13
6.	Copy of the impugned order thereby departmental appeal of appellant was dismissed by the Respondent No.2	05-10-2015	D	14-15
7.	Wakalat Nama			

Through


Appellant

Khush Dil Khan
Advocate,

Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445

Dated: 16 / 10/ 2015



**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1168 /2015

**A.W.P. Province
Service Tribunal
Diary No. 1271
Dated 19-10-2015**

Muhammad Irfan,
Tehsil Revenue Accountant,
Daggar, under Transfer to the Post of Patwari Halqa, Ghordara,
District Buner.....Appellant

Versus

1. Deputy Commissioner,
District Buner.
2. The Commissioner,
Malakand Division at Saidu Sharif / Swat
3. Senior Member Board of Revenue,
Revenue and Estate, Department
Khyber Pakhtunkhwa, Peshawar
4. Kifayat Ullah,
ADK, Buner under Transfer,
to Daggar as RTA,
District Buner.....Respondents

[Handwritten signature]
19-10-15
Registered

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 13th AUGUST 2015 THEREBY APPELLANT WAS TRANSFERRED FROM THE POST OF TRA DAGGAR TO PATWARI HALQA GHORDARA WHILE RESPONDENT NO.4 WAS POSTED AGAINST HIS POST AS TRA DAGGAR AGAINST WHICH HE FILED DEPARTMENTAL APPEAL BEFORE THE RESPONDENT NO.2 ON 27th AUGUST 2015 WHICH WAS DISMISSED ON 5th OCTOBER 2015.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the petitioner is the employee of Revenue Department holding the post of Tehsil Revenue Accountant (TRA). On 13-08-2015 (**Annexed 'A'**) an office order was issued by Respondent No.1 thereby appellant was transferred from Tehsil Daggar and posted as Patwari Halqa, Ghordara while Respondent No.4 was posted against his post as TRA Daggar.
2. That appellant has challenged the impugned transfer order by filing Departmental appeal on 27-08-2015 (**Annexed 'B'**) before the Respondent No.2 thereon comments were called from Respondent No.1 vide letter dated 31-08-2015 (**Annexed 'C'**) but later on the departmental appeal was dismissed by the Respondent No.2 vide order dated 05-10-2015 (**Annexed 'D'**).

Hence the present appeal is submitted on the following amongst other grounds:-

Grounds:

- A. That the impugned transfer order has been passed in violation of rules and policy on subject and not sustainable, liable to be set aside.
- B. That appellant has not completed the normal tenure as per policy at the present place Daggar but under the political influence/pressure he was transferred and Respondent No.4 was posted against that very post which is illegal, unfair and unjust.

- C. That the impugned transfer order is tainted with malafide intention with ulterior motive to accommodate Respondent No.4 in order to promote him to the post of District Revenue Accountant BPS-14 at the cost of appellant which is unlawful, unjustified having no legal sanctity.
- D. That Respondent No.2 has misconceived the case of appellant and passed the impugned order thereby the departmental appeal of appellant was dismissed in arbitrary manner which is illegal and not sustainable liable to be set aside.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned orders dated 13-08-2015 and 05-10-2015 may kindly be set aside and appellant may graciously be allowed to continue the post of TRA, Daggar.

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

dt. 16.10.2015

Through

Appellant

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL PESHAWAR
Service Appeal No. _____/2015**

Muhammad Irfan,
Tehsil Revenue Accountant, Daggar.....Applicant/Appellant

Versus

Deputy Commissioner,
District Buner and others.....Respondents

Application for suspending the operation of the impugned orders dated 13-08-2015 and 05-10-2015 till the final disposal of the instant appeal.

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of appellant.
3. That the balance of convenience also lies in favour of appellant and in case operation of the impugned order is not suspended the applicant/appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned order^s dated 13-08-2015 and 05-10-2015 may graciously be suspended till the final disposal of the appeal.

Through

Applicant

**Khush Dil Khan,
Advocate, Peshawar**

Dated: 16 / 10/ 2015

AFFIDAVIT

I, Muhammad Irfan, Tehsil Revenue Accountant, Daggar, District Buner, do hereby 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 Hon'ble Tribunal.


Deponent

ATTESTED



**OFFICE OF THE
DEPUTY COMMISSIONER
BUNER**

Annex. A
P-6

No.13453/ 1/6/DK

Dated: 13/08/2015.

OFFICE ORDER

The Following postings / transfers amongst the officials of this office are hereby ordered in the best interest of public service with immediate effect.

S.No	Name	From	To
1.	Mr.Hamid-ul-Haq	Patwari Halqa Malka	ADK Buner
2.	Mr.Kifayat Ullah	ADK Buner	TRA Daggar
3.	Mr.Muhammad Irfan	TRA Daggar	Halqa Ghwardara (against vacant post)
4.	Mr.Said Amjad Hussain Shah	Halqa Sher Ali	Halqa Kulyari
5.	Mr.Nasreen Gul	Halqa Kulyari	Halqa Ambella

**DEPUTY COMMISSIONER
BUNER**

No.13454-60 /1/6 /DK

Copy forwarded to:-

1. The Additional Deputy Commissioner, Buner.
2. The Assistant Commissioner, Daggar for information.
3. The Assistant Commissioner, Mandanr for information
4. The Tehsildar, Daggar.
5. The Tehsildar, Mandanr.
6. Official Concerned.

ATTESTED

**DEPUTY COMMISSIONER
BUNER**

①

Annex B
E.A P-7
Reader

BEFORE THE COMMISSIONER, MALAKAND
DIVISION AT SAIDU SHARIF, SWAT

[Signature]
for Commissioner

Muhammad Irfan Tehsil Revenue Accountant Daggar, 27-8-2015
District Buner.

.....Appellant

VERSUS

1. Kifayat Ullah ADK Buner.
2. Deputy Commissioner, Buner.

.....Respondents

Appeal against office order No. 13453/1/6/
DK dated 13-08-2015 passed by Respondent
No. 2 wherein appellant was illegally,
malafidely transfer from the post of TRA
Daggar to Halqa Ghwardara as a Patwari.

Prayer on appeal

On acceptance of this appeal /
representation the office order No.
13453/1/6/ DK dated 13-08-2015 issued by
Respondent No. 2 may be declared illegal,
ultra various, without jurisdiction may

ATTESTED

Attested to be true Copy

[Signature]
Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

2

2

kindly be set aside and allowing appellant to perform his duty as a TRA Daggar

P.8

Any other relief deemed appropriate may also granted in addition to the relief claim above.

Respectfully Sheweth:

The appellant states as follows:-

- 1) That the first appointment of appellant against the vacant post of TRA on 28-09-2009 at Nagray, District Buner as Patwari. (Copies of working paper, appointment order & minutes of Departmental Promotion Selection Committee are attached)
- 2) That the appellant performing his duty good zeal & zest, and on 24-09-2010 the appellant was transfer from Nagray to Mauza Rega as Patwari. (Copy of order is attached)
- 3) That on 13-01-2012 again transfer from Rega to Mauza China / Chanarr. (Copy of order dated 13-01-2012 is attached)
- 4) That the Respondent No. 2 again transfer the appellant from China / Chanarr to Kulyari vide his order dated 19-03-2014. (Copy of order dated 19-03-2014 is attached)

ATTESTED

Attested to be true Copy

Reader & Commissioner,
Malakand Division,
Saidu Sharif Swat.

- 5) That the Respondent No. 2 without any reason verbally directed to Assistant Commissioner Gagra transfer the appellant from Kulyari to Mauza Topi on 29-08-2014. (Copy of order dated 29-08-2014 is attached) there appellant started his duty punctually & honestly but the Respondent No. 2 again issue office order dated 1st December 2014 appellant was transfer from Mauza Topay to TRA Daggar, District Buner. (Copy of order dated 01-12-2014 is attached)

- 6) That now the Respondent No. 2 again illegally issue the Impugned office order dated 13-08-2015 wherein the appellant transfer from TRA Daggar to Halqa Gwardara without showing any valid reason. (Copy of impugned office order dated 13-08-2015 is attached)

- 7) That the Respondent No. 2 violated the mandatory provisions of law, therefore the appellant approaches before this Honorable authority for the redressal of his graveness by filing departmental appeal inter alia on the following grounds.

GROUNDS:-

- i) That the order of Respondent No. 2 is illegal, against law, ab-initio, because the Respondent No. 2 ignore prevailing law in service, and also ignore the tenure of the appellant. The Impugned order is

ATTESTED

Attested to be true copy
Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

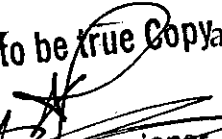
4

4 P.10

totally discriminatory, arbitrary and malafide, hence liable to be set aside.

- ii) That the appellant perform his duty as TRA honestly and diligently, but the Respondent No. 2 without showing any valid reason transfer the appellant from TRA Daggar to Patwari Halqa Ghwardara. The appellant is entitle to complete his tenure the said post i.e., TRA Daggar, but the Respondent No. 2 ignore all facts and due to some blue eyed revenue, official mentioned Respondent No. 1 above have been transferred in preference to the appellant on the same Government Policy which is in violation of the law and against the rules & regulating the service.
- iii). That the impugned order is ultra virus of the law, against the principal of equity & justice, hence calling for interference by this Honorable authority.
- iv) That the appellant was illegally deprived from their vested rights.
- v) That the Respondent No. 2 mis-use the authority available to him, moreover without considered the

ATTESTED

Attested to be true Copy

Reader to Commissioner,
Majaland Division,
Saidu Sharif Swat.

5

5 P-11

tenure of the appellant, hence the order of the Respondent No. 2 is liable to be set aside.

PRAYER

It is, therefore, most humbly prayed that, on acceptance of this appeal / representation the office order No. 13453/1/6/ DK dated 13-08-2015 issued by Respondent No. 2 may be declared illegal, ultra various, without jurisdiction may kindly be set aside and allowing appellant to perform his duty as a TRA Daggar

Any other relief deemed appropriate may also granted in addition to the relief claim above.

