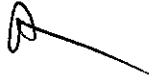


1535/2013

29.11.2016

Counsel for the appellant, Mr. Muhammad Ibrar, Assistant Secretary and Mukhtiar Ali, Superintendent alongwith Additional AG for official respondents No. 1 to 3 present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 7.4.17 before D.B.



(ABDUL LATIF)  
MEMBER



(PIR BAKHSH SHAH)  
MEMBER

07.04.2017

Counsel for the appellant and Mr. Muhammad Jan, Government Pleader for the respondents present.

Learned counsel for the appellant informed the Tribunal that he is not in a position to controvert the proposition of further transfer/posting of the appellant to some other station convenient to the appellant.

In view of the above he requested for withdrawal of the appeal.

Dismissed as withdrawn. File be consigned to the record room.



Member

ANNOUNCED  
07.04.2017



Chairman

07.04.17.

22.10.2015

Counsel for the appellant and Mr. Mukhtiar Ali, Supdt. alongwith Mr. Ziaullah, GP for official respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 5-4-16 for arguments.

  
MEMBER

  
MEMBER

05.04.2016

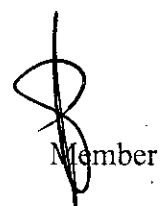
Clerk to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. To come up for arguments on 22.07.2016.

  
Member

22.07.2016

Counsel for the appellant and Assistant AG for respondents present. The learned Government Pleader objected that the present appellants have already been transferred and not interested in the instant appeals and the cases are anfractuous. Learned counsel for the appellant requested for further time to contact the appellant. Request accepted. To come up for arguments/further proceedings on 29.11.2016.

  
Member

  
Member

8.12.2014

Clerk to counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Mukhtiar Ali, Supdt. for the respondents present. The Tribunal is incomplete. To come up for the same on 27.2.2015.



READER

27.2.2015

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Counsel for the appellant moved an application for impleadment of Fazal Rabi, Patwari, Halqa Shahi Payan, Peshawar, as respondent. Copy handed over to the learned GP. To come up for reply/arguments on application on 14.5.2015.




MEMBER



MEMBER

14.05.2015

Appellant in person and Mr. Mukhtiar Ali, Supdt alongwith Muhammad Jan, GP for the respondents present. Appellant requested for adjournment. Adjourned to 22.10.2015 for arguments before D.B.



Member



Member

29.4.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary, Muhammad Jamil, ADK and Muhammad Tariq Steno for official respondents present. Rejoinder received. Copy handed over to the learned GP. To come up for arguments on 10.6.2014.

  
MEMBER

10.6.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Mir Qasam Assistant Secretary and Muhammad Jamil, ADK for the respondents present. Rejoinder received. Copy handed over to the learned GP. To come up for arguments on 23.7.2014.

  
MEMBER

  
MEMBER

23.7.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. for respondent No. 1 present. Due to retirement of learned executive Member, the bench is incomplete. To come up for arguments on 28.10.2014.

  
MEMBER

28.10.2014

Junior to counsel for the appellant and Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. for the respondents present. Due to incomplete Bench, case is adjourned to 08.12.2014 for arguments.

  
MEMBER

1535/2013

14.3.2014

Junior to counsel for the appellant and Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. for respondent No.1 present and reply on main appeal as well as stay application filed. None on behalf of respondents No. 2 and 3 present despite the fact that on previous date of hearing their representatives were present before the court and were directed to submit written reply on main appeal as well as stay application but to-day neither representatives of respondents No. 2 and 3 i.e. Commissioner, Peshawar & Deputy Commissioner, Peshawar, were available before the court nor their written reply received. Hence they are placed ex-parte.

Perusal of the case file reveals that the case pertains to transfer of Patwar Halqa Chughal Pura, Peshawar in which stay application has also been moved by the appellant but to facilitate the appellant to get stay order, respondents No. 2 and 3 intentionally not pursuing the case. Hence, the learned Government Pleader is directed to bring the conduct of respondents No.2 and 3, into the notice of highest authorities. To come up for rejoinder on 10.4.2014.

MEMBER

MEMBER

10.4.2014

Appellant with counsel, and Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary for respondent No.1 present who already filed written reply. Muhammad Ayub, Assistant for respondent No.1, and Dilawar Khan, ADK for respondent No. 2 present and submitted separate application for setting aside ex-parte proceedings against them alongwith written replies. Since written replies also submitted by the respondents, therefore, counsel for the appellant has no objection. As such ex-parte proceedings against respondents No. 2 and 3 set aside. Copy of written replies handed over to counsel for the appellant. To come up for rejoinder on 29.4.2014.

MEMBER

MEMBER

31.1.2014

Counsel for the appellant, Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary for respondent No.1, Tariq, Steno for respondent No.2 and Muhammad Jamil, ADK for respondent No. 3 present and requested for further time. None is available on behalf of private respondent No.4. Fresh notice be issued to him. To come up for reply/arguments on stay application on 24.2.2014.

MEMBER

MEMBER

24.2.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG with Mir Qasam, Assistant Secretary for respondent No. 1 present and reply filed. Mr. Muhammad Ayub Revenue Accountant and for respondent No. 2 and Muhammad Jamil, ADK for respondent No. 3 present and requested for further time. None is available on behalf of respondent No.4 nor his written reply received, despite proper service, hence placed ex-parte. To come up for written reply of respondents No. 2 and 3 on main appeal as well as reply/arguments on stay application on 14.3.2014.

MEMBER

Appeal No. 1535/2013  
Mr. Muhammad Asif

Appellant with counsel present. Preliminary arguments

heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the order dated 26.07.2013, the appellant filed departmental appeal which has been rejected on 11.10.2013. He further contended that the order has been issued in violation of Rule-5 of the Civil Servants (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notices be issued to the respondents. The appellant has also filed an application for suspension of impugned order dated 26.07.2013 and 11.10.2013. Notice of application should also be issued to the respondents. To come up for written reply on main appeal on 05.03.2014 as well as reply arguments on stay application on 10.01.2014.

Appellant deposited  
4 Process fee & Security  
Rs. 200/- Bank Receipt  
attached with file

3, 26.12.2013

Member

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

Chairman

26.12.2013

10.1.2014

Appellant with counsel and Mr. Muhammad Jan, GP present. None is available on behalf of the respondents. Fresh notices be issued to them. To come up for reply/arguments on application on 31.1.2014.

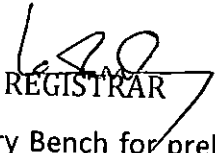
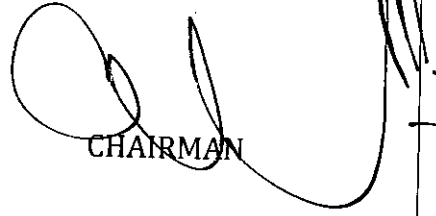
MEMBER

MEMBER

Form- A  
FORM OF ORDER SHEET

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

Case No. 1535 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/11/2013	The appeal of Mr. Muhammad Asif resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.
2	29-11-2013	This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>26-12-2013</u>   REGISTRAR   CHAIRMAN




The appeal of Mr. Muhammad Asif Patwari received today i.e. on 11.11.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal preferred by the appellant before Commissioner Peshawar Division respondent no-2 mentioned in para-4 of the memo of appeal is not attached with the appeal which is not attached with the appeal which may be placed on it.
- 2- Annexure-B of the appeal is illegible which may be replaced by legible/better one.

