

**KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR**

**CHECK LIST**

*Said Mehmood* versus  
 ..... Appellant

*SCHM*  
 ..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: _____ Advocate _____ Court.		
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
6.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?	√	
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- *M. Hussain*

Signature:- *[Signature]*

Dated:- *12/11/2014*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 124 /2024

Said Muhammad .....Appellant

Versus

SMBR & others ..... Respondents

**APPLICATION FOR FIXATION OF THE ABOVE TITLED APPEAL**  
**PRINCIPAL SEAT, PESHAWAR AT**

Respectfully Sheweth:

1. That the above mentioned/ Appeal is pending adjudication before this Hon'ble Tribunal in which no date has been fixed so far.
2. That according to Rule 5 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974, a Tribunal may hold its sittings at any place in Khyber Pakhtunkhwa which would be convenient to the parties whose matters are to be heard.
3. That it is worth mentioning that the offices of all the respondents concerned are at Peshawar and Peshawar is also convenient to the appellant/applicant meaning thereby that Principal Seat would be convenient to the parties concerned.
4. That any other ground will be raised at the time of arguments with the permission of this Hon'ble tribunal.

**It is therefore prayed that on acceptance of this application the Appeal may please be fixed at Principal Seat, Peshawar for the Convenience of parties and best interest of justice.**

Through

  
Applicant/Appellant

  
M. Amin Ayub  
&  
  
M. Tariq Khan

Advocates, High Court Peshawar

Dated: 12 /01/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 124 /2024

Said Muhammad .....Appellant

Versus

SMBR & others ..... Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Appeal along with Affidavit			1-7
2.	Stay Application along with affidavit			8-9
3.	Copy of office order whereby appellant was transferred to settlement Naib Tehsildar Mansehra-I, Baffa Circle	10.03.2023	"A"	10
4.	Copy of the impugned notification whereby appellant was prematurely transferred	13.12.2023	"B"	11
5.	Copy of the Departmental Appeal	22.12.2023	"C"	12-16
6.	Copy of the impugned appellant order	11.01.2024	"D"	17
7.	Copy of the office Notification	27.07.2023	"E"	18-20
8.	Wakalatnama			

Through

  
Applicant/Appellant

  
M. Amin Ayub

&

  
M. Tariq Khan

Advocates, High Court Peshawar

Dated: 12/01/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No. 124 /2024

Diary No. 10540

Dated 12-1-2024

Mr. Said Muhammad

Naib Tehsildar Mansehra-I,  
Circle Baffa.....

Appellant

Versus

1. Senior Member Board of Revenue (SMBR)  
Khyber Pakhtunkhwa Peshawar
2. Director Land Records  
Chief Settlement Officer, Board of Revenue,  
Khyber Pakhtunkhwa, Peshawar
3. Muhammad Saleem  
Kanungo (BPS-11)  
Posted at the place of Appellant (OPS)  
N.T. Mansehra-I. Baffa ..... Respondents  
circle.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED OFFICE NOTIFICATION DATED 13.12.2023 WHEREBY APPELLANT WAS PREMATURELY TRANSFERRED AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL ON 22.12.2023 BUT THE SAME WAS UNLAWFULLY FILED VIDE IMPUGNED APPELLATE ORDER DATED 11.01.2024.

Uedto-day

PRAYER:

On acceptance of the instant appeal, the impugned office orders dated 13.12.2023 issued by Respondent No.2 and impugned appellate order dated 11.01.2024 passed by the respondent No. 1 may graciously be set aside and appellant be allowed to complete his normal posting transfer tenure as per Khyber Pakhtunkhwa Posting Transfer Policy.

Respectfully Sheweth,

**Facts giving rise to the present writ petition are as under:-**

1. That initially appellant was inducted into the service of the Respondents Department against the post of Patwari way back in the year 1986. Since then he has been performing his duties to the entire satisfaction of the high-ups, during that period he has never been proceeded against departmentally.
2. That while performing duties appellant was offered promotion on account of his meritorious service against the post of Naib Tehsildar. It is submitted that previously appellant was posted as Tehsildar (OPS) by virtue of order dated 21.12.2022 but he was reverted back to his original post and directed to report to concern office for further posting, therefore, appellant was posted as Naib Tehsildar Manshra-I vide order dated 10.03.2023 (*Annex:-A*) and started performing his duty at Circle Baffa and he started performing his duties to the entire satisfaction of the high.
3. That while discharging his duties against the subject post vide impugned office Notification dated 13.12.2023 (*Annex:-B*) whereby appellant was prematurely transferred from settlement Naib Tehsildar Manshra-I and was directed to report to the office of the commissioner of Hazara Division for further posting.
4. That as per Posting/Transfer policy "*All the posting/transfer shall be in public interest and shall not be abused/misused to victimize the Government Servants and normal positing/transfer tenure must be respected*". It is further submitted that the Hon'ble Superior Courts of the country time and again held that the instructions of the Policy in vogue must be fulfilled and the civil servants must not be made a rolling stone by way of premature transfers.
5. That being aggrieved of the impugned office order dated 13.12.2023. Appellant preferred Departmental Appeal on 22.12.2023 (*Annex:-C*) to Respondent No.1 which was unlawfully filed vide impugned appellant

order dated 11.01.2024 (*Annex:-D*).