Interim Relief

By way of interim relief this Honorable Authority may be please to suspend operation of the impugned order No. 13453/1/6/ DK dated 13-08-2015 issued by Respondent No. 2 till the final disposal of this appeal.

ATTESTED

Attested to be true Copy

Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

APPELLANT

Muhammad Irfan Tehsil Revenue
Accountant Daggar, District Buner.

Dated: 27-08-2015

6

6
P.12

BEFORE THE COMMISSIONER, MALAKAND
DIVISION AT SAIDU SHARIF, SWAT

Muhammad Irfan Tehsil Revenue Accountant Daggar,
District Buner.

.....Appellant

VERSUS

1. Kifayat Ullah ADK Buner.
2. Deputy Commissioner, Buner.

.....Respondents

AFFIDAVIT

I, Muhammad Irfan Tehsil Revenue Accountant Daggar,
District Buner, do hereby solemnly affirm and declare on
oath that the contents of the above titled departmental appeal
are true and correct to the best of my knowledge and belief.

DEPONENT

27-08
2015

Attested to be true Copy

Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

ATTESTED

[Handwritten signature and stamp]



Annex: (17)
12-13
OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

No. 1771 /226/Estt

Dated 31 /08/2015

To

The Deputy Commissioner, Buner.

Subject: - DEPARTMENTAL APPEAL AGAINST OFFICE ORDER NO.13453/1/6/DK, DATED 13-08-2015 PASSED BY RESPONDENT NO.2 WHEREIN APPELLANT WAS ILLEGALLY, MALAFIDELY TRANSFER FROM THE POST TRA DAGGAR TO HALQA GHWARDARA AS A PATWARI.

Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of Departmental Appeal of Muhammad Irfan, Tehsil Revenue Accountant Daggar against his transfer/posting as Patwari to Halqa Gwardara, the contents of which are self-explanatory for your comments, please.

Encl: As above.

SECRETARY TO COMMISSIONER
MALAKAND DIVISION
Ph# 0946-9240459

Attested to be true Copy

*Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.*

ATTESTED

Amma D's
P-14

BEFORE THE COMMISSIONER, MALAKAND DIVISION
AT SAIDU SHARIF SWAT.

Case No.2/26/Estt:/CMDDate of Institution: 27.08.2015

Muhammad Irfan, Tehsil Revenue Accountant,
Daggar, District Buner..... Appellant.

VERSUS

1. Mr. Kifayatullah, ADK, Buner.
2. Deputy Commissioner, Buner..... Respondents.

Appeal against Office Order No. 13453/1/6/DK, dated 13.08.2015 passed by Respondent No.2 wherein appellant was malafidely transferred from the post of TRA Daggar to Halqa Gwardara as a Patwari.

ORDER
05.10.2015.

Gist of the case is that the appellant, Muhammad Irfan, Tehsil Revenue Accountant, Daggar District Buner was transferred and posted against the vacant post of Patwari, Halqa Gwardara by the Deputy Commissioner, Buner (Respondent No. 2) vide his Office Order dated 13.08.2015.

The appellant preferred departmental appeal before this Court, requested that the transfer order be declared illegal, allowing the appellant to perform his duty as Tehsil Revenue Accountant, Daggar District Buner.

The Deputy Commissioner (Respondent No.2) furnished his comments vide his Memo: No. 15167/1/20/DK(B), dated 17.09.2015, stated that the appellant was initially appointed as Patwari and not as Tehsil Revenue Accountant. His transfer was made on the basis of necessity and his posting as TRA was on temporary basis. The appellant has been substituted with the designated TRA.

W
Commissioner Malakand Division

The appeal of the appellant, comments of the Respondent No.2 and record of the case was thoroughly examined. The Deputy Commissioner, Buner is a competent authority to transfer Patwari/Revenue official in the District. The appeal carries no weight, therefore I see no reason to interfere in the impugned order passed by the Deputy Commissioner (Respondent No.2), which is hereby maintained and the appellant should immediately report for duty. The Deputy Commissioner, Buner should withdraw suspension Order No.3851-54/DC/Buner/Estt; dated 04.09.2015 upon the arrival of the official to his new place of posting.

ATTESTED

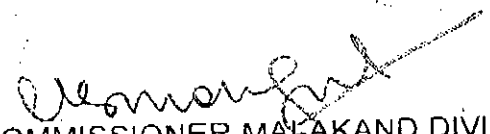
Contd: Page-2

Page-2


P-15

A copy of this order be sent to the Deputy Commissioner, Buner for compliance.

Announced
05.10.2015.


COMMISSIONER MALAKAND DIVISION.
Commissioner Malakand Division.

Certified that this order consists of 02 pages and that each page is signed by the undersigned:


COMMISSIONER MALAKAND DIVISION.
Commissioner Malakand Division.


ATTESTED

WAKALAT NAMA

IN THE COURT OF K.P. Service Tribunal Peshawar

Muhammed Irfan

TRA Daggan

Appellant(s)/Petitioner(s)

VERSUS

Dy. Commissioner

Bannu Valley

Respondent(s)

I/We Muhammed Irfan do hereby appoint **Mr. Khush Dil Khan, Advocate** Supreme Court of Pakistan in the above mentioned case, to do all or any of the following acts, deeds and things.

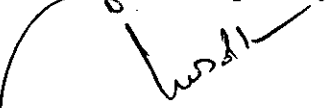
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

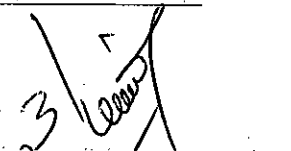
AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by


Khush Dil Khan,
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion
Off: Tel: 091-2213445


Signature of Executants

Before the Service Tribunal, Khyber Pakhtunkhwa, Camp Court, Swat.

Service Appeal No. 1168/2015

Muhammad Irfan Patwari..... Appellant

Vs

1. Deputy Commissioner, Buner.
2. Commissioner, Malakand Division at Saidu Sharif, Swat.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. Kifayatullah, ADK Buner Under Transfer to Dggar as TRA..... Respondents.

Parawise Comments on Behalf of Respondents No. 1 & 2: 3

Preliminary Objections:

1. The appeal is not maintainable.
2. The appeal has no legal grounds.
3. The appellant has misconceived the law & rules related to the subject.
4. The appellant is estopped to file the instant appeal.
5. The appellant has not come to the worthy tribunal with clean hands.

Para-wise Comments:

1. The petitioner is employed as Patwari. His posting as TRA was on temporary basis. Respondent No. 4 is the only designated TRA in the district and while making transfer, it was held imperative that he is posted at his original post.
2. Pertains to the record.

Grounds:

- A. The transfer order is according to the rules and policy on subject. No violation has been made. According to the Service Rules circulated vide Govt. of Khyber Pakhtunkhwa, Board of Revenue / Revenue & Estate Department's Notification No. 1942/Estt:1/135/SSRC dated 23-01-2015 (**Annexure-A**), the route from Patwari to TRA is by promotion which means that Patwaris will be recommended for promotion to the post of TRA by the Departmental Selection / Promotion Committee. In the case of appellant, no DPC has been held to recommend him for promotion to the post of TRA. Moreover, in the present scenario of rules / policy, the Patwari cannot be appointed as TRA because of the difference of scales i.e. TRA is in scale-07 while Patwari in scale-09. A Patwari cannot be even recommended by the DPC / DSC for appointment as TRA unless the scales are made similar or the TRA is given a scale higher than the Patwari. The appellant's posting as TRA was based on necessity and temporary basis. In actual, he held his original post of Patwari drawing pay according to the post of Patwari i.e. the nomenclature of his post did not change.
- B. Denied. The allegations are baseless. His transfer was based on necessity and in the best interest of public service. He was replaced by a designated TRA.
- C. Denied. The appellant was substituted with the designated TRA and the posting of Respondent No. 4 against the post of TRA was required under the law. The promotion of the Respondent No. 4 is according to the Promotion Rules of the post of TRA as he fulfilled the required eligibility (**Annexure-A**). The same can however be the reason behind the appellant's filing of appeal in this honourable court i.e. he has attempted at stealing the legal right of the Respondent No. 4.
- D. Denied. The Departmental Appeal was dismissed keeping in consideration all the rules relating to the matter.

It is requested that the appeal is baseless having no legal grounds therefore may kindly be dismissed with special costs.

Deputy Commissioner, Buner
(Respondent No. 1).

Commissioner, Malakand Division
(Respondent No. 2).

Senior Member, Board of Revenue, Khyber Pakhtunkhwa
(Respondent No. 1)

SMBR

Affidavit.

I, Deputy Commissioner, Buner do hereby solemnly affirm and declare on oath that the reply to this Appeal is true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable tribunal.


DEPUTY COMMISSIONER,
BUNER.

*DK Branch
For information
and record!
abc
9/7/2015*

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE/REVENUE AND ESTATE DEPARTMENT
TEHSILDAR, NAIB TEHSILDAR / SUBORDINATE REVENUE SERVICE RULES, 2008)

NOTIFICATION
Peshawar, dated 23-01-2015

No. 1942/EST/133/SSRC. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with the Cabinet Division Notification No. SRO 1571/Y2001 dated 25th June, 2001 and in supersession of all previous rules issued in this behalf, the Revenue and Estate Department, in consultation with the Establishment and Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 7 of the Appendix to this Notification and applicable to posts born on the date strength of Revenue and Estate Department specified in column 2 of the said appendix:-

APPENDIX

1	2	3	4	5	6	7
S.No	Nomenclature of the post	Appointing Authority	Minimum Qualification for appointment by initial recruitment or by transfer	Minimum Qualification for appointment by promotion	Age limit	Method of recruitment
1	Tehsildar (BPS 16)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Dalats	21 - 30 years for initial recruitment	(a) Twenty percent by initial recruitment; and (b) Sixty percent by promotion, on the basis of joint seniority-cum-fitness from amongst Naib Tehsildars, District Revenue Accountants, District Kamildars and Sub-Registrar with at least five years service. (c) Twenty percent by promotion on the basis of joint seniority-cum-fitness from amongst Assistants of the office of Board of Revenue, officers of Commissioners, Deputy Commissioners and Political Agents having five years service as such.

