

**Before the Khyber Pakhtunkhwa Service Tribunal, Peshawar**

**Service Appeal No. 269 of 2020.**

Iftikhar Ali, Patwari (Presently posted as Tehsil Revenue Accountant Mandanr) ...Appellant.

Versus

1. Deputy Commissioner, Buner.
2. Commissioner, Malakand Division.
3. Senior Member, Board of Revenue, Revenue & Estate Department, Peshawar.
4. Secretary, Board of Revenue, Revenue & Estate Department, Peshawar
5. Chief Secretary to the Government of Khyber Pakhtunkhwa, Peshawar.
6. Mr. Muhammad Irfan, District Revenue Accountant Buner..... Respondents.

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**Parawise Reply on Behalf of the Respondents No. 1 to 5.**

**Preliminary Objections:**

1. The appeal is time-barred.
2. The appeal has no grounds.
3. The appellant has not come to the Tribunal with clean hands.
4. The appellant has tried to conceal facts from this honorable Tribunal.
5. The appellant is already in this honorable Tribunal with the similar facts and grounds in Service Appeal No. 1463/2018 hence the wastage of precious time of this honorable Tribunal.

**Facts:**

1. Denied. The appellant has tried to put before the honorable Tribunal the wrong facts that to get the benefits for which he is not entitled. The appellant was not appointed as "Tehsil Revenue Accountant" rather posted as "Tehsil Revenue Accountant" in Tehsil Mandanr. No assurance to the effect of his appointment as Tehsil Revenue Accountant on regular basis exists in the record of the office nor any such assurance turns valid rather illegal. The very words of the order in question say: "*The following postings amongst the Patwaris are hereby ordered in the best of public service with immediate effect.*" There was hence no mention of the word "appointed". Rather "*Posting*" was for the purpose and that too "*amongst the Patwaris*". Denied further as if appointment / adjustment was the purpose of the order in question, the authority to make any such appointments rests with the Deputy Commissioner and not the Assistant Commissioner who issued the order ibid (Annexure-A).
2. Denied. The post of the District Revenue Accountant (BPS-14) is filled from the senior most Tehsil Revenue Accountant (BPS-07) cum fitness from amongst the Tehsil Revenue Accountants of the district with at least three years service as such (Annexure-B). Since the appellant is Patwari by designation and not the Tehsil Revenue Accountant, his case could not be processed for promotion to the post of District Revenue Accountant. Since Mr. Muhammad Irfan had already been adjusted as Tehsil Revenue Accountant and no other Tehsil Revenue Accountant by designation was available there, he was shown the only Tehsil Revenue Accountant in District Buner accordingly (Annexure-C).
3. Pertains to the record. Please refer to para-2 above.

4. Denied. Against the said transfer, Mr. Muhammad Irfan appealed in the court of Commissioner Malakand Division which was rejected (**Annexure-D**). Against the rejection, Mr. Muhammad Irfan further approached this honorable Tribunal vide Service Appeal No. 1168/2015 in which he was granted the status-quo (**Annexure-E**). The very words of the Order passed in the case say thus: "Counsel for the appellant and Addl: AG alongwith Farhad Ullah, Computer Operator for official respondent and private respondent No. 5 in person present. Counsel for the appellant after the arguing the case at some length has requested this tribunal that since respondent no. 5 attained superannuation on 14.11.2017 and the appellant has been appointed as regular TRA from 15.02.2016 and at the present the grievances of the appellant has been redressed. That he would withdraw this appeal by reserving his right to sue afresh in case his right violated in future. In view of the above the present appeal is dismissed as withdrawn. File be consigned to record room" (**Annexure-F**). The salaries Mr. Muhammad Irfan has received in excess have been refunded.
5. Denied. Please refer to the above paras. Respondent No. 6 withdrew his appeal after his adjustment on the vacant post of Tehsil Revenue Accountant and the salaries he received in excess have been refunded.
6. Denied. The appellant is a Patwari by designation who has never been given such legal cover to be included in the list of Tehsil Revenue Accountants. On the contrary, the Respondent No. 6 had been adjusted on the post of Tehsil Revenue Accountant. The period in question cannot be considered as a "break" because of the fact. This honorable court had granted the Respondent No. 6 the Status-quo in Service Appeal No. 1168/2015 in the matter of his transfer from the post of Tehsil Revenue Accountant (**Annexure-E**).
7. Strongly denied. The appellant is a Patwari and not Tehsil Revenue Accountant that to be considered for promotion to the post of District Revenue Accountant. The government departments are supposed to perform their duties according to rules and policy of the government rather than any political pressure. The same principal has been obeyed in the case ibid in letter and spirit.
8. The appeal which is pending adjudication before this honorable Tribunal is of similar nature, hence, this yet another appeal amounts to the wastage of precious time of this Tribunal.
9. Denied. No status-quo was granted to the appellant. Also, the application submitted before this worthy Tribunal was replied to within time (**Annexure-G**).
10. Denied. The appellant desires to get benefits for which he is not entitled.