6. That appellant, being aggrieved of the acts and actions of Respondents and the impugned office orders dated 13.12.2023 & 11.01.2024 files the instant Service Appeal this inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned office orders, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That as matter of fact respondent Department has violated their own instruction which were made pursuance to the notification dated 27.07.2023 (*Annex:-E*) wherein it was categorically decided that *in future no posting shell be made on OPS and all the OPS officers should be reverted back to the original position and it was further decided if such appointments are made in public interest then NOC from the Board of Revenue required.* Therefore, it is clearly manifest of the contents of the ibid letter that the impugned transfer order has been issued by the department not only against their own policy but also not in public interest. Thus, the impugned orders are liable to be set aside.
- C. That the impugned office orders of the respondents are against the posting transfer posting policy as promulgated by the provincial government wherein it has clearly been held that *the transfer posting should be made amongst similar BPS* while the impugned order dated 13.12.2023 reveals that respondent No. 4 who is performing his duty in BPS-11 was posted against the post of BPS-14 (OPS) and appellant was premature transferred. Reliance is placed on reported judgments, 2016 PLC (CS) 221, PLD 2013 SC 195 and 1998 SMCR 2222 wherein it was held that:-

PLD 2013 SC 195

“---Ss. 4, 5, 9 & 10---Civil Servants (Appointment, Promotion and Transfer) Rules, 1973---Constitution of Pakistan, Art. 184(3)---

*Constitutional petition under Art. 184(3) of the Constitution seeking elaboration of constitutional and legal safeguards relating to the working of civil servants---Tenure, appointment, promotion and posting/transfer of civil servants---Favoritism/discouragement of merit---Effect---Tenure, appointment, promotion and posting/transfer were of utmost importance in the civil service, and if same were made on merit in accordance with definite rules, instructions etc., they would rightly be considered and treated as part of the terms and conditions of service of a civil servant; however, where rules and instructions were deviated from and as a result merit was discouraged on account of favoritism, sifarish or considerations other than merit, it should be evident that the civil service would not remain independent or efficient."*

- D. That the impugned office orders are against the tenure and Posting/Transfer Policy issued by the Provincial Government as well as against the Judgment of the august Supreme Court of Pakistan circulated through O.M. dated 03.01.2013. Moreover, the Government of Khyber Pakhtunkhwa, Establishment Department has also accorded the same as is evident from Regulations.
- E. That the impugned office orders are neither in the public interest nor in any exigency of service rather the same has been issued in utter violation of transfer/posting policy and as such is not legally correct. Furthermore, no further posting/transfer order in respect of the appellant has been made which clearly reveals political influence.
- F. That while issuing the impugned office orders, the terms as per transfer/posting policy have not been respected. It is admitted position that the appellant has served on the previous place of postings for short span of time, therefore, it will not be wrong to add here appellant has been made a rolling stone by way premature transfer orders which is clear violation of law, Rules and Policy. Reliance is placed on 2016 PLC (CS) 526, 2018 SCMR 1411 and 2016 PLC (CS) 526; the relevant Head Notes are as under:-

**2018 SCMR 1411**

*"---S. 10---Posting and transfer of civil servant---Minimum period of posting/transfer-- -While S. 10 of the Baluchistan Civil Servants Act, 1974 did not prescribe a minimum period during which a civil servant must serve at his post, it did not mean that the Government without assigning any reason could move a civil servant from the place he was posted to after a month or subject the civil servant to repeated postings in a short period of time*

because that would amount to punishing him---Such postings also adversely affected the public interest and resulted in the wastage of scarce resources and constituted bad governance.”

2016 PLC (CS) 526

“---Transfer of employee---Mala fide---Effect---Two orders of transfer of employee were made within a span of a fortnight---Validity---Employee (appellant) was not a government servant but was an employee of Local Government Board which was an autonomous body---Where a person complained of the violation of statutory rules or had challenged an order which was tainted with mala fides then constitutional petition was maintainable---Employee was ordered to be repatriated to an authority which had ceased to exist and had become defunct---Validity---Employee was not treated fairly, justly and equitably---Transfer of employee was not in the public interest or was not necessitated by an exigency or his services were not required for a particular post or for a particular station---Employee had been made an officer-on-special duty and had been left in the lurch---If courts of law countenanced and approved such exercise of authority then it would make a mockery of law and travesty of justice---Such acts of department would not give a message of hope to the honest and scrupulous persons and might tend to undermine their confidence---Employees of government or autonomous bodies were not to be made rolling stones---Impugned order passed by the department was declared to have been passed without lawful authority and of no legal effect and authority---Employee would continue to discharge his duties at the place where he was performing the same prior to his transfer---Impugned order was set aside--- Constitutional petition was accepted in circumstances.”

- G. That the impugned transfer order dated 28.07.2022 was passed by Respondent No.2 which is clear violation of the Rules of Business because appellant was transferred on the reason that respondent No. 4 is an experience person and he would smoothly discharge the duties against the post of BPS-14 (OPS) therefore, question arises that appellant is a senior most employee of the respondent department and having rich experience would have no experience to deal with his work assigned moreover appellant is going to retire on 14.02.2026 therefore, the impugned office orders didn't left room to any confusion that the same have been passed upon ulterior motives.
- H. That the Hon'ble Supreme Court of Pakistan in the case of "Syed Mehmood Akhtar Naqvi and others ...VS... The Federation of Pakistan" reported in PLD 2013 Supreme Court 195 has laid down the following principle regarding the tenure in posting/transfer:




*“Tenure, posting and transfer: when the ordinary tenure for posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied except for compelling reasons which should be recorded in writing and are judicially reviewable.”*