1	2	3	4	5	6	7
1-A	Reader to Senior Member / Members Board of Revenue	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
1-B	Inspector of Stamps	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
2	Naib Tehsildar (BPS 14)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Deleted	21 - 50 years For initial recruitment	(a) Fifty percent by initial recruitment, through Khyber Pakhtunkhwa, Public Service Commission based on the result of a Competitive Examination conducted by it in accordance with syllabus, and (b) twenty five percent by promotion on the basis of Seniority - cum - fitness from amongst Kanungos with at least Five Years Service as such, who have passed the Departmental Examination of Naib Tehsildar. (c) fifteen percent by promotion, on the basis of joint Seniority - cum - fitness from amongst Senior Clerks of the office of Board of Revenue, Commissioners and Deputy Commissioners Offices in the Division concerned; and (d) Ten percent by promotion on the basis of seniority cum fitness from amongst Junior Clerks as Political Muharrirs of the offices of Political Agents with atleast ten years service."
3	District Kanungo (Saddar Kanungo) (BPS 14)	Administrative Secretary (SMBR)				By promotion on the basis of seniority-cum-fitness from amongst the Kanungo of the concerned District with at least three years service as such
4	Head Clerk Revenue (BPS - 14)					By transfer from amongst Naib Tehsildar (Deleted) (Post has been abolished)

	3	4	5	6	7
5.	District Revenue Accountant (BPS 14)	Administrative Secretary (SMBR)			By promotion, on the basis of seniority-cum-fitness, from amongst the Tehsil Accountant of the district with at least three years service as such.
6.	Kanungo (BPS - 11)	District Collector			By promotion, on the basis of seniority-cum-fitness, from amongst the Patwaris and Naib Office Kanungos of the district concerned with three years service as such and who have passed the Departmental examination of Kanungo.
7.	Tehsil Accountant	District Collector			By promotion on the basis seniority-cum-fitness from amongst the Naib Tehsil Accountants having three (03) years service as such.
8.	Patwari (BPS - 09)	District Collector	Intermediate or equivalent qualification, who have passed the Patwar Examination.	18 to 35	By initial appointment from amongst the Patwar passed candidate entered in the Tehsil patwar candidate register maintained by District Collector of the district concerned.
9.	Naib Tehsil Accountant / Naib Tehsil Office Kanungo	District Collector			By transfer from amongst the Patwaris.

Sd/-
 SECRETARY TO GOVERNMENT
 REVENUE AND ESTATE DEPARTMENT

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
3. Secretary to Government of Khyber Pakhtunkhwa Law Department.
4. Secretary Khyber Pakhtunkhwa Public Service Commission.
5. Registrar Peshawar High Court.
6. Accountant General Khyber Pakhtunkhwa.
7. All Commissioners / Political Agents in Khyber Pakhtunkhwa.
8. All Deputy Commissioners, Khyber Pakhtunkhwa.
9. Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
10. Controller, Government Printing Press Peshawar with the request to publish the above notification in the official Gazette and :
thereof to the undersigned for record.

DEPUTY SECRETARY TO GOVERNMENT OF KHYB
REVENUE & ESTATE DEPARTMENT

(16)

**OFFICE OF THE
DEPUTY COMMISSIONER
BUNER**

No. 13453/1/6/DK

Dated: 13/08/2015.

OFFICE ORDER

The Following postings / transfers amongst the officials of this office are hereby ordered in the best interest of public service with immediate effect.

S.No	Name	From	To
1.	Mr. Hamid-ul-Haq	Patwari Halqa Malka	ADK Buner
2.	Mr. Kifayat Ullah	ADK Buner	TRA Daggar
	Mr. Muhammad Irfan	TRA Daggar	Halqa Ghwardara (against vacant post)
4.	Mr. Said Amjad Hussain Shah	Halqa Sher Ali	Halqa Kulyari
5.	Mr. Nasreen Gul	Halqa Kulyari	Halqa Ambella

DEPUTY COMMISSIONER
BUNER

No. 13454-60/1/6/DK

Copy forwarded to:-

1. The Additional Deputy Commissioner, Buner.
2. The Assistant Commissioner, Daggar for information.
3. The Assistant Commissioner, Mandanr for information
4. The Tehsildar, Daggar.
5. The Tehsildar, Mandanr.
6. Official Concerned.

DEPUTY COMMISSIONER
BUNER

تبدیلی اور منتقلی کے لئے

عدالت سرس ٹریبونل لیٹاور بحقام سوارے گل کدہ

مستوان ^{اپیل} محمد عرفان نیوارں بنام ڈی۔ سی بونیر دعتہ

مورد با تہ گذارین ہے کہ کفایت اللہ بجمعہ مذکورہ میں چارٹرڈ

لہر درج ہے مگر اب چونکہ عدلیہ بڑیا کا پروموشن بحسب

ڈی۔ آر۔ اے ہو چکا ہے

لہذا عدالت مذکور سے عرض ہے کہ بندہ کو اپیل 1168/2015

محمد عرفان نیوارں بنام ڈی۔ سی بونیر دعتہ میں برہی رقم قرار

فرمایا جائے تو مہربانی ہوگی
(نوٹ) پروموشن آرڈر لڈ ہے

عرفی
کفایت اللہ - ڈی۔ آر۔ اے پونیر

13-1-2016

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 03/11/2015

ORDER

No.Estt:V/DPC/_____ On the recommendation of Departmental Promotion Committee, the Competent Authority is pleased to order the promotion of Mr. Kifayatullah Tehsil Accountant (BS - 07) to the post of District Revenue Accountant (BPS-14) on regular basis with immediate effect.

On promotion, the above official will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servant Act, 1973, read with Rule 15 of Khyber Pakhtunkhwa, Civil Servant (Appointment, Promotion and Transfer) Rules - 1989.

Consequent upon his promotion, he is posted as District Revenue Accountant Buner against the vacant post.

By order of
Senior Member

No.Estt:V/DPC/ 25060-04

Copy forwarded to:-

1. The Commissioner Malakand Division at Saidu Sharif.
2. Deputy Commissioner, Buner.
3. District Accounts Officer, Buner.
4. Official concerned.
5. Personal Files.

[Signature]
Secretary-I

Estt
informed by
DC Buner
13/11/15
in charge of [unclear]

Office Of The DC Buner
Dairy No ... 11487
Branch.....
Signature.....
13-11-15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1168 /2015

Muhammad Irfan.....Appellant

Versus

The Deputy Commissioner,
District Buner and others.....Respondents

INDEX

S.No	Description of Documents	Date	Annexure	Pages
1.	Memo of Rejoinder with Affidavit			1-3
2.	Copy of Working Paper		Rj/1	4-5
3.	Copy of Minutes of the Meeting	19.09.2009	Rj/2	6-7
4.	Copy of Transfer order thereby Respondent No.4 was posted as Patwari Ambella Halqa	01.12.2014	Rj/3	0-8
5.	Copy of office order thereby Respondent No.4 was posted as ADK Buner	05.03.2015	Rj/4	0-9
6.	Copy of office order thereby appellant was directed to look after the routine work of Naib Office Kanungo in addition to his own post of TRA.	21.12.2015	Rj/5	0-10
7.	Copy of Pay Roll of Respondent No.4 for the month of October, 2015 which shows that he is getting the salary in BPS-9 of Patwari		Rj/6	0-11

Through

Appellant

Khush Dil Khan
Advocate,

Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445

Dated: 01 / 01 / 2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1168 /2015

Muhammad Irfan.....Appellant

Versus

The Deputy Commissioner,
District Buner and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO REPLY FILED BY RESPONDENTS NO.1
TO 3.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous, so denied in toto.

Facts:

1. The Reply to Para-1 of the appeal is totally incorrect and against the record so denied. As per working paper for the appointment of Tehsil Revenue Accountant and subsequently the Minutes of the Departmental Promotion/Selection Committee, the appointment of appellant was recommended for the post of TRA so originally he was appointed as TRA while Respondent No.4 was originally appointed as Patwari as per his office record/Service Book and Pay Roll etc. but being the blue-eyed of the Respondent No.1 he was transferred by the impugned order against the post of appellant purposely in order to promote him to the post of District Revenue Accountant (BPS-14). (Copies of Working Paper and Minutes are *Annex:-Rj/1 & Rj/2*).

2. Furnished no reply to Para-2 of the appeal, however, it is pertinent to mention that since Respondent No.4 was Patwari and wrongly posted as TRA Daggar, therefore, he was transferred therefrom and posted as Patwari at Ambella Halqa by an office order dated 01.12.2014 (*Annex:-Rj/3*) and by the same order appellant was posted as TRA Daggar. It is further evident from the office order dated 05.03.2015 (*Annex:-Rj/4*) thereby Respondent No.4 was posted as Assistant District Kanungo in his own pay and scale. Similarly, office order dated 21.12.2015 (*Annex:-Rj/5*). Further, support the plea of appellant that he is appointed as TRA and working as TRA till now in pursuance of order of this Hon'ble Tribunal.