No. 1628 /S.T,

Dt. 12/11 /2013.

Mr. M.Asif Yousafzai Adv. Pesh.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

*Resubmitted after compliance*  
*Dr. J...*

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

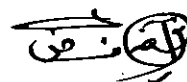
Muhammad Asif-----1535/13-----Petitioner

VERSUS

Government of Khyber Pakhtunkhwa through  
Secretary Revenue & Estate Department, Peshawar  
and others.-----Respondents

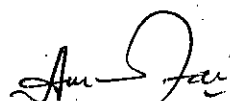
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**INDEX**

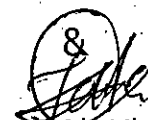
S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	---	01-04
2.	Stay Application		05-06
3.	Copy of order 12.3.2013	A	07
4.	Copy of Order (26.7.2013)	B	08-10
5.	Copy of appeal.	C	11- 12
6.	Rejection order	D	13
7.	Transfer policy	E	14 - 17
8.	Vakalat Nama	---	18



APPELLANT  
Muhammad Asif

THROUGH:

  
M. ASIF YOUSAFZAI  
ADVOCATE

  
Taimur Ali Khan  
Advocate.

①

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

Service Appeal No. 15383 /2013

Muhammad Asif, Patwari,  
Presently posted as Patwari Halqa Chughal Pura,  
District Peshawar-----**Appellant**

R.W.F. Peshawar  
No. 1547  
Dated 11-11-2013

VERSUS

1. The Secretary to Government of Khyber Pakhtunkhwa,  
Revenue & Estate Department, /SMBR Peshawar.  
2. Commissioner Peshawar Division, Peshawar.  
3. Deputy Commissioner Peshawar.  
4. Haji Namdar Patwari , Halqa Shah Baig Peshawar.

.....**Respondents**

**APPEAL U/4 OF THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL ACT 1974 AGAINST THE**  
**ORDER DATED 11.10.2013 WHEREBY THE**  
**APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN**  
**REJECTED AGAINST THE TRANSFER ORDER**  
**DATED. 26.7.2013 FOR NO GOOD GROUNDS.**

**PRAYER:** *That on acceptance of this appeal the order dated. 11.10.2013 may be set-aside and the respondents may be directed to modify the order dated. 26.7.2013 and to restore the appellant's posting at Halqa Chughal Pura Peshawar and not to transfer the appellant in violation of Govt: instruction/policy. Any other remedy which this*

re-submitted to ~~409~~  
and filed.

*11/11/13*  
*35/11/13*

*Ex-parte*  
*14-3-14*

*Ex-parte*  
*24-02-14*

*august tribunal deems fit that may also be awarded in favour of appellant.*

2

**Respectfully Sheweth**

1. That the appellant is a senior most Patwari, serving in the Revenue Department under control and command of Deputy Commissioner Peshawar.
2. That, lastly the appellant was posted at Halqa Chughal Pura, Peshawar vide order dated 12.3.2013. Copy of Oder is attached as Annexure-A.
3. That after serving for less than four months, the respondent No. 3 once again transferred the appellant to Halqa Issa Khel under the garb of Supreme Court decision made in Khawaja Asif's case, vide order dated. 26.7.2013. (copy of order dated 16.9.2013 is Annexure B).
4. That the appellant aggrieved by the aforesaid order, filed Representation/ Appeal before the Commissioner Peshawar Division, Peshawar (Respondent No.2) which has been rejected vide order dated 11.10.2013 (copy of the representation and order are Annexure C&D)
5. That the impugned posting and transfer order dated 26.7.2013 and rejection order dated 11.10.2013 is void and without lawful authority and passed in violation of Supreme Court's judgment, which are liable to be set aside, inter alia, on the following grounds:-

**GROUND**

- A) That the transfer order of the appellant is politically motivated on the recommendations of the setting MPA who is on inimical terms with the appellant, so the impugned order on the face of record is void, unlawful and passed in violation of posting transfer policy of the Govt:
- B) That the transfer of the appellant is premature and in his place blue eyed person of the political and influential MPA has

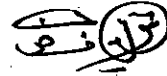
been posted and thus the impugned transfer order is based on malafide and ulterior motive.

- C) That the respondents particularly Respondent No. 2&3 has not acted in accordance with in view of Article- 4,25 of the Constitution r/w section 24-A of the General Clauses Act 1897 and thus the impugned order is without merit & lawful Authority, unlawful and thus unsustainable in the eyes of law.
- D) That the transfer order of the petitioner smacks arbitrariness, deviation from the normal procedure of law.
- E) That the transfer of petitioner is void and unlawful/ immature, being violative of relevant law as under civil servant cannot be transferred without completion of his normal tenure .
- F) That the transfer of the appellant within four months shows the political pressure on the Authorities which is against the law of land.
- G) That the respondents have violated the principles laid down by the august Supreme Court of Pakistan in Anita Turab Case in which it has been clearly stated that the tenure fixed by the Govt: shall be respected.
- H) That the appellant has been prematurely transferred on the basis of Supreme Court's judgment and if that judgment was to be obeyed, then the appellant was required to be posted back from where he was transferred on 12.3.2013. Thus the respondents have misused the judgment of the Supreme court of Pakistan.
- I) That the respondents have violated the Govt: posting /transfer policy dated. 15.2.2003. (Copy of Policy is attached as Annexure-E)
- J) That the final order is not based on cogent grounds and is also the violation of Section -24-A of the General Clauses Act as well as the Supreme Court's Judgment reported as 1991 SCMR-2230.

4

K) That the appellant seeks permissions to advance other grounds and proofs at the time of hearing.

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



APPELLANT

MUHAMMAD <sup>ASIF Rai</sup> ~~RAI~~

Through



M. ASIF YOUSAFZAI  
ADVOCATE  
&

Taimur Ali Khan  
Advocate.

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

5

Service Appeal NO. \_\_\_\_\_/2013

Muhammad Asif-----Petitioner

VERSUS

Government of Khyber Pakhtunkhwa through  
Secretary Revenue & Estate Department. Peshawar  
and others.-----Respondents

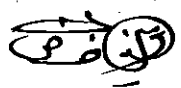
**APPLICATION FOR SUSPENSION OF**  
**IMPUGNED ORDER DATED 26.7.2013 AND**  
**11.10.2013 TILL PENDING FINAL DECISION**  
**OF MAIN APPEAL.**

**Respectfully Sheweth,**

1. That the petitioner/ appellant has filed Appeal before this Hon,ble Tribunal in which no date hearing has been fixed so for.
2. That the appellant has got a good prima facie arguable case, the impugned order is without lawful authority and unsustainable in law, balance of convenience. lies in his favour and in case operation of impugned order is not suspended, the very purpose of appeal would be defeated and it would infructuous as well and the appellant would suffer irreparable loss.
3. That the grounds of main appeal may also be considered as integral part of this application.
4. That the respondents have misused the Supreme Court's judgments to please the blue eyed persons.