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

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

Through

  
Applicant/Appellant

  
M. Amin Ayub

&

  
M. Tariq Khan

Advocates, High Court Peshawar

Dated: 12/01/2024

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_/2024

Said Muhammad .....Appellant

Versus

SMBR & others ..... Respondents

**Affidavit**

I, Mr. Said Muhammad Settlement Naib Tehsildar Manshehra-I, Baffa Circle, do hereby solemnly affirm and declare on oath that the contents of this appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

*[Signature]*  
Deponent

Identified by

*[Signature]*  
Muhammad Amin Ayub  
Advocate, Peshawar

CNIC No. 13202-8898415-7  
Cell No. 0322-9232053



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_/2024

Said Muhammad .....Appellant

Versus


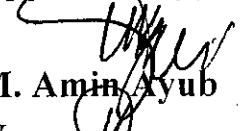
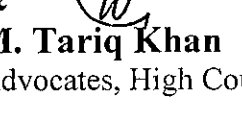
SMBR & others ..... Respondents

**Application for suspending the operation of the impugned office orders dated 13.12.2023 & 11.01.2024 till the final disposal of the instant Appeal.**

Respectfully Sheweth,

1. That the above titled service appeal is pending adjudication before the Hon'ble Tribunal.
2. That appellant has been subjected to premature transfers vide order dated 13.12.2023 and that too without public interest and violation of Posting/Transfer Policy.
3. That the impugned office order is against the posting transfer policy and the instructions of the respondent Departments wherein it was decided in future no OPS appointment would be made rather in exigency of service prior approval/ NOC would be acquired from the Board of Revenue. It is further contended that appointment of basis of OPS has not been appreciated by the apex court.
4. That the impugned office orders have been passed by respondent departments which is also a clear violation of verdicts of the august Supreme Court of Pakistan as is evident from the office Memorandum dated 03.01.2013.
5. That the averments in the main Service Appeal may also be considered as an integral part of this application.

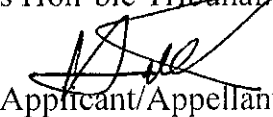
It is therefore, humbly prayed that on acceptance of this application, the operation of the impugned office orders dated 13.12.2023 & 11.01.2024 may graciously be suspended till the disposal of the instant appeal.

  
**Applicant/Appellant**  
 Through  
  
**M. Amin Ayub**  
 &  
  
**M. Tariq Khan**  
 Advocates, High Court Peshawar

Dated: 12/01/2024

Verification

Verified 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.

  
 Applicant/Appellant

- 2 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. \_\_\_\_\_ /2024

Said Muhammad .....Appellant

Versus

SMBR & others ..... Respondents

Affidavit

I, Mr. Said Muhammad Settlement Naib Tehsildar Mansehra-I, Baffa Circle, do hereby solemnly affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

*[Signature]*  
Deponent

Identified by

*[Signature]*  
Muhammad Amin Ayub  
Advocate, Peshawar

CNIC No. 13202-8898415-7  
Cell No. 0322-9232053

*[Signature]*  
12/1  
24



(b)

- 12 -

TO,

SECRETARY TO GOVT OF KP,  
REVENUE AND ESTATE DEPTT:  
KP, PESHAWAR.

ANNEX "C"

PS to SMBR

Dairy No: 92 Date: 27/12/23

THROUGH: PROPER CHANNEL

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE  
IMPUGNED TRANSFER ORDER DATED  
13/12/2023, WHEREBY APPELLANT WAS  
TRANSFERRED PREMATURELY AND IN  
UTTER VIOLATION OF THE TRANSFER  
POSTING POLICY.

AS(E)

PRAYER:

THAT ON THE ACCEPTANCE OF THE  
DEPARTMENTAL APPEAL, THE IMPUGNED  
ORDER DATED 13.12.2023 MAY PLEASE BE SET  
ASIDE BEING PASSED PREMATURELY AND IN  
VIOLATION OF POSTING TRANSFER POLICY  
THE RESPONDENT DEPTT: MAY FURTHER  
PLEASE BE DIRECTED NOT TO TRANSFER THE  
APPELLANT IN VIOLATION OF  
POSTING/TRANSFER POLICY.

MBR in

Copy  
27/12/23  
S-I  
27/12

Copy  
27/12/23

R/ SHEWETH:

ON FACTS:

1. That the appellant is a law abiding citizen of Pakistan and has every legal and constitutional rights duly protected under law of the Land.
2. That the appellant has been serving in the Revenue Department of Khyber Pakhtunkhwa, as Naib Tehsildar.
3. That the appellant was previously posted as Tehsildar in OPS basis but appellant was reverted back from the post of Tehsildar to his Original post and directed to report to office for posting. When appellant was posted as Naib Tehsildar Manshra vide order dated 10-03-2023. Since then, after taking charge appellant has been performing his duty as Naib Tehsildar Mansehra-I Circle Balak. The appellant dully carried out his duties with great care and dedication as per the direction of the authorities and no complaints whatsoever from any quarter have been received at any forum against appellant.

F-11

1/12

27/12



Annex B - 11

**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**REVENUE & ESTATE DEPARTMENT**  
Phone No. 091-9210057, FAX No. 0919213989 -  
Facebook ID: www.facebook.com/landrecordkpk Twitter ID: @LandrecordKp

Peshawar dated the 13/12/2023.