Rejoinder to Grounds:

- A. That reply to ground-A of the appeal is totally incorrect and based on exaggeration so denied. Appellant was holding the post of TRA when the Rules as referred by the answering Respondents were issued on 23.01.2015 but he was transferred purposely and Respondent No.4 was transferred against his post malafidely in order to promote him to the post of District Revenue Accountant which is against the rules as referred by them. In the Reply, the answering Respondents have taken the plea of different Pay Scales i.e. the post of Patwari carrying BPS-9 while TRA working in BPS-7 but here Respondent No.4 was also working in BPS-9 being Patwari as evident from the Pay Roll of October 2015 (*Annex:-Rj/6*).
- B. That reply to ground-B of the appeal is incorrect so denied.
- C. That reply to ground-C of the appeal is based on exaggeration so denied.
- D. That reply to ground-D of the appeal is also incorrect. The answering Respondent No.2 has not acted fairly and unlawfully dismissed the departmental appeal of appellant.

It is, therefore, humbly prayed that reply of answering Respondents No.1 to 3 may graciously be rejected and the appeal as prayed for may kindly be accepted with costs.

Through

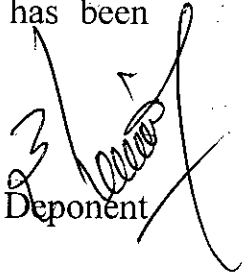

Appellant

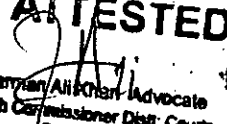

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 01 / 01/2016

Affidavit

I, Muhammad Irfan, Tehsil Revenue Accountant, Daggar, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent

ATTESTED

Farzan Ali Khan Advocate
Oath Commissioner Distt. Courts
Daggar Buner
No. 776 Date: 1-2-2016

WORKING PAPER

Ri/11
P-4

For the purpose of appointment / promotion of the Revenue Staff from (BPS - 1 to 10) in the office of District Officer (R&E)/Collector, Buner, the Provincial Government has notified the following Committee:-

1. District Officer (R&E)/Collector, Buner Chairman
2. Representative of Board of Revenue NWFP Member
3. Representative of DOR Buner Member
4. Deputy District Officer (Revenue) Buner Member

ITEM NO. 1

PROMOTION OF KANUNGO

Two (2) posts of Office Kanungos in (BPS - 09) have been created by the Provincial Government through Board of Revenue NWFP for the new Establishment of the two (2) newly created / upgraded Sub Division vide Notification No. 22584/Dud:I/BOR/2008-09, dated 27.08.2009. As the posts of Kanungos not directly filled, which will be filled by promotion from the senior Patwaris accordance with the relevant rules. According to the Seniority List the following are the senior most Patwaris for promotion as Kanungos :-

1. Mr. Mehmood Shah, Patwari
2. Mr. Behman Noor TRA
3. Mr. Abdul Wakil, Patwari
4. Mr. Alam Zeb Patwari

Annual Confidential Reports of the above officials in original alongwith synopses are placed next for consideration please.

ITEM NO. 2

APPOINTMENT OF TEHSIL REVENUE ACCOUNTANT

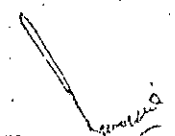
Two (2) posts of Tehsil Revenue Accountant in (BPS - 07) have also been created newly for the newly created / upgraded Sub Division. The post of Tehsil Revenue Accountant is basically Patwari and also the same will be filled from the Patwari candidates. Moreover, one Mr. Muhammad Ghafoor Patwari has been retired from service on 06.09.2009. Thus 05 posts of TRA / Patwari (BPS - 05) become vacant / available which will be filled

from amongst the senior most Patwari candidates Register maintained in the office of District Officer (R&E)/Collector, Buner. According to rules the Register Umidwaran Patwari maintained in the office of the District Collector, the following are the senior most candidates for the appointment / selection of Tehsil Revenue Accountant.

1.	Mr. Muhammad Irfan S/O Amir Akbar
2.	Mr. Sar Zamin Khan S/O Hamidullah
3.	Mr. Shakil Khan S/O Abdul Namir
4.	Mr. Imtiaz Khan S/O Said Kabot Shah
5.	Mr. Israrj Khan S/O Qilus Khan

In order to consider the above cases of promoting as Kanungo and appointment of Patwaris a meeting of Departmental Promotion / Selection Committee is scheduled Tehsildar to be held on 19.09.2009 in the office of the District Officer (R&E)/Collector, Buner.

All the relevant documents of the senior most and Register Candidates Patwaris are placed before the Committee for consideration.


District Officer (R&E)/Collector,
Buner

MINUTES OF THE DEPARTMENTAL PROMOTION / SELECTION COMMITTEE MEETING HELD ON 19.09.2009 IN THE OFFICE OF DISTRICT OFFICER (R&E)/COLLECTOR, BUNER.

A meeting of Departmental Promotion / Selection Committee for the purpose of Promotion and appointment of Revenue Staff in the District Officer (R&E)/Collector, office was held on 19.09.2009 under the Chairmanship of District Officer (R&E)/Collector, in his office. The following attended the meeting :-

1. Mr. Ismail Khan,
District Officer (R&E)/Collector, Buner Chairman
2. Representative of DCO Buner Member
3. Mr. Hamayun Khan, Superintendent
Representative of Board of Revenue NWFP Member
4. Mr. Momin Khan,
Deputy District Officer (R&E)/Collector, Buner Member

ITEM No. 1

PROMOTION OF KANUNGOS

The posts of Office Kanungos were newly created for the Establishment of new upgraded / created Sub Division by the Provincial Government through Board of Revenue NWFP vide Notification No. 22584/BUD/I/BOR/2008-2009, dated 27/08/2009, the posts of Office Kanungo one each for Tolalar and Gagra Sub Divisions are to be filled in the promotion from amongst the following senior most eligible Patwaris in the District:-

1.	Mr. Mahmood Shah, Patwari	19.05.1976	Kanungo examination passed
2.	Mr. Behman Noor TRA	20.05.1976	--do--
3.	Mr. Abdul Wakil Patwari	20.05.1976	--do--
4.	Mr. Alam Zeb, Patwari	20.05.1976	--do--

The committee examined the service record, seniority Annual Confidential Reports etc: of the above mentioned Patwaris and found the officials at S.No. 1 & 2 have passed Kanungo examination and their ACRs are free from adverse entries and no Departmental / NAB/Anti Corruption cases pending against them, are therefore recommended for promotion to the post of Kanungo (BPS - 09) on regular basis.

ITEM NO. 2

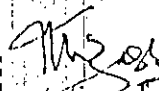
APPOINTMENT OF TRA / PATWARI

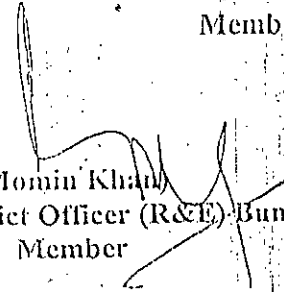
Two posts of Tehsil Revenue Accountant in (BPS - 07) have also been created for the newly created Sub Divisions. Moreover, one Mr. Muhammad Ghafoor Patwari has been retired from Service on 06.09.2009. Thus 05 posts of Patwari / TRA are available vacant in the District which are required to be filled amongst senior most Patwari candidate Register maintained in the office of District Officer (R&E)/Collector, Buner.

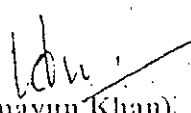
The committee examined the Patwar Candidate Register and unanimously recommended the following senior most Patwar Candidates for appointment as Patwaris (BPS - 05) on regular basis with immediate effect.

S.No.	Name of candidates	Date of birth	Qualification
1.	Mr. Muhammad Irfan S/O Amir Akbar	24.06.1987	Diploma (3 years) in Technical Education
2.	Mr. Sar Zamin Khan S/O Hamidullah	10.03.1990	FSc
3.	Mr. Shakil Khan S/O Abdul Naur	20.03.1988	FSc
4.	Mr. Imtiaz Khan S/O Said Kabot Shah	16.04.1980	F.A
5.	Mr. Isra Khan S/O Qilus Khan	20.03.1985	FSc

The meeting was ended with vote of thanks by the Chairman.


 Representative of
 District Coordination Officer,
 Buner
 Member


 (Momin Khan)
 Deputy District Officer (R&E) Buner
 Member


 (Hamayun Khan)
 Representative of
 Board of Revenue NWFP
 Member


 (Ismail Khan)
 District Officer (R&E)/Collector,
 Buner
 Chairman

Ri/3
P. 8

**OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.**

Dec 01, 2014.

Office Order.

No. 15345-76/DC/Buner. In pursuance of the Govt. of Khyber Pakhtunkhwa, Board of Revenue, Revenue & Estate Department's letter no. Estt:VI/General File/21358-90 dated 28-10-2014, following Postings / Transfers amongst the Patwaris of this district are hereby ordered with immediate effect in the best interest of public service:

No.	Name of Patwari	From	To	Remarks
1	Sardar Ali	Bajkata	Amnawar	
2	Sarbali Khan	Rega	Tanta Pacha	
3	Saiful Malook	Amnawar	Kalpani	Against the vacant post
4	Muslim Khan	Gumbat	Matwani	
5	Shafiur Rahman	Matwani	Bajkata	
6	Zahid Tab Gul	Pandair	Rega	
7	Abdul Mujeeb	Banj Kara	Pandair	
8	Abdul Malik	Bampokha	Anghapur	
9	Mumtaz Ali	Anghapur	Jowar	
10	Iftikhar	Jowar	Bampokha	
11	Gul Shed	Katkala	Gumbat	
12	Fateh Muhammad	Pacha	Gulbandi	
13	Noor Farooq	Malakpur	Pacha	
14	Inamullah	Ambella	Report to DC Office	Disciplinary proceedings pending against him in Board of Revenue
15	Kamal Afsar	Agarai	Nawagai	
16	Muhammad Younas	Ghwardara	Malakpur	
17	Shakeel	Khanpur	Chanal	
18	Anwar Ali	Charorai	Khanpur	
19	Dawa Khan	Chanal	Charorai	
20	Dilraj Khan	Nawagai	Agarai	
21	Kifayatullah	TRA Daggar	Ambella	
22	Muhammad Irfan	Topai	TRA Daggar	

(Khaista Rahman)
**DEPUTY COMMISSIONER,
BUNER.**

Endst. No. & date even.