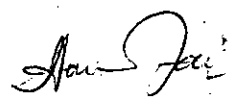
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It is, therefore, prayed that the operation of impugned order dated 26.7.2013 AND 11.10.2013 may graciously be suspended till final decision of appeal.



Petitioner  
Muhammad Asif

Through



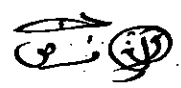
M. ASIF YOUSAFZAI  
ADVOCATE

&

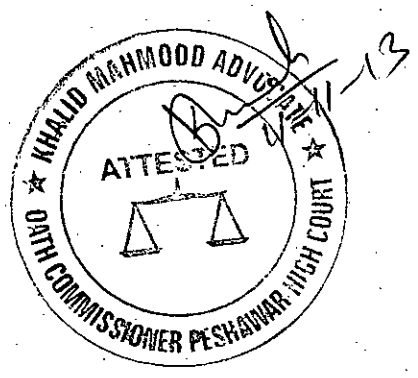
Taimur Ali Khan  
Advocate.

**AFFIDAVIT:**

It is affirmed and declared that the contents of Application are true and correct to the best of my knowledge and belief.



Deponent.







12/3/13  
2013

**OFFICE OF THE  
DEPUTY COMMISSIONER PESHAWAR.**

Dated Peshawar the /2./03/2013

A

(7)

**OFFICE ORDER.**

The following postings/transfers amongst the patwaris of Peshawar District are hereby ordered in the public interest with immediate effect:-

S #	Name of Patwari	From	To
1.	Qaiserud Din	P.H Jhalarian	Report to DC's office
2.	Shakir	P.H Pahirpura	P.H. Jhalarian vice No.1
3.	Tariq javed	Waiting for posting.	P.H Paharipura vice No.2
3.	Haji Mohammad	P.H Chughalpura	P.H Tukra No.3
4.	Asif.	P.H Tukra No.3	P.H. Chughalpura vice No.3

*[Signature]*  
Deputy Commissioner,  
Peshawar.

No. 3894-98 /DC(P)/DK. Dated Peshawar the /2 /03/2013

Copy forwarded to the:-

1. Additional Deputy Commissioner, Peshawar.
2. Assistant Commissioner, Peshawar.
3. Tehsildar Peshawar.
4. Revenue Bill Clerk.
5. Official concerned for compliance.

*[Signature]*  
Deputy Commissioner,  
Peshawar.

**ATTESTED**

*[Signature]*

Below Copy. B

**OFFICE OF THE  
DEPUTY COMMISSIONER PESHAWAR.**

Dated Peshawar the 26/07/2013 (8)

OFFICE ORDER

Upon review of transfers made during the caretaker government's tenure pursuant to Supreme Court of Pakistan order and decision rendered in Khawaja Asif versus Federation of Pakistan on 22.5.2013 and 6.6.2013, and delimitation of revenue estates ordered by the Board of Revenue, Government of Khyber Pakhtunkhwa, following postings/transfers of Patwaris are ordered with immediate effect in the public interest:-

S#	Name of Patwari	From	To
1.	Inamullah	P.H Budhai	P.H Ahmed Khel vice No.41
2.	Mohammad Shakir	P.H. Jhalarian	P.H Jala Bela vice No.42
3.	Mohammad Israr	P.H Kalokhel	P.H Mian Gujar vice No.43
4.	Zahid Khan	P.H Sardar Garhi	P.H Daman Afghani vice No.44
5.	Nisar Khan	P.H. Pharipura	P.H. Gul Bela vice No.45
6.	Mohammad Asif	P.H Chughalpura	P.H Essa Khel Hamood vice No.46
7.	Tariq Javed.	P.H Mahal Terai.	P.H Dab Bunyadi vice No.47
8.	Haji Mohammad	P.H Tukra No.3	P.H Qilla Shah Baig vice No.48
9.	Malik Abdul Ghaffar	P.H Achini Payan	P.H Sarkhana vice No.49
10.	Mansoor Khan	P.H Surizai Payan	P.H Jogani vice No.50
11.	Ghaloor.	P.H Hargoni.	P.H Miami vice No.51
12.	Qasimrud Din.	P.H Pakha Ghulam	P.H Mamo Khatki vice No.52
13.	Pir Hassanat Shah	P.H Fattu Abdur Rahima	P.H Garhi Sherdih vice No.53
14.	Mohammad Ali Jan	P.H Mahal Gabri	P.H Garhi Sherdad vice No.54
15.	Nasrullah	P.H Nodan Payan	P.H Sufaid Sang vice No.55
16.	Mr. M. Nadeem	P.H Malakandher	P.H Azakhel No.1 vice No.56
17.	Shari Jehan	P.H Essa Khel Topchian.	P.H Abadi Peshawar against the vacant post.
18.	Asadullah	P.H Mathra.	P.H Charpariza vice No.57
19.	Mr. Salahud-din.	P.H Sheikh Mohammadi	P.H Kaniza vice No.58
20.	Mr. Fayyaz	P.H Nasirpur	P.H Hassanabad vice No.59
21.	Mr. Shaukat	P.H. Tukra No.1	P.H Chaghar Matti vice No.60
22.	Shahid	P.H Ram-Kishin	P.H Burber vice No.61
23.	Aslam	P.H Nachapa Payan	P.H Babuzai vice No.62
24.	Mr. Yunis.	P.H Pajaggi.	P.H Shah Alam vice No.63
25.	Mr. Amjed Sufail	P.H Baghbanan Dheri	P.H Garhi Chandan vice No.64
26.	Mr. Salim Shahzad	P.H Landi Yarghajo	P.H Panain Dheri vice No.65
27.	Mr. Mukammil Shah	P.H Achar	P.H Gara Tajik vice No.66