**NOTIFICATION**

No.LR-V/Settle: Oper/Mans: 946-60 The Competent Authority is pleased to order posting/transfer of the following Revenue/Settlement Officers, with immediate effect in the public interest:-

S.No.	Name of Revenue Officer	From	To
01	Mr. Muhammad Saleem, Kanungo (BPS-11)	Kanungo Battagram	Settlement Naib Tehsildar, Mansehra in O.P.S.
02	Mr. Said Muhammad, Revenue Naib Tehsildar (BPS-14)	Settlement Naib Tehsildar, Mansehra	Report to Commissioner, Hazara Division
03	Mr. Yar Muhammad, Revenue Tehsildar (BPS-16)	Tehsildar Balakot District Mansehra	Settlement Tehsildar, Mansehra
04	Mr. Ghuncha Gul, Revenue Naib Tehsildar	Settlement Tehsildar Mansehra	Report to Board of Revenue
05	Mr. Muhammad Ijaz Revenue Tehsildar	Tehsildar Havelian, District Abbottabad	Assigned additional charge as Settlement Tehsildar Lora

By order of  
Competent Authority

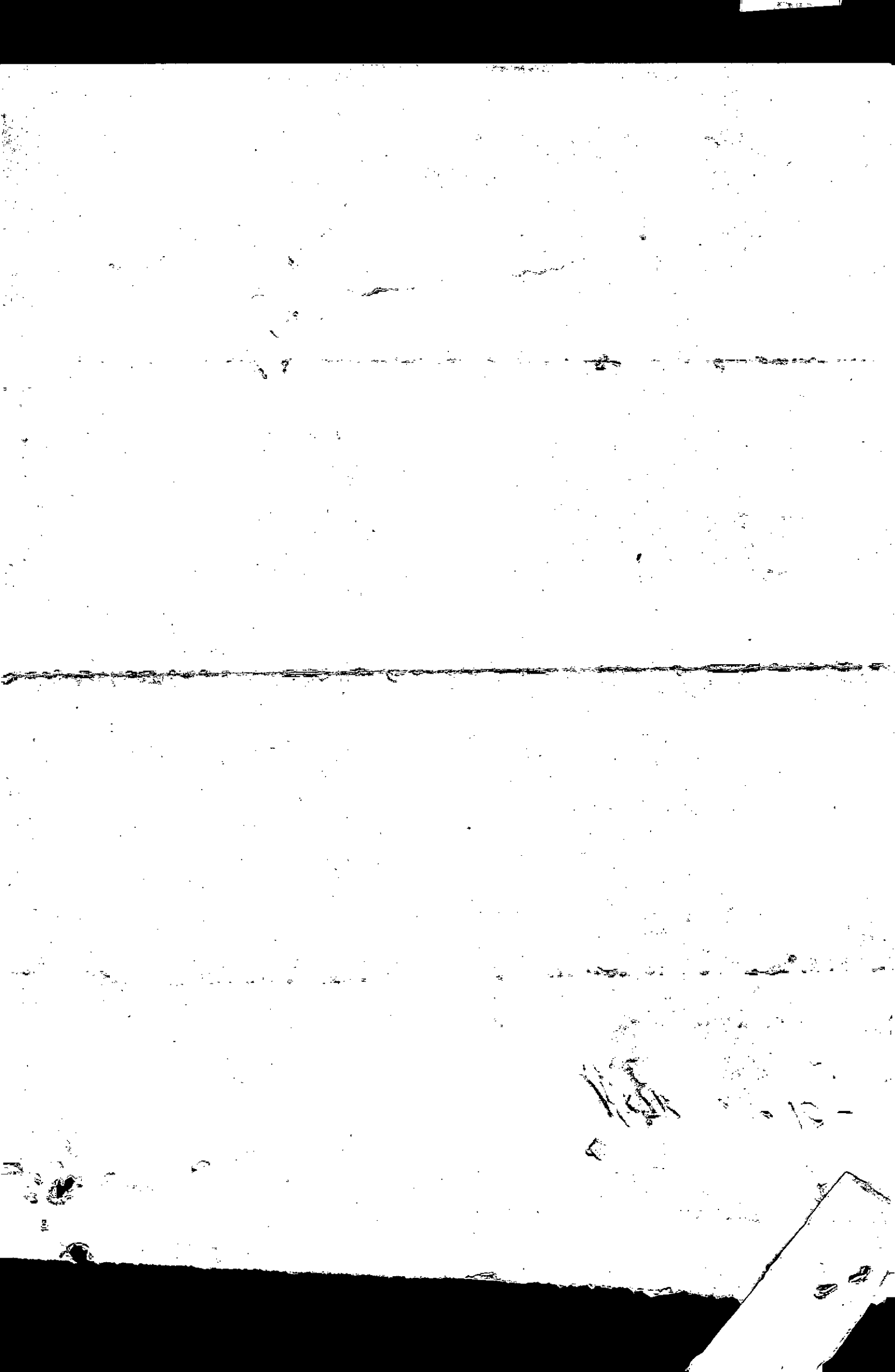
End: No. & date above.

Copy for information & necessary action is forwarded to the:-

1. Commissioner, Hazara Division, Abbottabad.
2. Accountant General, Khyber Pakhtunkhwa.
3. Secretary-I, Board of Revenue, Khyber Pakhtunkhwa.
4. Deputy Commissioners, Abbottabad & Mansehra.
5. Settlement Officers, Mansehra & Abbottabad.
6. District Accounts Officers, Abbottabad and Mansehra.
7. Senior PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
8. PS to Minister for Revenue & Estate, Khyber Pakhtunkhwa.
9. PS to Member-III, Board of Revenue, Khyber Pakhtunkhwa.
10. Officers concerned for compliance.
11. Office order file.