- Secretary-I, Govt. of Khyber Pakhtunkhwa, Board of Revenue, Revenue & Estate Department, Peshawar.
- Secretary to Commissioner, Malakand Division w/r to his letter no. 10205/2/8/Estt: dated 06-11-2014.
- All Assistant Commissioners. Buner

OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.

Ri/4
R9

No. 3827-3140/Buner/Estt.
March 05, 2015.

Office Order.

Consequent upon the suspension of Mr. Inamullah ADK, Mr. Kifayatullah Patwari Halqa Ambela is posted Assistant District Kanungo in his own pay & scale in the best interest of public service. Assistant Commissioner, Mandaur is directed to arrange for the alternative of Mr. Kifayatullah.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

Endst. No. & date even.

1. Additional Deputy Commissioner, Buner.
2. Assistant Commissioner, Mandaur.
3. Additional Assistant Commissioner, Mandaur.
4. Naib Tehsildar, Chamla.
5. Both the officials.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

D. No - 170
6/3/15

sc

6/3/15

Ri/5

P-10

OFFICE OF THE
ASSISTANT COMMISSIONER,
DAGGAR.

No. /5/2/AG(D)

Dated 21/12 /2015.

OFFICE ORDER.

In pursuance of the Verbal direction of Deputy
Commissioner Buner Mr. Irfan TMA is hereby directed
to look after the routine work of NOE in addition
to his own duties with immediate effect.

ASSISTANT COMMISSIONER
DAGGAR.

No. 47577 /5/2/AG(D)

Copy forwarded to the:

1. Deputy Commissioner Buner.
2. Tehsildar Daggan.
3. Official concerned for strict compliance.

ASSISTANT COMMISSIONER
DAGGAR.

Rifb P 110

Bunair at Dagga

SH:1

P Sec:001 Month:October 2015
806164 -Deputy Commissioner, Bunair
DEPUTY COMMISSIONER BUNER

Pers # 00221618 Buckle 0
Name: KIFAYAT ULLAH
NULL
CNIC No. 11557068906
GPF Interest Free
09 Active Permanent

NTN: 0
GPF #: NULL
Old #: 11557068906

806164 -00

PAYS AND ALLOWANCES

0001-Basic Pay	19,895.00
1000-House Rent Allowance	1,145.00
1210-Convey Allowance 2009	1,932.00
1300-Medical Allowance	1,500.00
1555-Stationery Allowance	500.00
1617-Patwar Khana Allowance	3,100.00
1911-Compen Allow 20% (1-15)	1,000.00
1948-Adhoc Allowance 2010@ 50%	4,140.00
2148-15% Adhoc Relief All-2013	2,298.00
Gross Pay and Allowances	39,032.00

DEDUCTIONS:

IT Payable	737.24	Deducted	580.00	Tax (3609)	105.00
GPF Balance	205,384.00			Subrc:	772.00
6505-GPF Loan Principal Instal Bal:	30,000.00				5,000.00
3501-Benevolent Fund					180.00
3511-Addl Group Insurance					7.00
3604-Group Insurance					67.00

Total Deductions 6,132.00
32,900.00

D.O.B 01.06.1957 LFP Quota:
34 Years 06 Months 026 Days HABIB BANK LIMITED DEWANA BARA
3979-6

Bunair at Dagga

SH:2

P Sec:001 Month:October 2015
806164 -Deputy Commissioner, Bunair
DEPUTY COMMISSIONER BUNER

Pers # 00271618 Buckle 0
Name: KIFAYAT ULLAH
NULL
CNIC No. 11557068906
GPF Interest Free
09 Active Permanent

NTN: 0
GPF #: NULL
Old #: 11557068906

806164 -00

PAYS AND ALLOWANCES

2174-Adhoc Relief Allow-2014	1,532.00
2199-Adhoc Relief Allow #10%	1,988.00

Gross Pay and Allowances

Gross Pay and Allowances	19,032.00				
DEDUCTIONS:					
IT Payable	737.24	Deducted	580.00	Subrc	
GPF Balance	205,384.00				

Total Deductions 6,132.00
32,900.00

D.O.B 01.06.1957 LFP Quota:
34 Years 06 Months 026 Days HABIB BANK LIMITED DEWANA BARA
3979-6

Ri/6 p-11

عدالت سرحدوں ٹریبونل لیٹا اور بحفاظت سہولت کھل کر

مفتوح ^{اپیل} محمد عرفان پٹواری بنام ڈی۔ سی۔ یو۔ اینڈ۔ سی۔ یو۔ اینڈ۔ سی۔

موردہ کہ گذارش ہے کہ کفایت اللہ بچھڑے مذکورہ میں خارجہ

فرد ہے مگر اب چونکہ مدعیہ بڑا کا فرد موشن بحسب

ڈی۔ آر۔ اے یو کی ہے

لہذا عدالت مذکور سے عرض ہے کہ بندہ کو اپیل ^{15/2015} 1168

محمد عرفان پٹواری بنام ڈی۔ سی۔ یو۔ اینڈ۔ سی۔ یو۔ اینڈ۔ سی۔ یو۔ اینڈ۔ سی۔

فرمایا جائے تو میرا خیال ہے (نوٹ) پرو موشن آرڈر لکھ ہے

عرفیہ
کفایت اللہ - ڈی۔ آر۔ اے یو
15-2-13

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
Peshawar dated the 03/11/2015

ORDER

No. Estt/V/DPC/..... On the recommendation of Departmental Promotion Committee, the Competent Authority is pleased to order the promotion of Mr. Kifayatullah Tehsil Accountant (BS - 07) to the post of District Revenue Accountant (BRS-14) on regular basis with immediate effect.

On promotion, the above official will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servant Act, 1973, read with Rule 15 of Khyber Pakhtunkhwa, Civil Servant (Appointment, Promotion and Transfer) Rules - 1989.

Consequent upon his promotion, he is posted as District Revenue Accountant Buner against the vacant post.

By order of
Senior Member

No. Estt/V/DPC/ 25068-64

- Copy forwarded to:
1. The Commissioner Malakand Division at Saidu Sharif
 2. Deputy Commissioner, Buner
 3. District Accounts Officer, Buner
 4. Official concerned
 5. Personal Files


Secretary-I

Office Of The DC Buner
Dairy No 11987
Branch.....
Signature.....
13-11-15

Estt
Wb/Prm/br
DC Buner
13/11/15

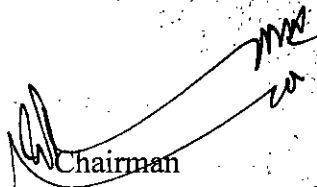
31.01.2018

Counsel for the appellant present and Addl: AG alongwith Farhad Ullah, Computer Operator for official respondent and private respondent No. 5 in person present.

Counsel for the appellant after the arguing the case at some length has requested this Tribunal that since respondent no. 5 has attained superannuation on 14.11.2017 and the appellant has been appointed as regular TRA from 15.02.2016 and at the present the grievances of the appellant has been redressed. That he would withdraw this appeal by reserving his right to sue afresh in case his right violated in future.

In view of the above the present appeal is dismissed as withdrawn. File be consigned to the record room.


Member


Chairman
Camp Court, Swat

ANNOUNCED
31.01.2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1168 /2015

Muhammad Irfan,
Tehsil Revenue Accountant,
Daggar.....Applicant/Appellant

Versus

Deputy Commissioner,
District Buner and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-3
2.	Stay Application with Affidavit			4-5
3.	Copy of the impugned transfer order	13-08-2015	A	0-6
4.	Copy of departmental appeal before the respondent No.2	27-08-2015	B	7-12
5.	Copy of letter thereby comments was asked from Respondent No.2 on the departmental appeal of appellant	31-08-2015	C	0-13
6.	Copy of the impugned order thereby departmental appeal of appellant was dismissed by the Respondent No.2	05-10-2015	D	14-15
7.	Wakalat Nama			

Through

Appellant

Khush Dil Khan
Advocate,

Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445

Dated: 16 / 10/ 2015



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Tel# 0946-9240458
Email: secretarytocmd@gmail.com

Dated 14 / 11 / 2017

OFFICE ORDER.

No. 107 /2/60/Estt; In terms of provisions of Rule-20 of the Khyber Pakhtunkhwa, Civil Servants Revised Leave Rules, 1981 and instructions there-under issued from time to time, sanction is hereby accorded to the encashment of Leave Preparatory to Retirement, equal to 365 days in favour of Mr. Kifayatullah, District Revenue Accountant (BPS-15), office of the Deputy Commissioner, Buner.

In terms of Section-13 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973, the officer shall stand retired from service on 30.11.2017 (AN), on attaining the age of superannuation, as his date of birth is 01.12.1957.

By Order

COMMISSIONER MALAKAND DIVISION

No. 4002-13 /2/60/Estt

Copy forwarded to:-

1. The Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner, Buner with reference to his Memo: No: 2/2/Acctt./DC(B)/15681-82, dated 06.11.2017.
3. The District Accounts Officer, Buner.
4. The official concerned.
5. Office Order File.


Office Of the DC Buner
 File No8793.....
 Branch.....
 Signature.....
 22-11-17

SECRETARY TO COMMISSIONER
MALAKAND DIVISION


Am.
DC

02.05.2017

Appellant in person present. Mr. Sultan Zeb Naib Tehsildar alongwith Mr. Muhammad Zubair, District Attorney for official respondents No. 1 to 3 and private respondent No. 4 in person also present. Due to non-availability of learned counsel for the appellant as well as incomplete bench arguments could not be heard. To come up for rejoinder and arguments on 06.09.2017 before D.B at Camp Court Swat.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat.