SQ

28.	Mr. Fazle Rabi.	P.H Hazar Khawani.	P.H Shahi Payan vice No.67
29.	Mr. Inayatullah.	P.H Nauthia.	P.H Kafoor Dheri vice No.68
30.	Deedar	P.H Swati/charkhana	P.H Kankola vice No.69
31.	Mr. Tilawat Shah	P.H Tehkal Payan	P.H Passani vice No.70
32.	Mr. Sadaqatullah	P.H Mahal Salu	P.H Masho Khel vice No.71
33.	Noor Hussain	Waiting for posting.	P.H Mushtarzai vice No.73
34.	Mr. M. Nadeem	P.H Mashogager.	P.H Masho Peki vice No.72
35.	Mr. Ikramullah	P.H Tehkal Bala No.1	P.H Behlol zai vice No.74
36.	Mr. M. Saeed	P.H. Lala Ahmed	P.H Malakander vice No.16
37.	Mr Abdul Jabbar	P.H Wadpaga	P.H Terai Payan (Darmangi) vice No.75
38.	Mr. M. Zarif.	P.H Gulozai.	P.H Urmar Maira vice No.78
39.	Mian Inamullah	P.H Shahi Bala	P.H Maryanzai vice No.78
40.	Mr. Riaz Khan	P.H Shagi Hindkiyan	P.H Budhni vice No.1
41.	Mr. Javed	P.H Ahmed Khel	P.H Budhai vice No.1
42.	Mr. Gulzar	P.H. Jala Bela.	P.H Gulozai vice No.36
43.	Mr. M. Ilyas	P.H Mian Gujar.	P.H Achini Payan vice No.9
44.	Mr. Ifrahim Shah	P.H Daman Afghani	P.H Hargoni vice No.11
45.	Mr. Sher Wali	P.H Gul Bela	P.H Jhalarian vice No.2
46.	Mir Rehman Shah	P.H Essa Khel Hameed.	P.H Sardar Garhi vice No.4
47.	Mr. Zikriya Khan	P.H Dab Bunyadi	P.H Phanpura vice No.5
48.	Haji Namdar	P.H Qilla Shah Baig	P.H Chughulpura vice No.6
49.	Mr. Ali Akber	P.H Sarkhana	P.H Fatu Abdur Rahman vice No.13
50.	Mr. Ihsanul Haq	P.H Jogani	P.H Mahal Terai vice No.7
51.	Malik Zainul Abideen	P.H Niemi	P.H Tukra No.3 vice No.8
52.	Mr. Farmanullah	P.H Mamo Khatki	P.H Surizai Payan vice No.10.
53.	Mr. Zarshad	P.H Garhi Sherdit	P.H Kakshal
53.	Mr. Fazle Muhtaj	P.H Garhi Sherdad	P.H Kalo Khel vice No.3
55.	Mr. Waheed Khan	P.H Sufaid Sung	P.H Nodch Payan vice No.15
56.	Mr. Mohammad Tufail	P.H Aza Khel - 1	P.H Mahal Gabri vice No.14
57.	Mr. Zarshad	P.H Charpariza	P.H Essa Khel Topchian vice No.17
58.	Mr. Sher Alam	P.H Kaniza	P.H Mathra vice No.18
59.	Mr. Ifukhar Khan	P.H Hassan abad	P.H Sheikh Mohammadi vice No.19
60.	Mr. Shindi Gul	P.H Chaghar Matti	P.H Pakha Ghulam vice No.12
61.	Mr. Inamullah	P.H Barber	P.H Nasirpur vice No.20.
62.	Mr. Riaz	P.H Babozai	P.H Nachapa Payan vice No.23
63.	Mian Noorul Haq	P.H Shahalam	P.H Achar vice No.27
64.	Mr. Anjum Shah	P.H Garhi Chandan	P.H Ram Kishin vice No.22
65.	Mr. M. Jamil	P.H Panam Dhen	P.H Pajaggi vice No.24
66.	S Tajamul Shah	P.H.Gara Tajak	P.H Dheri Daghbanan vice No.25
67.	Mr Sadaqat	P.H Shahi Payan	P.H Landi Yarghajo vice No.26.
68.	Mr. Amied Khan	P.H Kafoor Dheri	P.H Nauthia vice No.29

69.	Mr. Moorul Qamar.	P.H Kankola/Kattar	P.H Hazar Khawani vice No.28
70.	Mr. Tilawatur Rehman	P.H Passani.	P.H Swati/Charkhona vice No.30
71.	Mr. Wisal Khan	P.H Masho Khel	P.H Tukra No.1 vice No
72.	Mr. Mumtaz Ali Shah	P.H Masho Peki	P.H Mahal Salu vice No.32
73.	Mr. Bostan	P.H Mushtarzai.	P.H Mashogagar vice No.34
74.	Mr. Mansoor Khan	P.H Behlolzai.	P.H Shahi Bala vice No.39
75.	Mohammad Aamer	P.H Terai Payan (Darmangi)	P.H Lala Ahmed vice No.36
76.	Mr. Faqir Hussain	Patwari PDA	P.H Wadpaga vice No.37
77.	Mr. Yasin Khan	Patwari DK's off.	P.H Tehkal Payan vice No.31
78.	Mr. Salahud Din	P.H Maryamzai.	P.H Shagi Hindkiyan vice No.40.
79.	Mr. Roohul Amin	P.H Urmar Maira.	P.H Tehkal Bala No.1 vice No.35

*[Signature]*  
Deputy Commissioner,  
Peshawar.

No. 1119-25 /DC(P)/DK.

Dated Peshawar the 26 /07/2013

Copy forwarded to the:-

1. Commissioner Peshawar Division Peshawar.
2. Additional Deputy Commissioner, Peshawar.
3. Assistant Commissioner, Peshawar.
4. PS to SMBR Khyber Pakhtunkhwa Peshawar.
5. Tehsildar Peshawar.
6. Revenue Bill Clerk.
7. Official concerned for compliance.

*[Signature]*  
Deputy Commissioner,  
Peshawar.

Before the Commissioner, Peshawar Division Peshawar.

Mohammad Asif Patawri Halqa Chughal Pura Peshawar.  
(Appellant)

Versus

1. Deputy Commissioner Peshawar.
2. Haji Namdar Patwari Qila Shah Baig Peshawar.  
(Respondents)

Departmental Representation against the Order No. 1119-25/DC(P)/DK dated 26/07/2013 whereas appellant has permanently transferred from Patwar Halqa Chughal Pura to P.H. Qila Shah Baig Peshawar in violation to the law, rules as prescribed in the Civil Servant Act.

Respected Sir,

1. That appellant is serving as Patwari Halqa Chughal Pura with best of his abilities and to the entire satisfaction of his superior.
2. That petitioner at first transferred vide order No. 3894-98/DC (P) DK Dated 12/3/2013 and just after a lapse of about three months the impugned order is issued without considering the tenure.
3. That on 26/07/2013 while appellant has hardly completed three Months of his tenure over the said Halqa was transferred by the D.C Peshawar Vide Order No. 1119-25/DC(P)/without any justification and totally under the influence of Political pressure.
4. That appellant feeling aggrieved by the above mentioned impugned and pre mature Transfer Order file the instant departmental appeal on the following amongst other ground:-

AC (R)  
Commissioner Peshawar  
D/No. 1119-25/DC(P) DK Dated 26/07/2013

Supalt  
11/10

Grounds:

A. That impugned Order is result of malafide and only meant to advance favoritisms.

B. That in the impugned order the respondent No. 1 takes the shelter of the Judgment of the Supreme Court of Pakistan in the case of "Khawaja Asif VS Federation" but contrary to its spirit, issued the impugned order as the judgment of the Supreme Court read as the order made by care takers government are void ab initio and illegal but the respondent inpite of cancelling the said orders issued the impugned order which is against the judgment of the Supreme Court so is not tenable.