ATTESTED

Director Land Records  
Chief Settlement Officer  
Board of Revenue



**Office Order:**

No. LR-V/Settlement/Mansehra/ 3386-96 The following posting/transfer amongst Settlement Naib-Tehsildars is hereby ordered with immediate effect in the public interest.

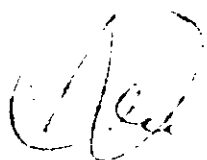
S.No	Name & Designation	From	To	Remarks
1.	Mr. Nisar Muhammad, Naib Tehsildar	Settlement Naib Tehsildar Mansehra-I, Baffa Circle	Report to Commissioner Hazara Division, Abbottabad	
	Mr. Said Muhammad Naib Tehsildar	Waiting for posting in Commissioner Hazara office	Settlement Naib Tehsildar Mansehra I, Baffa Circle	Vice S. No. 1


  
Director Land Records/  
Chief Settlement Officer  
Khyber Pakhtunkhwa

**Endst. No & Date even**

Copy forwarded to the: -

1. Commissioner Hazara Division Abbottabad.
2. Deputy Commissioner, Mansehra.
3. Settlement Officer, Manshera.
4. District Account Officer concerned.
5. Senior PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
6. Assistant Secretary (Estb;), Board of Revenue, Khyber Pakhtunkhwa.
7. Official concerned.
8. Office Order File.



  
Director Land Records/  
Chief Settlement Officer  
Khyber Pakhtunkhwa



To,

SECRETARY TO GOVT OF KP  
REVENUE AND ESTATE DEPTT  
KP, PESHAWAR

Through: Proper channel

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED TRANSFER ORDER DATED 13.12.2023, WHERE BY APPELLANT FOR TRANSFERRED PREMATURELY AND IT UTTER VIOLATION OF THE TRANSFER POSTING POLICY

PRAYER:

THAT ON THE ACCEPTANCE OF THE DEPARTMENTAL APPEAL, THE IMPUGNED ORDER DATED 13.12.2023 MAY PLEASE BE SET ASIDE BEING PASSED PREMATURELY AND BY VIOLATION OF POSTING TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER BY APPELLANT IN VIOLATION OF POSTING / TRANSFER POLICY.

R/SHEWETH:

ON FACTS:

1. That the appellant is law abiding citizen of Pakistan and the every legal and constitutional rights duly protected under law of the land.
2. That the appellant has been serving in the Revenue Department of Khyber Pakhtunkhwa, As Naib Tehsildar.
3. That the appellant was previously posted as Tehsildar in OPS basis but appellant was reverted back from the post of Tehsildar to his Original post and directed to report to office for posting of the appellant was posted as Naib Tehsildar Mansehra vide order dated 10.03.2023. Since then, after taking charge appellant has been performing his duty as Naib Tehsildar Mansehra-I Circle Baffa. The appellant dully carried out his duties with great and dedication as per the direction of the authorities and no complaints whatsoever from any quarter have been received at any form against appellant.

  
**ATTESTED**

- (2) -14-
4. That vide impugned order dated 13/12/2023 the appellant was prematurely transferred from the post of Naib Tehsildar Manshrai Circle Baffa directing appellant for report to commissioner Hazara Division is politically motivated, premature and shows malafide on part of the Department concerned and junior most employee was posted at place of appellant on OPS basis which is not permissible in eye of law. **Copy of the impugned posting order is attached.**
  5. That feeling aggrieved from impugned order the appellant filing this Departmental appeal on the following grounds amongst the others.

**GROUND:**

- A- That, impugned order dated 13-12-2023 is against the Law, policy, rules, superior court judgment, facts and norms of natural justice.
- B- That the deptt: issued order dated 27/07/2023 wherein clearly stated that all OPS be reverted to their original post and grade but despite that vide impugned order dated 13/12/2023 the department prematurely transferred the appellant and junior employee was posted in OPS against the post of appellant without taking NOC in violation of law which also shows malafide on the part of the respondents. **Copy of the order is attached as annexure-B.**
- C- That the junior most official BPS11 posted in place of the present appellant on OPS basis against the post of BPS-14 which cause hurt burning for the present appellant and the posting transfer order on OPS basis has no legal sanctity in eye of law and hence liable to be set-aside which is also violation of superior court judgment reported as **2018 SCMR 1411**" posting transfer of civil servant on his own pay and scale basis (OPS)- such posting transfer is not legally permissible. Hence the impugned order is in violation of law. the said principal also held in Hon'able Tribunal Judgment.
- D- That according to supreme court judgment reported as **2018 SCMR 1411**" and service Tribunal Judgment dated 17/01/2019 in **service appeal no 709/2018** "posting transfer of civil servant on his own pay and scale basis (OPS)- such posting transfer is not legally permissible". Hence the impugned order is according to law.
- E- That the impugned order is politically motivated and has been passed without using independent mind.
- F- That the impugned order is not in line with the established principles of good governance, and it appears to have been made with malicious intent, nepotism, favoritism, and malfeasance.
- G- That the appellant has been consistently treated in a manner, which is inconsistent with the principle of good governance and the

norms of public service. The appellant was posted as the Naib Tehsildar Mansehra-I Circle Baffa vide Order No. dated 10-03-2023. However, within nine months of his posting. vide order dated 13/12/2023, he was transferred from this position and his service was placed at the disposal of commissioner Hazara..