06.09.2017

 Appellant in person and Mr. Muhammad Zubair, District Attorney alongwith Mr. Mukhtiar Ali, Asst: Secretary and Mr. Farhad ullah, Computer Operator for the respondents present. Counsel for the appellant is not in attendance. Appellant seeks adjournment. Adjourned.. To come up for final hearing on 06.12.2017 before the D.B at camp court, Swat.

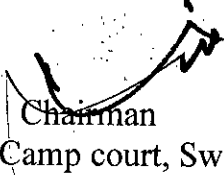

Member


Chairman
Camp court, Swat.

06.12.2017

Appellant in person and Mian Amir Qadar, District Attorney alongwith Farhadullah, Computer Operator for the official respondents and private respondent No. 4 in person present. Counsel for the appellant has not turned up from Peshawar. Seeks adjournment. To come up for arguments on 31.01.2018 before the D.B at camp court, Swat.



Member


Chairman
Camp court, Swat

05.10.2016


Counsel for the appellant and Mr. Muhammad Zubair, Sr.GP for the respondents present. Counsel for the appellant seeks adjournment. Adjourned for final hearing to 06.12.2016 before the D.B at camp court, Swat.


Member


Chairman
Camp court, Swat

06.12.2016


Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. The bench is incomplete, therefore, arguments could not be heard. To come up for final hearing before D.B on 08.02.2017 at camp court, Swat.


Chairman
Camp court, Swat

08.02.2017

Appellant in person and Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Muhammad Zubair, Senior Government Pleader for the official respondents and counsel for private respondent No. 4 present. Appellant requested for adjournment as his counsel has not turned up from Peshawar. To come up for final hearing on 02.05.2017 before D.B at camp court, Swat.


Member


Chairman
Camp court, Swat

02.05.2016


Appellant in person and Mr. Muhammad Zubair, SGP for the respondents present. Learned counsel for the appellant is stated to be busy before the august Supreme Court of Pakistan. Requested for adjournment. Last opportunity granted. To come up for final hearing before D.B on 07.06.2016 at Camp Court, Swat. Status quo be maintained. If the appellant failed to produce his counsel for arguments on the date fixed status quo shall stand vacated.



Member


Chairman
Camp Court Swat

05.06.16

Appellant in person and Mr. Muhammad Zubair, Sr.GP for official respondents No. 1 to 3 present. Counsel for the appellant has not turned up from Peshawar. To come up for final hearing before D.B on 02.08.2016 at camp court, Swat.


Member


Chairman
Camp Court, Swat.

02.08.2016

Appellant in person and Mr. Adalat Khan, District Finance Officer alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for arguments on 05.10.2016 before D.B at camp court, Swat.


Chairman
Camp court, Swat.

13.01.2016

Appellant in person, Mr.Sami-ur-Rehman; Assistant
alongwith Mian Amir Qadir, G.P for official respondents
No.. 1 to 3 and private respondent No.4 in person present.
Written reply by private respondent No.4 also submitted.
Rejoinder also submitted by appellant. The appeal is
assigned to D.B for final hearing for 8.3.2016 at Camp Court
Swat. Status-quo be maintained.


Chairman
Camp Court Swat


08.03.2016

Appellant in person and Mr.Sami-ur-Rehman, Assistant
alongwith, Mr. Amir Qadir, G.P. for official respondents present.
Due to non-availability of D.B as well as strike of the Bar,
arguments could not be heard. To come up for final hearing before
D.B on 05.4.2016 at Camp Court Swat. Status-quo be maintained.


Chairman
Camp Court Swat

05.04.2016

Appellant in person and Mr. Samiur Rahman, Asstt.
alongwith Amir Qadir, GP for the respondents present. Due to
non-availability of D.B arguments could not be heard. To come up
for final hearing before D.B on 02.05.2016 at Camp Court, Swat.
Status quo be maintained.


Chairman
Camp court, Swat.

26.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Tehsil Revenue Accountant at Daggar when transferred as Patwari Halqa Gwardara vide impugned order dated 13.8.2015 against which he preferred departmental appeal on 27.8.2015 which was rejected on 5.10.2015 and hence the instant service appeal on 19.10.2015.

That the impugned order is premature as the appellant was posted against the said post on 1.12.2014 and, furthermore, the appellant is a TRA and as such cannot be posted as Patwari Halqa.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 7.12.2015 at Camp Court Swat as the matter pertains to the territorial limits of Malakand Division. Notice of stay application be also issued for the date fixed. Status-quo be maintained.


Appellant Deposited
Security & Process Fee




Chairman

7.12.2015



Appellant in person, Mr. Sami-ur-Rehman, Assistant alongwith Assistant A.G for official respondents No.1 to 3 and private respondent no.4 in person present. Written reply by official respondents no.1 to 3 submitted. Private respondent no.4 requested for adjournment. To come up for written reply on behalf of private respondent no.4 on 13.01.2016 before S.B at Camp Court Swat. Status-quo be maintained.


Chairman
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1168/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19.10.2015	<p>The appeal of Mr. Muhammad Irfan presented today by Mr. Khushdil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>26-10-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1168 /2015

K.W.P. Province
Service Tribunal

Diary No. 1271

Dated 19-10-2015

Muhammad Irfan,
Tehsil Revenue Accountant,
Daggar, under Transfer to the Post of Patwari Halqa, Ghordara,
District Buner.....Appellant

Versus

1. Deputy Commissioner,
District Buner.
2. The Commissioner,
Malakand Division at Saidu Sharif / Swat
3. Senior Member Board of Revenue,
Revenue and Estate, Department
Khyber Pakhtunkhwa, Peshawar
4. Kifayat Ullah,
ADK, Buner under Transfer,
to Daggar as RTA,
District Buner.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 13th AUGUST 2015 THEREBY APPELLANT WAS TRANSFERRED FROM THE POST OF TRA DAGGAR TO PATWARI HALQA GHORDARA WHILE RESPONDENT NO.4 WAS POSTED AGAINST HIS POST AS TRA DAGGAR AGAINST WHICH HE FILED DEPARTMENTAL APPEAL BEFORE THE RESPONDENT NO.2 ON 27th AUGUST 2015 WHICH WAS DISMISSED ON 5th OCTOBER 2015.

19-10-15

Registered

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the petitioner is the employee of Revenue Department holding the post of Tehsil Revenue Accountant (TRA). On 13-08-2015 (**Annexed 'A'**) an office order was issued by Respondent No.1 thereby appellant was transferred from Tehsil Daggar and posted as Patwari Halqa, Ghordara while Respondent No.4 was posted against his post as TRA Daggar.
2. That appellant has challenged the impugned transfer order by filing Departmental appeal on 27-08-2015 (**Annexed 'B'**) before the Respondent No.2 thereon comments were called from Respondent No.1 vide letter dated 31-08-2015 (**Annexed 'C'**) but later on the departmental appeal was dismissed by the Respondent No.2 vide order dated 05-10-2015 (**Annexed 'D'**).

Hence the present appeal is submitted on the following amongst other grounds:-

Grounds:

- A. That the impugned transfer order has been passed in violation of rules and policy on subject and not sustainable, liable to be set aside.
- B. That appellant has not completed the normal tenure as per policy at the present place Daggar but under the political influence/pressure he was transferred and Respondent No.4 was posted against that very post which is illegal, unfair and unjust.

- C. That the impugned transfer order is tainted with malafide intention with ulterior motive to accommodate Respondent No.4 in order to promote him to the post of District Revenue Accountant BPS-14 at the cost of appellant which is unlawful, unjustified, having no legal sanctity.
- D. That Respondent No.2 has misconceived the case of appellant and passed the impugned order thereby the departmental appeal of appellant was dismissed in arbitrary manner which is illegal and not sustainable liable to be set aside.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned orders dated 13-08-2015 and 05-10-2015 may kindly be set aside and appellant may graciously be allowed to continue the post of TRA, Daggar.

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

dt. 16.10.2015

Through


Appellant

Khush Dil Khan,
Advocate,

Supreme Court of Pakistan

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL PESHAWAR
Service Appeal No. _____/2015**

Muhammad Irfan,
Tehsil Revenue Accountant, Daggar.....Applicant/Appellant

Versus

Deputy Commissioner,
District Buner and others.....Respondents

Application for suspending the operation of the impugned orders dated 13-08-2015 and 05-10-2015 till the final disposal of the instant appeal.

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of appellant.
3. That the balance of convenience also lies in favour of appellant and in case operation of the impugned order is not suspended the applicant/appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned order dated 13-08-2015 and 05-10-2015 may graciously be suspended till the final disposal of the appeal.

Through


Applicant

**Khush Dil Khan,
Advocate, Peshawar**

Dated: 16 / 10/2015

AFFIDAVIT

I, Muhammad Irfan, Tehsil Revenue Accountant, Daggar, District Buner, do hereby 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 Hon'ble Tribunal.



Deponent

ATTESTED

12/11/2015

**OFFICE OF THE
DEPUTY COMMISSIONER
BUNER**

Annex. A

No.13453/ 1/6/DK

P-6

Dated: 13/08/2015.

OFFICE ORDER

The Following postings / transfers amongst the officials of this office are hereby ordered in the best interest of public service with immediate effect.

S.No	Name	From	To
1.	Mr.Hamid-ul-Haq	Patwari Halqa Malka	ADK Buner
2.	Mr.Kifayat Ullah	ADK Buner	TRA Daggar
3.	Mr.Muhammad Irfan	TRA Daggar	Halqa Ghwardara (against vacant post)
4.	Mr.Said Amjad Hussain Shah	Halqa Sher Ali	Halqa Kulyari
5.	Mr.Nasreen Gul	Halqa Kulyari	Halqa Ambella

**DEPUTY COMMISSIONER
BUNER**

No.13454-60 /1/6 /DK

Copy forwarded to:-

1. The Additional Deputy Commissioner, Buner.
2. The Assistant Commissioner, Daggar for information.
3. The Assistant Commissioner, Mandanr for information
4. The Tehsildar, Daggar.
5. The Tehsildar, Mandanr.
6. Official Concerned.