**Grounds:**

- 1) Strictly denied. Initially, the Respondent No. 6 was posted as Tehsil Revenue Accountant and when he was transferred to the post of Halqa Patwari, he preferred an appeal in this honorable Tribunal and succeeded in obtaining the Status-quo. It was in that peculiar scenario that his request to be adjusted against the vacant post of Tehsil Revenue Accountant was honored by the Respondent No. 1 in the best public interest. After this adjustment, the Respondent No. 6 withdrew his earlier mentioned appeal in which order this honorable Tribunal produced these words: "..... and the appellant has been appointed as regular TRA from 15.02.2016 and at the present the grievances of the appellant has been redressed. That he would withdraw this appeal by reserving his right to sue afresh in case his right violated in future.....". The succeeding promotion order of District Revenue Accountant was issued after fulfilling all the codal formalities in the subject matter. As far as the accrued rights of

the appellant are concerned, no right can be claimed for a wrong post i.e. the appellant has been a Patwari since the very beginning and never a Tehsil Revenue Accountant.

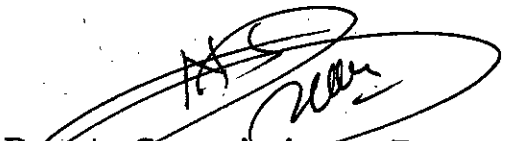
- 2) Denied. Initially, the Respondent No. 6 was posted as Tehsil Revenue Accountant and when he was transferred to the post of Halqa Patwari, he preferred an appeal in this honorable Tribunal and succeeded in obtaining the Status-quo. It was in that peculiar scenario that his request to be adjusted against the vacant post of Tehsil Revenue Accountant was honored by the Respondent No. 1 in the best public interest. After this adjustment, the Respondent No. 6 withdrew his earlier mentioned appeal in which order this honorable Tribunal produced these words: "..... and the appellant has been appointed as regular TRA from 15.02.2016 and at the present the grievances of the appellant has been redressed. That he would withdraw this appeal by reserving his right to sue afresh in case his right violated in future....". The succeeding promotion order of District Revenue Accountant was issued after fulfilling all the codal formalities in the subject matter. As far as the accrued rights of the appellant are concerned, no right can be claimed for a wrong post i.e. the appellant has been a Patwari since the very beginning and never a Tehsil Revenue Accountant. The post of the District Revenue Accountant (BPS-14) is filled from the senior most Tehsil Revenue Accountant (BPS-07) cum fitness from amongst the Tehsil Revenue Accountants of the district with at least three years service as such **(Annexure-B)**. Since the appellant is Patwari by designation and not the Tehsil Revenue Accountant, his case could not be processed for promotion to the post of District Revenue Accountant. Since Mr. Muhammad Irfan had already been adjusted as Tehsil Revenue Accountant and no other Tehsil Revenue Accountant by designation was available there, he was shown the only Tehsil Revenue Accountant in District Buner accordingly **(Annexure-C)**.
- 3) Denied. The appellant is not a Tehsil Revenue Accountant which is a mandatory pre-requisite for promotion to the post of District Revenue Accountant. He has been a Patwari by designation even till now and his promotion will rather be made to the post of Kanungo after fulfilling the required legal procedure.
- 4) Denied. The claim of the appellant to have had the legitimate expectancy is rejected totally. The appellant has tried to put before the honorable Tribunal the wrong facts that to get the benefits for which he is not entitled. The appellant was not appointed as "Tehsil Revenue Accountant" rather posted as "Tehsil Revenue Accountant" in Tehsil Mandanr. The appellant is a Patwari by designation who has never been given such legal cover to be included in the list of Tehsil Revenue Accountants. On the contrary, the Respondent No. 6 had been adjusted on the post of Tehsil Revenue Accountant.
- 5) Denied. The appellant has tried to put before the honorable Tribunal the wrong facts that to get the benefits for which he is not entitled. The appellant was not appointed as "Tehsil Revenue Accountant" rather posted as "Tehsil Revenue Accountant" in Tehsil Mandanr. No assurance to the effect of his appointment as Tehsil Revenue Accountant on regular basis exists in the record of the office nor any such assurance turns valid rather illegal. The very words of the order in question say: "*The following postings amongst the Patwaris are hereby ordered in the best of public service with immediate effect.*" There was hence no mention of the word "appointed". Rather "Posting" was for the purpose and that too "*amongst the Patwaris*". Denied further as if appointment / adjustment was the purpose of the order in question, the authority to make any such appointments rests with the Deputy Commissioner and not the Assistant Commissioner who issued the order *ibid* **(Annexure-A)**.