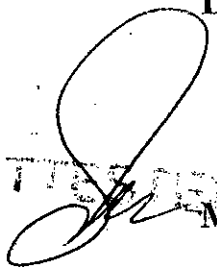
H- That the mala fide of the concerned authorities can be gauged by the fact that the appellant has been transferred twice in the span of one year. If this Authority does not intervene, the appellant will continue to suffer at the hands of those in power and the appellant will remain subject to mistreatment, victimization and discrimination by those with the authority.

I- That the principle governing the subject matter of this instant appeal has already been settled by the August Supreme Court of Pakistan in the landmark, case of Anita Turab. It is worth noting that the said judgment not only laid down the principles of good governance in the civil/public service of Pakistan, but it was also ordered that the said judgment be extensively disseminated. In that case, it was held that, if the law or rules provide for a specified tenure for a posting, such tenure must be respected, except for compelling reasons, which shall be recorded in writing and subject to judicial review. It was also held, that when there are no such laws or rules, and the matter is left to discretion, such discretion must be exercised in a structured, transparent, and reasonable manner.

J- That It has been laid down by the Constitutional Courts. that, very action of the Government or a public Functionary shall meet the requirements of reasonableness, rationality and fairness, which is lacking in the instant case. It has been held in a catena of judgments that State Authority is a sacred trust and the bearers thereof shall be seen as fiduciaries, who shall observe certain codes and procedures instead of acting at their own whims and wishes.

K- The order/notification appears to be in direct violation of Transfer /posting policy. This order has created numerous difficulties for appellant and his family. Furthermore, it is pertinent to mention that the August Supreme Court, Honorable High Court and Service Tribunal have given numerous direction/judgment regarding with transfer/posting policy, and the decision should not be made prematurely.

L- That the impugned order is against the clause 1, 2 and 4 of the posting transfer policy and even no concentration was done before passing the impugned order.

ATTORNEY  
  
M-

That In the case of the appellant, all the prevailing laws have been abused / misused and the department has tried to victimize the

09

appellant. Such treatment of the department is not covered under Para -1 of the posting transfer policy.

- N- That Para 3 of the posting / transfer policy further provides that the normal tenure of posting shall be two years , which has not been observed in the case of the appellant .
- O- That it is a cherished principle of law, that where a law requires a thing to be done in a particular manner, then the same is be done in that manner and not otherwise.
- P- That the tenure of the appellant has not been completed, so the order dated 15/03/2023 is not according to law and rules without showing any cogent reasons, premature and in violation of posting transfer policy. It is, further mentioned here that not only premature but successive transfers in span of 1 year which is not permissible in eye of law as held in Supreme Court Judgment cited as 2011 PLC(cs) 935.
- Q- That consecutive transfer orders of the appellant shows that the appellant was made a rolling stone and not allowed him to do his duty to best of his abilities as held in Superior Court Judgment cited as 2016 PLC (cs) 526 and 2011 PLC(cs) 935.

It is therefore, most humbly requested that the appeal of the appellant may be accepted as prayed for.


*Said Muhammad*

**APPELLANT**  
Said Muhammad,  
Naib Tehsildar Mansehra-I,  
Circle Baffa.

Date- 22/12/2023.

*[Signature]*  
ATTESTED

ANNEX D - 17-

	<b>GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE &amp; ESTATE DEPARTMENT.</b>	
091-9213989	Peshawar Dated the <u>11/01/2024</u>	091-9214208

**ORDER**

No. Estt:V No.Estt:V/Said Muhammad /NT 737-38 WHEREAS; Mr. Said Muhammad Settlement Tehsildar-II Settlement Operation Mansehra was transferred on 13.12.2023 and his services were placed at the disposal of Commissioner Hazara Division.

AND WHEREAS: the newly posted Official is an experience Revenue knowing and was posted to speed up the Settlement work and to complete the task in due course of time as the said Settlement Operation has already been delayed.

AND WHEREAS: The official has been placed at the disposal of Commissioner Hazara and will be posted as Naib Tehsildar in the Division.

AND WHEREAS: The Said Naib Tehsildar is working in settlement Mansehra since long and has completed his normal tenure.

AND WHEREAS: posting/transfer is a part of service and a Government servant is legally bound to perform his official duty as per directions of the relevant Competent Authority wherever required.

THEREFORE, the instant appeal of the official for cancellation of the order dated 13.12.2023 is hereby filed being meritless.

**With the approval of  
Competent Authority**


**No. & Date Even:**

- Copy forwarded to the:
1. Commissioner Hazara Division at Abbottabad
  2. Deputy Commissioner Mansehra

  
**(NOOR KHAN)**  
Assistant Secretary (Estt)

  
**ATTESTED**

ANNEX E-18-

	<b>GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE &amp; ESTATE DEPARTMENT.</b>
091-9212736	Peshawar Dated the 27/07/2023
091-9214708	

**NOTIFICATION:**

No. Estt:/Posting/Transfer/2022/ 17407-15 Consequent upon the approval granted by the Chief Minister Khyber Pakhtunkhwa, on a summary moved by this department, Services of the following newly recruited Tehsildars (BS-16) are hereby placed at the disposal of Divisional Commissioners for further posting with immediate effect in the best public interest:-