ATTESTED

**DEPUTY COMMISSIONER
BUNER**

①

Annex B
E.A P-7
Reader

for Commissioner

BEFORE THE COMMISSIONER, MALAKAND
DIVISION AT SAIDU SHARIF, SWAT

Muhammad Irfan Tehsil Revenue Accountant Daggar, 27-8-2015
District Buner.

.....Appellant
VERSUS

- 1. Kifayat Ullah ADK Buner.
- 2. Deputy Commissioner, Buner.

.....Respondents

Appeal against office order No. 13453/1/6/
DK dated 13-08-2015 passed by Respondent
No. 2 wherein appellant was illegally,
malafidely transfer from the post of TRA
Daggar to Halqa Ghwardara as a Patwari.

Prayer on appeal

On acceptance of this appeal /
representation the office order No.
13453/1/6/ DK dated 13-08-2015 issued by
Respondent No. 2 may be declared illegal,
ultra various, without jurisdiction may

ATTESTED

Attested to be true Copy

Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

②

kindly be set aside and allowing appellant to perform his duty as a TRA Daggar

P-8

Any other relief deemed appropriate may also granted in addition to the relief claim above.

Respectfully Sheweth:

The appellant states as follows:-

- 1) That the first appointment of appellant against the vacant post of TRA on 28-09-2009 at Nagray, District Buner as Patwari. (Copies of working paper, appointment order & minutes of Departmental Promotion Selection Committee are attached)
- 2) That the appellant performing his duty good zeal & zest, and on 24-09-2010 the appellant was transfer from Nagray to Mauza Rega as Patwari. (Copy of order is attached)
- 3) That on 13-01-2012 again transfer from Rega to Mauza China / Chanarr. (Copy of order dated 13-01-2012 is attached)
- 4) That the Respondent No. 2 again transfer the appellant from China / Chanarr to Kulyari vide his order dated 19-03-2014. (Copy of order dated 19-03-2014 is attached)

ATTESTED

Attested to be True Copy

Reader & Commissioner,
Malakand Division,
Saidu Sharif Swat.

- 5) That the Respondent No. 2 without any reason verbally directed to Assistant Commissioner Gagra transfer the appellant from Kulyari to Mauza Topi on 29-08-2014. (Copy of order dated 29-08-2014 is attached) there appellant started his duty punctually & honestly but the Respondent No. 2 again issue office order dated 1st December 2014 appellant was transfer from Mauza Topay to TRA Daggar, District Buner. (Copy of order dated 01-12-2014 is attached)
- 6) That now the Respondent No. 2 again illegally issue the Impugned office order dated 13-08-2015 wherein the appellant transfer from TRA Daggar to Halqa Gwardara without showing any valid reason. (Copy of impugned office order dated 13-08-2015 is attached)
- 7) That the Respondent No. 2 violated the mandatory provisions of law, therefore the appellant approaches before this Honorable authority for the redressal of his graveness by filing departmental appeal inter alia on the following grounds.

GROUNDS:-

- i) That the order of Respondent No. 2 is illegal, against law, ab-initio, because the Respondent No. 2 ignore prevailing law in service, and also ignore the tenure of the appellant. The Impugned order is

ATTESTED

Attested to be true Copy

Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.


4

P.10

totally discriminatory, arbitrary and malafide, hence liable to be set aside.

- ii) That the appellant perform his duty as TRA honestly and diligently, but the Respondent No. 2 without showing any valid reason transfer the appellant from TRA Daggar to Patwari Halqa Ghwardara. The appellant is entitle to complete his tenure the said post i.e., TRA Daggar, but the Respondent No. 2 ignore all facts and due to some blue eyed revenue, official mentioned Respondent No. 1 above have been transferred in preference to the appellant on the same Government Policy which is in violation of the law and against the rules & regulating the service.
- iii) That the impugned order is ultra virus of the law, against the principal of equity & justice, hence calling for interference by this Honorable authority.
- iv) That the appellant was illegally deprived from their vested rights.
- v) That the Respondent No. 2 mis-use the authority available to him, moreover without considered the

ATTESTED

Attested to be true Copy

Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

5

5 P-11

tenure of the appellant, hence the order of the Respondent No. 2 is liable to be set aside.

PRAYER

It is, therefore, most humbly prayed that, on acceptance of this appeal / representation the office order No. 13453/1/6/ DK dated 13-08-2015 issued by Respondent No. 2 may be declared illegal, ultra various, without jurisdiction may kindly be set aside and allowing appellant to perform his duty as a TRA Daggar

Any other relief deemed appropriate may also granted in addition to the relief claim above.

Interim Relief

By way of interim relief this Honorable Authority may be please to suspend operation of the impugned order No. 13453/1/6/ DK dated 13-08-2015 issued by Respondent No. 2 till the final disposal of this appeal.

ATTESTED

Attested to be true Copy

Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

APPELLANT

Muhammad Irfan Tehsil Revenue
Accountant Daggar, District Buner.

Dated: 27-08-2015

6

6
P.12

BEFORE THE COMMISSIONER, MALAKAND
DIVISION AT SAIDU SHARIF, SWAT

Muhammad Irfan Tehsil Revenue Accountant Daggar,
District Buner.

.....Appellant

VERSUS

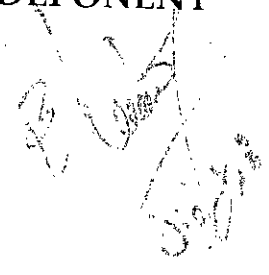
- 1. Kifayat Ullah ADK Buner.
- 2. Deputy Commissioner, Buner.

.....Respondents

AFFIDAVIT

I, Muhammad Irfan Tehsil Revenue Accountant Daggar,
District Buner, do hereby solemnly affirm and declare on
oath that the contents of the above titled departmental appeal
are true and correct to the best of my knowledge and belief.

DEPONENT



27-08
2015

Attested to be true Copy

ATTESTED


Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.



Annex: C (17)
12/13
OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

No. 1771 /225/Est.

Dated 31 /08/2015

To

The Deputy Commissioner, Buner.

Subject: - DEPARTMENTAL APPEAL AGAINST OFFICE ORDER NO.13453/1/6/DK, DATED 13-08-2015 PASSED BY RESPONDENT NO.2 WHEREIN, APPELLANT WAS ILLEGALLY, MALAFIDELY TRANSFER FROM THE POST TRA DAGGAR TO HALQA GHWARDARA AS A PATWARI.

Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of Departmental Appeal of Muhammad Irfan, Tehsil Revenue Accountant Daggar against his transfer/posting as Patwari to Halqa Ghwardara, the contents of which are self-explanatory for your comments, please.

Encl: As above.

SECRETARY TO COMMISSIONER
MALAKAND DIVISION
Ph# 0946-5243458

Attested to be true Copy

Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

ATTESTED

Amex D³
P14

BEFORE THE COMMISSIONER, MALAKAND DIVISION
AT SAIDU SHARIF SWAT.

Case No.2/26/Estt:/CMD

Date of Institution: 27.08.2015

Muhammad Irfan, Tehsil Revenue Accountant,
Daggar, District Buner..... Appellant.

VERSUS

1. Mr. Kifayatullah, ADK, Buner.
2. Deputy Commissioner, Buner..... Respondents.

Appeal against Office Order No. 13453/1/6/DK, dated 13.08.2015 passed by Respondent No.2 wherein appellant was malafidely transferred from the post of TRA Daggar to Halqa Gwardara as a Patwari.

O R D E R
05.10.2015.

Gist of the case is that the appellant, Muhammad Irfan, Tehsil Revenue Accountant, Daggar District Buner was transferred and posted against the vacant post of Patwari, Halqa Gwardara by the Deputy Commissioner, Buner (Respondent No. 2) vide his Office Order dated 13.08.2015.

The appellant preferred departmental appeal before this Court, requested that the transfer order be declared illegal, allowing the appellant to perform his duty as Tehsil Revenue Accountant, Daggar District Buner.

The Deputy Commissioner (Respondent No.2) furnished his comments vide his Memo: No. 15167/1/20/DK(B), dated 17.09.2015, stated that the appellant was initially appointed as Patwari and not as Tehsil Revenue Accountant. His transfer was made on the basis of necessity and his posting as TRA was on temporary basis. The appellant has been substituted with the designated TRA.

W
Commissioner Malakand Division

The appeal of the appellant, comments of the Respondent No.2 and record of the case was thoroughly examined. The Deputy Commissioner, Buner is a competent authority to transfer Patwari/Revenue official in the District. The appeal carries no weight, therefore I see no reason to interfere in the impugned order passed by the Deputy Commissioner (Respondent No.2), which is hereby maintained and the appellant should immediately report for duty. The Deputy Commissioner, Buner should withdraw suspension Order No.3851-54/DC/Buner/Estt; dated 04.09.2015 upon the arrival of the official to his new place of posting.

ATTESTED


Contd: Page-2

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P.15

A copy of this order be sent to the Deputy Commissioner,
Buner for compliance.

Announced
05.10.2015.


COMMISSIONER MALAKAND DIVISION.
Commissioner Malakand Division.

Certified that this order consists of 02 pages and that
each page is signed by the undersigned:


COMMISSIONER MALAKAND DIVISION.
Commissioner Malakand Division.


ATTESTED

WAKALAT NAMA

IN THE COURT OF K.P. Service Tribunal Peshawar

Muhammed Irfan

TRA Daggan Appellant(s)/Petitioner(s)

VERSUS

Dy. Commissioner

Dunor Valley Respondent(s)

I/We Muhammed Irfan do hereby appoint **Mr. Khush Dil Khan, Advocate** Supreme Court of Pakistan in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by

Khush Dil Khan

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion
Off: Tel: 091-2213445

3/10/2011
Signature of Executants

Service Appeal No. 1168/2015

Muhammad Irfan Patwari..... Appellant

Vs

1. Deputy Commissioner, Buner.
2. Commissioner, Malakand Division at Saidu Sharif, Swat.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. Kifayatullah, ADK Buner Under Transfer to Dggar as TRA..... Respondents.