C. That the order of the respondent No. 1 is against the verdict of the apex court.

D. That impugned order is issued during the ban period so illegal and have no effect upon the appellant.

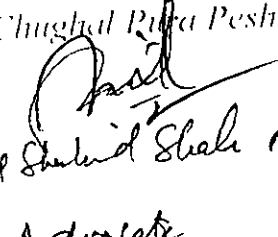
E. That there is a very clear and established policy for the transfer and posting of Public Servant wherein it has been categorically mentioned that a Civil servant has to serve on a post for at least three year but the impugned Transfer order has been issued in violation to the these rules.

F. That impugned Order is just to give choice to the blue eyed of the Political authorities thus is result of malafide intention hence not tenable in the eyes of law.

In the light of facts submitted above the impugned Order No. 1119-25/DC (P) DK 26/07/2013 may kindly be set a side.

Mohammad Asif PI  
Chughal Pura Peshawar

Through

  
Syed Shauhid Shaha  
Advocate



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**OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR**

**APPEAL NO: 9**  
**DATE OF INSTITUTION: 19.08.2013**  
**DATE OF DECISION: 11.10.2013**

Mohammad Asif Patwari Halqa Chughal Pura Peshawar.....(Appellant)

**VERSUS**

1. Deputy Commissioner, Peshawar.
2. Haji Namdar Patwari.....(Respondents)

**ORDER**

This is a departmental appeal filed by the above name appellant against the order of Deputy Commissioner Peshawar bearing No.1119-25/DC(P)/DK dated 26.07.2013, whereby he was transferred from the post of Patwar Halqa Chughal Pura to Patwar Halqa Essa Khel Hameed.

Perusal of the record reveals that no illegality/irregularity in passing the impugned order has been committed, as posting/transfer of revenue field staff is a routine matter and are made on administrative grounds, purely in the interest of public service.

Keeping in view the above, the appeal is hereby rejected being not maintainable.

  
**COMMISSIONER**  
PESHAWAR DIVISION PESHAWAR.

**ANNOUNCED**  
11.10.2013

**ATTESTED**  


E  
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14

GOVERNMENT OF N.W.F.P.  
ESTABLISHMENT & ADMINISTRATION DEPARTMENT  
(REGULATION WING)

NO.SOR-1(E&AD)1-1/85(Vol:II)

Dated the Peshawar the 15<sup>th</sup> February, 2003.

- 1- All Administrative secretaries to Govt: of NWFP.
- 2- The Secretary to Governor, NWFP.
- 3- The Secretary to Chief Minister, NWFP.
- 4- All Heads of Attached Departments in NWFP.
- 5- All the Heads of Autonomous/Semi Autonomous Bodies in NWFP.
- 6- All Distt: Co-Ordination Officer/Political Agents in NWFP.
- 7- The Registrar Peshawar High Court Peshawar.
- 8- All Distt: & Session Judges in NWFP.
- 9- The Secretary NWFP Public Service Commission, Peshawar.
- 10- The Director Anti-Corruption Establishment, Peshawar.
- 11- The Secretary Board of Revenue, NWFP, Peshawar.
- 12- The Registrar, NWFP Service Tribunal, Peshawar.

SUBJECT: POSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

Dear Sir,

1. I am directed to refer to the subject noted above and to say that in supersession of all policy, instructions issued in this behalf, the competent authority has approved the following Posting/Transfer Policy: -
  - i) All the posting /transfer shall be made strictly in the public interest and shall not be abused/misused to victimize the Government Servant.
  - ii) All Government servants are prohibited to exert political, Administrative or any other pressure upon the posting /transfer authorities for seeking posting transfer of their choice and against the public interest.
  - iii) All contract Govt: employees appointed against specific posts cannot be posted against any other post.
  - iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas, the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the government.
  - v) Months of March and July are fixed for posting/transfer of the officers/officials excluding the officers in B-19 and above in the Province. Posting/transfer in Education and Health Departments shall be made in March

**ATTESTED**



while the remaining departments shall make posting/transfer in July. There shall be a ban on posting/transfer throughout the year excluding the aforementioned two months due to promotion/retirement/creation of new post/return from long leave/involvement in disciplinary proceedings and adjustment of surplus staff for which specific relaxation shall be obtained from the Chief Minister.

- vi) While making posting/transfers from settled area to FATA vice-versa specific approval of the Governor NWFP needs to be obtained.
- vii) Officers may be posted on executive/administrative posts in the Distt: of their domicile except District Co-Ordination Officers (DCOs), and Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where a Police Station (Thana) of his area/residence is situated.
- viii) No posting/transfers of the officers/officials on the detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in the Provincial Services, efforts where possible would be made to post such persons at one station and this will be subject to the public interest.
- x) All posting/transfers authorities may facilitate the posting/transfers of unmarried female Govt; Servant at the station of their residence of their parents.
- xi) Officer/officials except DCOs and SPs who are due to retire within one year may be posted on their option, on posts in the Distt: of their domicile and be allowed to serve there till retirement.
- xii) In terms of Rule-17 (1) and (2) read with schedule-III of the Govt: of NWFP Rules of Business 1985, transfer of officers shown in column 1 of the following table, table shall be made by the authorities shown against each officers in column 2 thereof: -

COLUMN-1	COLUMN-2
<u>Outside the Secretariat.</u>	Chief secretary in consultation with the Establishment Deptt. With the of the Chief Minister.
1. Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	
2. Other officers in BPS-17 and above to be posted against scheduled posts or posts normally held by the APUG, PCS (EG) and PCS (SG)	
3. Head of attached Deptt: and other officers in B-19 & above in all the Deptt:	

ATTESTED  
A

<p><u>In the Secretariat.</u></p> <p>4. Secretaries.</p> <p>5. Other officers and above the rank of Section Officers: -</p> <p>a)- Within the same Deptt:</p> <p>b)- Within the Secretariat from one Deptt: to another.</p> <p>6. Officers up to the rank of Superintendents.</p> <p>a)- Within the same Deptt:</p> <p>b)- To and from Attached Deptt:</p> <p>c)- Within the Secretariat from one Deptt: to another.</p>	<p>Chief Secretary with the approval of the Chief Minister.</p> <p>Secretary of the Deptt: concerned.</p> <p>Chief Secretary/ Secretary Establishment.</p> <p>Secretary of the Deptt: concerned.</p> <p>Secretary of the Deptt: in consultation with the Head of Attached Deptt:</p> <p>Secretary Establishment.</p>
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- xiii) While considering the posting/transfers proposals all the concerned authorities shall keep in mind the following: -
- a). To ensure the posting of proper persons on proper posts the annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on integrity of the concerned officer/officials be considered.
  - b). Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.
- xiv) Government servants including Distt: Government employees feeling aggrieved due to the orders of posting/transfers authorities may seek remedy from the next higher authority/ the appointing authority as the case may be brought an appeal to be submitted within seven days of the receipt of such order. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/transfers orders could be exercised only in the following cases: -
- i)- premature posting/transfers or posting/transfers in violation of this policy.
  - ii)- Serious and grave personal( humanitarian) grounds.
2. To streamline the posting /transfers in the Distt; Govt: and to remove any imitant/confusions in this regard the provision of Rule 25 of the NWFP Distt: Govt: Rules of Business 2001 read with schedule-IV thereof is referred. As per schedule-IV the Posting /Transferring authorities for the officials/officers shown against each are as under: -