SH	Name of officer	From	To
1.	Mr. Adeel Hussain Shah, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Hazara Division
2.	Mr. Mazhar Mehmood, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Hazara Division
3.	Mr. Shahzad Ahmad Abbasi, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Hazara Division
4.	Mr. Noor Ul Wahaj, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner Hazara Division
5.	Mr. Asghar Khan, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner Hazara Division
6.	Mr. Muhammad Ejaz, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner Hazara Division
7.	Malik Zahid Gul, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner Hazara Division
8.	Mr. Fakhr -E- Alam, Tehsildar (BS-16)	On arrival from training	Services place at the disposal of Commissioner Mardan Division
9.	Miss: Hina Khan, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Mardan Division
10.	Mr. Said Amin, Tehsildar (ACB BS-16)	Waiting for posting in Board of Revenue	Services place at the disposal of Commissioner Mardan Division
11.	Mr. Faisal Shehzad, Tehsildar (BS-16)	On arrival from training	Services place at the disposal of Commissioner Mardan Division
12.	Miss: Azra Bibi, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Malakand Division
13.	Mr. Zakir Ullah, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Malakand Division
14.	Mr. Ilyas Ahmad, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Malakand Division
15.	Mr. Miraj Ud Din, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner Malakand Division
16.	Mr. Ateeq Ur Rehman, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner Malakand Division
17.	Mr. Farooq Shah, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner Malakand Division
18.	Mr. Ashfaq Ali, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Malakand Division
19.	Mr. Ilyas Ahmad, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner Malakand Division
20.	Mr. Muhammad Salman, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Malakand Division

**ATTACHED**



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

091-9212726

Peshawar Dated the 27/07/2023

091-9214208

21.	Miss: Anam Me Tehsildar (BS-16)	On arrival from training	Services place at the disposal of Commissioner Kohat Division for further posting as Tehsildar Service Delivery Center Kohat
22.	Mr. Muhammad Tehsildar (BS-16)	Waiting for posting in Board of Revenue	Services place at the disposal of Commissioner Kohat Division
23.	Mr. Muhammad Tehsildar (BS-16)	Waiting for posting in Board of Revenue	Services place at the disposal of Commissioner Kohat Division
24.	Mr. Fahim-U-Din, Tehsildar (BS-16)	On arrival from training	Services place at the disposal of Commissioner D.I.Khan Division
25.	Mr. Ihsan Ullah, Tehsildar (BS-16)	Waiting for posting in Board of Revenue	Services place at the disposal of Commissioner D.I.Khan Division
26.	Mr. Shafiq Ullah, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner D.I.Khan Division
27.	Mr. Rehmat Iqbal, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner D.I.Khan Division
28.	Mr. Khalid Yousaf, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner D.I.Khan Division
29.	Miss: Adan Zahid, Tehsildar (BS-16)	On arrival from training	Services place at the disposal of Commissioner Peshawar Division
30.	Miss Aziza, Tehsildar (BS-16)	On arrival from training	Revenue Academy Peshawar
31.	Miss: Farah Naz Burki, Tehsildar (BS-16)	On arrival from training	Services place at the disposal of Commissioner Peshawar Division
32.	Mr. Asif Ibrahim, Tehsildar (ACB BS-16)	On arrival from training	Services placed at the disposal of Commissioner Bannu Division
33.	Mr. Faheem Akhtar, Tehsildar (BS-16)	Waiting for posting in Board of Revenue	Services placed at the disposal of Commissioner Bannu Division
34.	Mr. Faheem Ullah, Tehsildar (ACB BS-16)	On arrival from training	Services place at the disposal of Commissioner Bannu Division

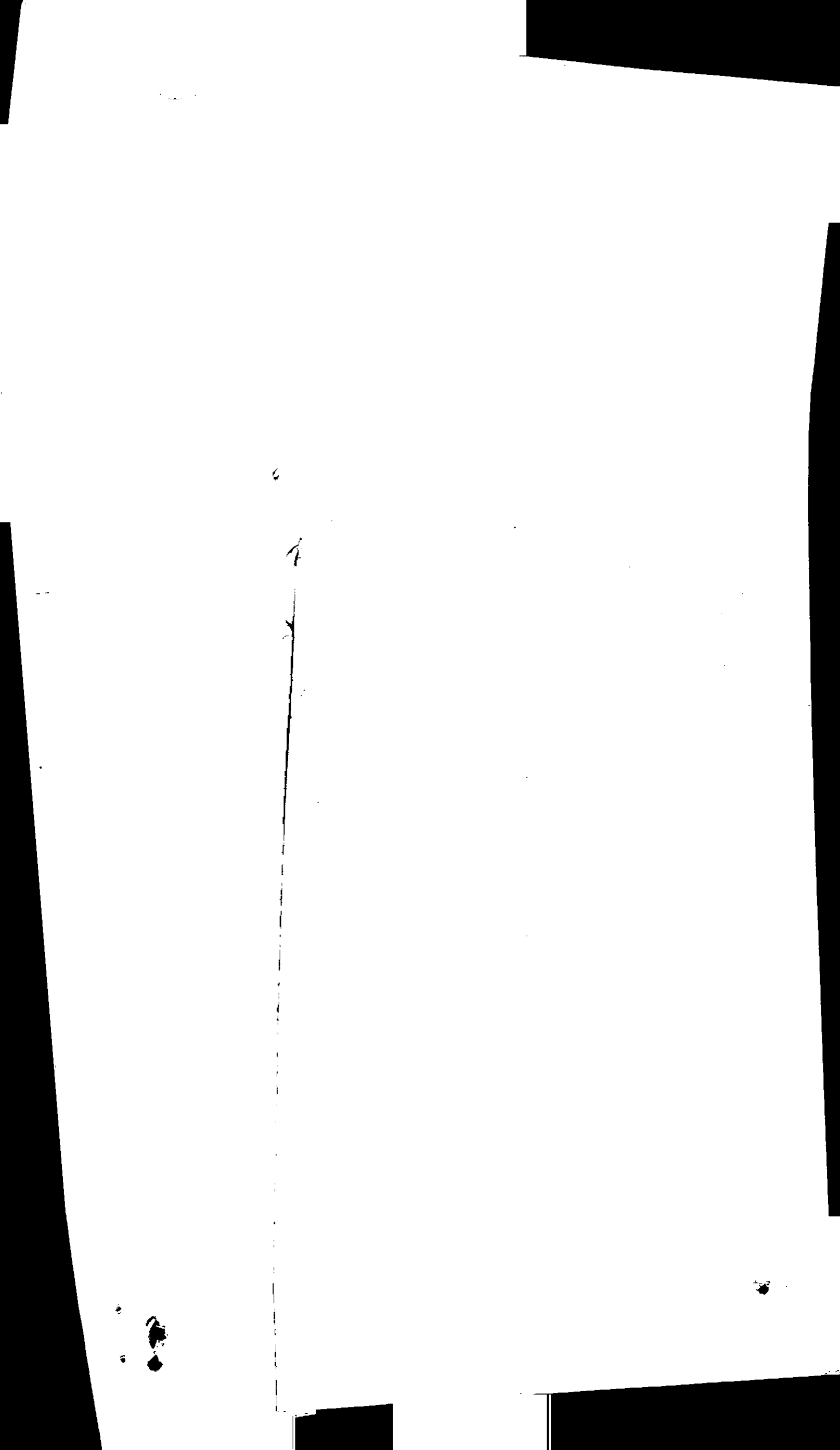
Competent Authority has further directed that all the Divisional Commissioners shall post the above officers against the original sanction posts of Tehsildars and all the officials posted in their own pay scale be reverted to their original positions and grades.