Parawise Comments on Behalf of Respondents No. 1 & 2. 3

Preliminary Objections:

1. The appeal is not maintainable.
2. The appeal has no legal grounds.
3. The appellant has misconceived the law & rules related to the subject.
4. The appellant is estopped to file the instant appeal.
5. The appellant has not come to the worthy tribunal with clean hands.

Para-wise Comments:

1. The petitioner is employed as Patwari. His posting as TRA was on temporary basis. Respondent No. 4 is the only designated TRA in the district and while making transfer, it was held imperative that he is posted at his original post.
2. Pertains to the record.

Grounds:

- A. The transfer order is according to the rules and policy on subject. No violation has been made. According to the Service Rules circulated vide Govt. of Khyber Pakhtunkhwa, Board of Revenue / Revenue & Estate Department's Notification No. 1942/Estt:I/135/SSRC dated 23-01-2015 (**Annexure-A**), the route from Patwari to TRA is by promotion which means that Patwaris will be recommended for promotion to the post of TRA by the Departmental Selection / Promotion Committee. In the case of appellant, no DPC has been held to recommend him for promotion to the post of TRA. Moreover, in the present scenario of rules / policy, the Patwari cannot be appointed as TRA because of the difference of scales i.e. TRA is in scale-07 while Patwari in scale-09. A Patwari cannot be even recommended by the DPC / DSC for appointment as TRA unless the scales are made similar or the TRA is given a scale higher than the Patwari. The appellant's posting as TRA was based on necessity and temporary basis. In actual, he held his original post of Patwari drawing pay according to the post of Patwari i.e. the nomenclature of his post did not change.
- B. Denied. The allegations are baseless. His transfer was based on necessity and in the best interest of public service. He was replaced by a designated TRA.
- C. Denied. The appellant was substituted with the designated TRA and the posting of Respondent No. 4 against the post of TRA was required under the law. The promotion of the Respondent No. 4 is according to the Promotion Rules of the post of DRA as he fulfilled the required eligibility (**Annexure-A**). The same can however be the reason behind the appellant's filing of appeal in this honourable court i.e. he has attempted at stealing the legal right of the Respondent No. 4.
- D. Denied. The Departmental Appeal was dismissed keeping in consideration all the rules relating to the matter.

It is requested that the appeal is baseless having no legal grounds therefore may kindly be dismissed with special costs.

Deputy Commissioner, Buner
(Respondent No. 1).

Commissioner, Malakand Division
(Respondent No. 2).

Senior Member, Board of Revenue, Khyber Pakhtunkhwa
(Respondent No. 1)

SMBR

Affidavit.

I, Deputy Commissioner, Buner do hereby solemnly affirm and declare on oath that the reply to this Appeal is true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable tribunal.



DEPUTY COMMISSIONER,
BUNER.

*DK Branch
For information
and record
APC
9/2/2015*

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE/REVENUE AND ESTATE DEPARTMENT.

(TEHSILDAR, NAIB TEHSILDAR / SUBORDINATE REVENUE SERVICE RULES, 2008)

NOTIFICATION

Peshawar, dated 23-01-2015

No. 1942/Estt./133/SSRC. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with the Cabinet Division Notification No. SRO. 457-IY2001 dated 18th June, 2001 and in supersession of all previous rules issued in this behalf, the Revenue and Estate Department, in consultation with the Establishment and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 7 of the Appendix to this Notification and applicable to posts born on the Cadre strength of Revenue and Estate Department specified in column 2 of the said appendix:-

APPENDIX

1	2	3	4	5	6	7
S.No	Nomenclature of the post	Appointing Authority	Minimum Qualification for appointment by initial recruitment or by transfer	Minimum Qualification for appointment by promotion	Age limit	Method of recruitment
1.	Tehsildar (BPS 16)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Deleted	21 - 30 years For initial recruitment	(a) Twenty percent by initial recruitment; and (b) Sixty percent by promotion, on the basis of joint seniority-cum-fitness from amongst Naib Tehsildars, District Revenue Accountants, District Kamungos and Sub-Registrar with at least five years service. (c) Twenty percent by promotion on the basis of joint seniority-cum-fitness from amongst Assistants of the office of Board of Revenue, offices of Commissioners, Deputy Commissioners and Political Agents having five years service as such.

1	2	3	4	5	6	7
1-A	Reader to Senior Member / Members Board of Revenue	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
1-B	Inspector of Stamps	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
2	Naib Tehsildar (BPS 14)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Deleted	21 - 30 years For initial recruitment	(a) Fifty percent by initial recruitment, through Khyber Pakhtunkhwa, Public Service Commission based on the result of a Competitive Examination conducted by it in accordance with syllabus, and (b) twenty five percent by promotion on the basis of Seniority - cum - fitness from amongst Kanungos with at least Five Years Service as such, who have passed the Departmental Examination of Naib Tehsildar. (c) fifteen percent by promotion, on the basis of joint Seniority - cum - fitness from amongst Senior Clerks of the office of Board of Revenue, Commissioners and Deputy Commissioners Offices in the Division concerned; and (d) Ten percent by promotion on the basis of seniority cum fitness from amongst Junior Clerks as Political Muharrirs of the offices of Political Agents with at least ten years service."
3	District Kanungo (Saddar Kanungo) (BPS 14)	Administrative Secretary (SMBR)				By promotion on the basis of seniority-cum-fitness from amongst the Kanungo of the concerned District with at least three years service as such
4	Head Clerk Revenue (BPS - 14)					By transfer from amongst Naib Tehsildar (Deleted) (Post has been abolished)

	3	4	5	6	7
5.	District Revenue Accountant (BPS 14)	Administrative Secretary (SMBR)			By promotion, on the basis of seniority-cum-fitness, from amongst the Tehsil Accountant of the district with at least three years service as such.
6.	Kanungo (BPS - 11)	District Collector			By promotion, on the basis of seniority-cum-fitness, from amongst the Patwaris and Naib Office Kanungos of the district concerned with three years service as such and who have passed the Departmental examination of Kanungo.
7.	Tehsil Accountant	District Collector			By promotion on the basis seniority-cum-fitness from amongst the Naib Tehsil Accountants having three (03) years service as such.
8.	Patwari (BPS - 09)	District Collector	Intermediate or equivalent qualification, who have passed the Patwar Examination.	18 to 35	By initial appointment from amongst the Patwaris passed candidate entered in the Tehsil patwar candidate register maintained by District Collector of the district concerned.
9.	Naib Tehsil Accountant / Naib Tehsil Office Kanungo	District Collector			By transfer from amongst the Patwaris.

Sd/-
 SECRETARY TO GOVERNMENT
 REVENUE AND ESTATE DEPARTMENT

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
3. Secretary to Government of Khyber Pakhtunkhwa Law Department.
4. Secretary Khyber Pakhtunkhwa Public Service Commission.
5. Registrar Peshawar High Court.
6. Accountant General Khyber Pakhtunkhwa.
7. All Commissioners / Political Agents in Khyber Pakhtunkhwa.
8. All Deputy Commissioners, Khyber Pakhtunkhwa.
9. Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
10. Controller, Government Printing Press Peshawar, with the request to publish the above notification in the official Gazette and :
thereof to the undersigned for record.

DEPUTY SECRETARY TO GOVERNMENT OF KHYB.
REVENUE & ESTATE DEPARTMENT

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**OFFICE OF THE
DEPUTY COMMISSIONER
BUNER**

No. 13453/ 1/6/DK

Dated: 13/08/2015.

OFFICE ORDER

The following postings / transfers amongst the officials of this office are hereby ordered in the best interest of public service with immediate effect.

S.No	Name	From	To
1.	Mr. Hamid-ul-Haq	Patwari Halqa Malka	ADK Buner
2.	Mr. Kifayat Ullah	ADK Buner	TRA Daggar
3.	Mr. Muhammad Irfan	TRA Daggar	Halqa Ghwardara (against vacant post)
4.	Mr. Said Amjad Hussain Shah	Halqa Sher Ali	Halqa Kulyari
5.	Mr. Nasreen Gul	Halqa Kulyari	Halqa Ambella

DEPUTY COMMISSIONER
BUNER

No. 13454-60 /1/6 /DK

Copy forwarded to:-

1. The Additional Deputy Commissioner, Buner.
2. The Assistant Commissioner, Daggar for information.
3. The Assistant Commissioner, Mandanr for information
4. The Tehsildar, Daggar.
5. The Tehsildar, Mandanr.
6. Official Concerned.

13/08/15

DEPUTY COMMISSIONER
BUNER

تذریکی اور شہر ڈسٹرکٹ ہیر و سٹیشن میاں

عدالت سرس ٹریبونل لیٹاور بحکم سورت گل کدہ

مستوان ^{اپیل} محمد عرفان ٹیوارں بنام ڈی۔ سی بونیر دعتیہ

موربانہ گذارٹیں ہے کہ کفایت اللہ بھدرہ مذکورہ میں چارٹرڈ

لکڑ درجے ہے مگر اب چونکہ عدلیہ بڑیا کا پروموشن بحسب

ڈی۔ آر۔ اے ہو چکا ہے

لہذا عدالت مذکور سے عرض ہے کہ بندہ کو اپیل 1168/2015

محمد عرفان ٹیوارں بنام ڈی۔ سی بونیر دعتیہ میں برسی رقم قرار

فرمایا جائے تو مہربانی ہوگی
(نوٹ) پروموشن آرڈر لف ہے

عرفیہ
کفایت اللہ - ڈی۔ آر۔ اے پونیر

13-1-2016