ATTEST

S.No	Officers	Authority
1-	Posting of Distt; Coordination Officer and Executive Distt: Officer in a Distt:	Provincial Govt:
2-	Posting of Distt: Police Officer.	Provincial Govt:
3-	Other officer in BPS-17 and above posted in the Distt:	Provincial Govt:
4-	Official in BPS-16 and below.	Executive Distt: Officer in consultation with Distt: Coordination Officer.

3. As per Rule-25 (2) of the Rules mentioned above the Distt: Coordination Department shall consult the Govt: if it is proposed to:-
- transfer the holder of the tenure post before the completion of his tenure or extend the period of his tenure; and
  - Acquire an officer to hold charge of more than one post for a period exceeding two months.
4. I am directed further to request that the above noted policy may be strictly observed/ implemented.

Your Faithfully,

Sd/xxx  
(GHULAM JALANI ASIF)  
ADDL: SECRETARY(REG:)

Endst:NO.SOR-1(E&AD)1-1/85

dated Peshawar the 15.2.2003.

ATTESTED



# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Sema Tribunal Peshawar

Mohammad Asif (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Revenue Dept (Respondent)  
(Defendant)

I/We Mohammad Asif (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

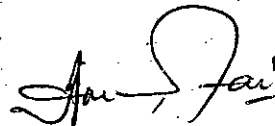
I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20



( CLIENT )

ACCEPTED

  
**M. ASIF YOUSAFZAI**  
Advocate

  
Taimur Ali Adv.

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

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

Service Appeal No. 1535/2013

Muhammad Asif Patwari halqa Chughal Pura District Peshawar

**VERSUS**

Secretary to Government of Khyber Pakhtunkhwa  
Revenue & Estate Department and others.

**COMMENTS ON BEHALF OF RESPONDENTS NO.1.**

**Preliminary objection.**

1. The appeal is not competent in its present form.
2. That appellant has got no cause of action.
3. That appeal is bad due to mis-joinder/ non-joinder of necessary parties.
4. That appellant is estopped by his own conduct.
5. That appellant has not come to the Tribunal with clean hands.
6. That this Tribunal has no jurisdiction to entertain the appeal.

**ON FACTS.**

1. No comments. Relates to record of the office of Deputy Commissioner, Peshawar
2. Pertain to record.
3. Incorrect. Posting/transfer order was made by the Deputy Commissioner, to improve public service and in public interest.
4. Departmental Appeal has rightly been rejected by Commissioner, Peshawar Division.
5. Incorrect.

**GROUND.**

- A. Incorrect. Posting/transfer order was made by the Deputy Commissioner to improve public service and public interest and is very much legal.
- B. Incorrect.
- C. Incorrect.
- D. Incorrect. Transfer order was issued under the normal procedure/law.
- E. Incorrect. Deputy Commissioner, being Collector of District is empowered to make posting/transfers of Patwaris as and when needed.
- F. In-correct. As preceding para.
- G. Incorrect.
- H. Incorrect.
- I. Incorrect.

J. Incorrect. Commissioner being next authority has rightly rejected the appeal/representation of the appellant.

K. Incorrect. Additional ground cannot be agitated during arguments.

The appeal having no legal facts may be dismissed with costs.

*In meen*

**Respondent No.1**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1535/2013

Muhammad Asif Patwari halqa Chughal Pura District Peshawar


**VERSUS**

Secretary to Government of Khyber Pakhtunkhwa  
Revenue & Estate Department and others.

**COMMENTS ON BEHALF OF RESPONDENTS NO.1 ON  
STAY APPLICATION.**

1. Para No.I of the application needs no comments.
2. Para No.2 is incorrect hence denied. The appellant has no prime facie case. The impugned order is issued by the lawful authority. Balance of convenience also lies in favour of respondents. If the impugned order is suspended, the respondent will suffer irreparable loss.
3. That the ground in main parawise comments may be considered as integral part of this reply.

It is requested that the application may be dismissed with costs.

  
Respondent No.I.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR .

Service Appeal No. 1535/2013

Muhammad Asif Patwari halqa Chughal Pura District Peshawar

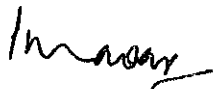
VERSUS

Secretary to Government of Khyber Pakhtunkhwa  
Revenue & Estate Department and others.

COMMENTS ON BEHALF OF RESPONDENTS NO.1 ON  
STAY APPLICATION.

1. Para No.1 of the application needs no comments.
2. Para No.2 is incorrect hence denied. The appellant has no prime facie case. The impugned order is issued by the lawful authority. Balance of convenience also lies in favour of respondents. If the impugned order is suspended, the respondent will suffer irreparable loss.
3. That the ground in main parawise comments may be considered as integral part of this reply.

It is requested that the application may be dismissed with costs.

  
Respondent No.1.



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

Service appeal No.1535/2013

Muhammad Asif, Patwari, Presently posted as Patwari Halqa Chugal Pura, District Peshawar.....**Petitioner**

**Versus**

1. The Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department, /SMBR Peshawar.
2. Commissioner, Peshawar Division, Peshawar.
3. Deputy Commissioner, Peshawar.
4. Haji Namdar Patwari, Halqa Shah Baig Peshawar.....**Respondents**

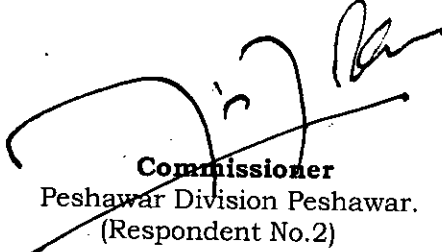
**REPLY ON STAY APPLICATION ON BEHALF OF RESPONDENT NO.2**

**RESPECTFULLY SHEWETH.**

1. No comments.
2. In correct. Appellant has got no case at all. The impugned order is with law full authority and is sustainable in law. No balance of convenience ever lies in favour of applicant. Transfer to any post and anywhere does not give irreparable loss to any servant.
3. The grounds of main reply may be considered as integral part of this application.
4. Incorrect. No rule/law/judgment of the August Supreme Court of Pakistan has been violated.

It is thus prayed that stay application may graciously be dismissed.