Furthermore, in future in case of any shortfall, the Divisional Commissioners may requisition the services of Tehsildars / Naib Tehsildars waiting for posting in Board of Revenue, otherwise they shall seek approval / NOC from Board of Revenue for posting of officials in their own pay & scale.

Compliance to the above directions must be ensure and a report in this regard may kindly be submitted to this Department accordingly.


With the approval of  
Competent Authority

ATTESTED






- 20 -


	<b>GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE &amp; ESTATE DEPARTMENT.</b>	
 091-9212726	Peshwar Dated the 27/07/2023	 091-9214208

No. & Date Even.

Copy forwarded to the: -

1. Accountant General, Khyber Pakhtunkhwa.
2. Divisional Commissioners of the respective Divisions.
3. PSO to Chief Secretary Khyber Pakhtunkhwa.
4. SPS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
5. PS to Member-III, Board of Revenue.
6. PA to Secretary-I, Board of Revenue.
7. Bill Assistant, Board of Revenue.
8. Officers concerned.
9. Personal File.

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

  
ATTESTED

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

Peshawar Dated the 27/07/2023

21.	Miss: Anam Mehmood, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner Kohat Division for further posting as Tehsildar Service Delivery Center Kohat
22.	Mr. Muhammad Fayyaz, Tehsildar (BS-16)	Waiting for posting in Board of Revenue	Services place at the disposal of Commissioner Kohat Division
23.	Mr. Muhammad Arif, Tehsildar (BS-16)	Waiting for posting in Board of Revenue	Services place at the disposal of Commissioner Kohat Division
24.	Mr. Fahim-U-Din, Tehsildar (BS-16).	On arrival from training	Services place at the disposal of Commissioner D.I.Khan Division
25.	Mr. Ihsan Ullah, Tehsildar (BS-16)	Waiting for posting in Board of Revenue	Services place at the disposal of Commissioner D.I.Khan Division
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Compliance to the above directions must be ensure and a report in this regard may kindly be submitted to this Department accordingly.

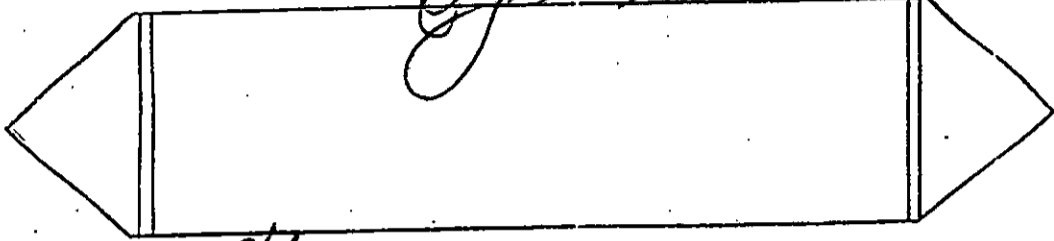
**ATTESTED**

With the approval of  
Competent Authority

BC NO 166-33

17301-4748632-9

## بعدالت سرین ڈیپارٹمنٹ



2024ء پنجاب اسٹریٹ  
بنام SARA

سید

موزخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ  
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار دیا گیا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر حالت فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک دروپہ ار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرا میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ  
پر و اختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20

کے منظور ہے۔  
Must  
Kheer  
Ray

بمقام

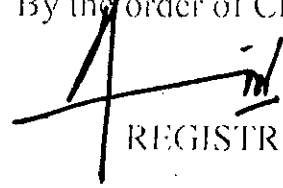
# FORM OF ORDER SHEET

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

Appeal No. 124/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	12/01/2024	The appeal of Mr. Said Muhammad presented today by Mr. Muhammad Amin Ayub Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ . Parcha Peshi is given to counsel for the appellant.

By the order of Chairman

  
REGISTRAR