Dated 10.04.2014

  
**Commissioner**  
Peshawar Division Peshawar.  
(Respondent No.2)

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

Service appeal No.1535/2013

Muhammad Asif, Patwari, Presently posted as Patwari Halqa Chugal Pura, District  
Peshawar.....

**Petitioner**

**Versus**

1. The Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department,  
/SMBR Peshawar.
2. Commissioner, Peshawar Division, Peshawar.
3. Deputy Commissioner, Peshawar.
4. Haji Namdar Patwari, Halqa Shah Baig Peshawar.....

**Respondents**

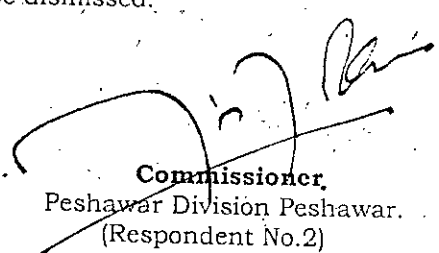
**REPLY ON STAY APPLICATION ON BEHALF OF RESPONDENT NO.2**

**RESPECTFULLY SHEWETH.**

1. No comments.
2. In correct. Appellant has got no case at all. The impugned order is with law full authority and is sustainable in law. No balance of convenience ever lies in favour of applicant. Transfer to any post and anywhere does not give irreparable loss to any servant.
3. The grounds of main reply may be considered as integral part of this application.
4. Incorrect. No rule/law/judgment of the August Supreme Court of Pakistan has been violated.

It is thus prayed that stay application may graciously be dismissed.

Dated 10.04.2014.

  
**Commissioner,**  
Peshawar Division Peshawar.  
(Respondent No.2)

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

Service appeal No.1535/2013

Muhammad Asif, Patwari, Presently posted as Patwari Halqa Chugal Pura, District  
Peshawar.....

**Petitioner**

**Versus**

1. The Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department,  
/SMBR Peshawar.
2. Commissioner, Peshawar Division, Peshawar.
3. Deputy Commissioner, Peshawar.
4. Haji Namdar Patwari, Halqa Shah Baig Peshawar.....

**Respondents**

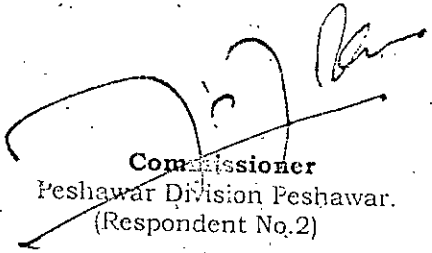
**REPLY ON STAY APPLICATION ON BEHALF OF RESPONDENT NO.2**

**RESPECTFULLY SHEWETH.**

1. No comments.
2. In correct. Appellant has got no case at all. The impugned order is with law full authority and is sustainable in law. No balance of convenience ever lies in favour of applicant. Transfer to any post and anywhere does not give irreparable loss to any servant.
3. The grounds of main reply may be considered as integral part of this application.
4. Incorrect. No rule/law/judgment of the August Supreme Court of Pakistan has been violated.

It is thus prayed that stay application may graciously be dismissed.

Dated 10.04.2014

  
**Commissioner**  
Peshawar Division Peshawar.  
(Respondent No.2)

Before the Hon.ble member II, Service Tribunal  
Hydrabad Patchankhwa.

Subject: Application for setting aside  
Ex-parte decision against Respdt No 2.

Title: — Muhammad Asif vs Commr  
Respectfully sheweth: —

It is humbly submitted that case  
titled :- Muhammad Asif vs Commissioner Peshawar  
fixed for hearing on 14/3/2014 has been  
declared / decided as Ex-parte against  
Respondent No 2 (Commissioner Peshawar) due  
to absence of the Rep. of Commissioner Pesh.

It is humbly prayed that this  
office intend to deposit comments in the  
subject titled case and the ex-parte  
decision against Respdt No. 2, may kindly  
be set aside, giving opportunity of defence  
of the case titled, decided on 14/3/2014

I shall be very grateful Sir

Dt 18/4/2014

Obediently yours  
A mb

Muhammad Ayub  
Asstt.

Rep. of Commissioner  
Pesh  
Respdt No 2.

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

Service appeal No.1535/2013

Muhammad Asif, Patwari, Presently posted as Patwari Halqa Chugal Pura, District Peshawar.....**Petitioner**

**Versus**

1. The Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department/ SMBR Peshawar.
2. Commissioner, Peshawar Division, Peshawar.
3. Deputy Commissioner, Peshawar.
4. Haji Namdar Patwari, Halqa Shah Baig Peshawar.....**Respondents**

**PARA WISE COMMENTS ON MAIN APPEAL ON BEHALF OF RESPONDENT NO.2 ARE AS UNDER:**

**Preliminary objection:**

1. The appeal is not competent in its present form.
2. That appellant has got no cause of action.
3. That appeal is bad due to mis-joinder/non-joinder of necessary parties.
4. That appellant is estopped by his own conduct.
5. That the appellant has not come to the Tribunal with clean hands.
6. That the instant appeal is barred by law.

**Respectfully sheweth.**

1. No comments. Pertains to record of Respondent No.3.
2. No. comments. Pertains to record of Respondent No.3.
3. Incorrect. In fact, the impugned order was issued by Respondent No.3 in pursuance of Supreme Court of Pakistan decision rendered in Khawaja Asif VS Federation of Pakistan on 22/5/2013 and 6/6/2013 and delimitation of revenue estates ordered by the BOR, Khyber Pakhtunkhwa, however, respondent No. 3 being head of the District Administration is also responsible to the provincial government with regard to maintaining discipline, enhance performance of officials/subordinate offices and ensuring optimum service delivery to the public and on the basis of the fact that Respondent No. 3 is competent authority to transfer any official working under his control.
4. Correct to the extent that departmental appeal of the appellant was rejected, however the rejection order is based on sound and cogent reason.
5. Incorrect. No rule/law/policy/judgment of the August Supreme Court of Pakistan has been violated while transferring the appellant and the impugned orders were issued in the best public interest to improve service delivery to the masses.

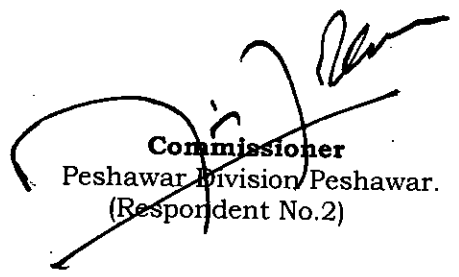
**GROUNDS**

- A. In correct. As stated in para-3.
- B. In correct. The transfer order of the appellant has been issued on the basis of the fact explained in Para-3 above and no political interference is involved.
- C. In correct. No violation of Article-4, 25 of the constitution and section 24-A of the General Clauses Act 1897 have been made. Moreover, as stated in para-3.
- D. In correct. As stated in Para- 3 & para-5 above.
- E. In correct. As stated in para-3 & 5.

- F. In correct. The allegations are based on mere presumptions and devoid of factual facts.
- G. In correct. As stated in Paras- 3 & 5.
- H. In correct. As evident from the contents of impugned order of DC Peshawar, the same were issued in compliance of the Supreme Court of Pakistan dated 22.05.2013 & 06.06.2013.
- I. In correct. No violation of the policy has been made and as explained in para-5.
- J. In correct. As stated in Para-C of grounds & para-5 of facts.
- K. The respondent seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, prayed that on basis of the above, the appeal may very graciously be rejected.

Dated 10.04.2014

  
**Commissioner**  
Peshawar Division/Peshawar.  
(Respondent No.2)

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHAWA PESHAWAR.**

Service appeal No. 1535/2013

Muhammad Asfi ..... Petitioner

VS

Senior Member Board of Revenue and Estate

Commissioner Peshawar Division, Peshawar.

Deputy Commissioner Peshawar

**PARAWISE REPLY ON BEHALF OF RESPONDENT NO. 1 & 2**

Preliminary objections:-

1. That the appellant has got no cause of action.
2. That the appeal is not maintainable in its present form.
3. That the appellant has concealed material facts from Honorable Tribunal and has not approached to the Tribunal with clean hands.
4. That this Honorable Tribunal has got no jurisdiction to adjudicate the appeal.
5. That the appeal is bad in the present form due to non-joinder and mis-joinder of necessary parties.
6. That the Office order vide No. 5612-19/DOR/DK, dated 15-04-2013 is an administrative order, which do not affect the terms and condition of service of the appellant.

**RESPECTFULLY SHEWEATH**

1. Pertains to record.
2. Pertains to record.
3. Incorrect. The impugned order is in accordance with law.
4. The departmental appeal was rejected on the grounds of maintainability, hence the appeal is not maintainable. Further transfer is terms and condition of service and Government servant has to serve any where he is transferred.
5. Incorrect order No. 5612-19/DOR/DK passed by the Competent Authority is very much legal.

**GROUND**

- a. Incorrect. No political motives are involved in the subject order. The order is purely on administrative grounds and passed by the Competent Authority where by the appellant was directed to report to PDA Office.
- b. Incorrect. As denied and replied in para (a) above.
- c. Incorrect. No illegality has been done by the Competent Authority.
- d. Incorrect. The order issued by the competent authority.
- e. Incorrect.
- f. Incorrect.
- g. It is, therefore, humbly submitted that the intact appeal may please be dismissed with cost thought out.

2. Respondent

3. Respondent



**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHAWA PESHAWAR.**

Service appeal No. 1535/2013

Muhammad Asfi ..... Petitioner  
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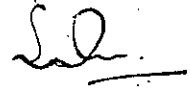
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**GROUNDS**

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- g. It is, therefore, humbly submitted that the intact appeal may please be dismissed with cost thought out.

2. Respondent

3. Respondent





BEFORE THE HON'BLE BENCH-II, KHYBER  
PAKHTUNKHWA, SERVICE TRIBUNAL, PESH.

Sub: Application for setting aside Ex-parte  
Decision against Deputy Commissioner,  
Peshawar (Respondent NO.3) in case title  
"Muhammad Aarif Vs SMBR etc."


R/Sheweth.

It is humbly submitted that the above  
subject titled case was fixed for hearing before the  
Hon'ble, Service Tribunal Bench-B, Khyber Pakhtunkhwa  
on 14/3/2014, which have been decided as ex-parte  
against the Deputy Commissioner, Peshawar as respondent  
No-3.

It is humbly prayed that ex-parte decision  
as mentioned above may please be set aside.

Comments in the subject case has been prepared  
signed and intend to submit today before this  
Hon'ble Court.

Yours Obediently.

  
Dilwar Khan  
ADK/Rep: of DC, Peshawar  
10/4/2014.

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

Service Appeal No. 1535/2013

Muhammad Asif

VS

Revenue Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Admitted, hence no comments.
- 2 Admitted, hence no comments.
- 3 Incorrect, the appellant was transferred prematurely violating the judgments of Superior Courts.
- 4 Incorrect, the rejection of departmental appeal is not based on sound and cogent reason.
- 5 Incorrect, the posting and transfer order is premature, thus violation of Supreme Courts Judgments, moreover the posting and transfer order is not in public interest but based on the recommendation of sitting MPA thus politically motivated.

**GROUNDS:**

- A) Incorrect, the order was made on the recommendation of sitting MPA thus politically motivated which is void, unlawful and passed in violation of posting transfer policy of Govt.
- B) Incorrect, while Para-B of appeal is correct.
- C) Incorrect, while Para-C of the appeal is correct.
- D) Incorrect, and not reply according to Para-D of the appeal.
- E) Incorrect. The Para-E of appeal and contention of appellant is correct.
- F) Incorrect, the transfer was made just after 4 months on recommendation of sitting MPA which clearly shows political pressure on authorities.
- G) Incorrect, while para G of the appeal is correct.
- H) Incorrect, while para H of the appeal is correct.
- I) Incorrect, the respondents have violated the Govt: posting/transfer policy on premature transfer of the appellant on political interference.
- J) Incorrect, while para J of the appeal is correct.
- K) Legal.

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

APPELLANT  
Muhammad Asif

Through:



( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



  
DEPONENT

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

Service Appeal No. 1535/2013

Muhammad Asif

VS

Revenue Deptt:

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APPELLANT  
Muhammad Asif

Through:



( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



DEPONENT



**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 1535/2013

Muhammad Asif

**VERSUS**

Revenue Deptt:

**APPLICATION FOR IMPLEADMENT  
OF BELOW MENTIONED OFFICIAL**

**RESPECTFULLY SHEWETH:**

1. That the above mentioned appeal is pending before this august Tribunal.
2. That the applicant has challenged the transfer order dated 26.7.2013, wherein the respondent No.4 (Namdar) was posted in his place.
3. That during the pendency of appeal the respondents Deptt: has issued another order on 30.5.2014, whereby an other official, namely Fazal Rabi was posted on the disputed post. (Copy of the order is attached as Annexure-A1)
4. That in the prevailing circumstances it is necessary to implead Mr.Fazal Rabi as respondent in the instant appeal. His name and address is as under.

Fazal Rabi, Patwari,  
Halqa Shahi Pyan, Peshawar.

It is most therefore, humbly prayed that the official mentioned in para-4 above, may be arrayed as respondent in the instant appeal being necessary party and the notice may also please be issued for the date fixed.

Appellant/Applicant

Mohammad Asif

Through:



*M. Asif Yousafzai*

(M. ASIF YOUSAFZAI)  
ADVOCATE, PESHAWAR.

&

(TAIMUR ALI KHAN)  
ADVOCATE, PESHAWAR.

AFFIDAVIT:

It is affirmed on oath that the contents of application  
are true and correct.

*Taimur Ali Khan*  
Deponent