- 6) Denied. The appellant is not a Tehsil Revenue Accountant which is a mandatory pre-requisite for promotion to the post of District Revenue Accountant. He has been a Patwari by designation even till now and his promotion will rather be made to the post of Kanungo after fulfilling the required legal procedure.
- 7) Denied. The appellant has never been a Tehsil Revenue Accountant so that his name could be included in the list of TRAs. He is rather a Patwari. Denied further, the government departments are supposed to work under the laid down laws and rules where there is no provision for keeping malice. The same has been obeyed in the instant case.
- 8) Denied. The laid down procedure has been obeyed in the instant case. A Patwari cannot be given the rights to claim his position as Tehsil Revenue Accountant.
- 9) Denied. The appellant desires to get the benefits for which he is not entitled.


**Prayer:**

It is requested to dismiss the appeal with costs since:

- 1 The appeal is baseless and
- 2 The appellant is already in the same court with the same plea hence wasting the precious time of the Tribunal.

  
**Deputy Commissioner, Buner.**  
(Respondent-1) **Deputy Commissioner  
Buner**

  
**Commissioner, Malakand Division.**  
(Respondent-2)  
**Commissioner Malakand Division.**

  
**Senior Member, Board of Revenue,  
Revenue & Estate Department, Peshawar.**  
(Respondents-3, 4 & 5)

**OFFICE OF THE  
ASSISTANT COMMISSIONER  
MANDANR, BUNER**

No. 1123-86/AC Mandanr, Dated: 26 / 12 / 2014

**OFFICE ORDER:**

The following postings amongst the Patwaris are hereby ordered in the best interest of public service with immediate effect:

S No.	Name of Patwari	From	To	Remarks
1.	Hameed Ul Haq	Sura	Malka	
2.	Said Afsar Ali	Nagrai	Sura	
3.	Iftikhar Ali	Malka	TRA Mandanr	Against Vacant Post
4.	Anwar Ali	Khanpur	To have additional charge of Halqa Nagrai	

  
Assistant Commissioner  
Mandanr, Buner

Copy to:

1. Deputy Commissioner, Buner, with reference to his approval dated: 26/12/2014
2. Tehsildar Mandanr and Naib Tehsildar Chamla.
3. OK of this office.
4. Officials concerned for immediate compliance.

  
Assistant Commissioner  
Mandanr, Buner

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

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

NOTIFICATION  
Peshawar, dated 23-01-2015

No. 1942/Estt./135/SSRC. In pursuance of the provisions contained in sub-rule (2) of rule 2 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with the Cabinet Division Notification No. SRO. 457-I/2001 dated 28th June, 2001 and in supersession of all previous rules issued in this behalf, the Revenue and Estate Department, in consultation with the Establishment and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 7 of the Appendix to this Notification and applicable to posts born on the cadre strength of Revenue and Estate Department specified in column 2 of the said appendix:-

APPENDIX

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

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

1	2	3	4	5	6	7
5.	District Revenue Accountant (BPS 14)	Administrative Secretary (SMBR)	-	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Tehsil Accountant of the district with at least three years service as such.
6.	Kanungo (BPS - 11)	District Collector	-	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Patwaris and Naib Office Kanungos of the district concerned with three years service as such and who have passed the Departmental examination of Kanungo.
7.	Tehsil Accountant	District Collector	-	-	-	By promotion on the basis seniority-cum-fitness from amongst the Naib Tehsil Accountants having three (03) years service as such.
8.	Patwari (BPS - 09)	District Collector	Intermediate or equivalent qualification who have passed the Patwar Examination.	-	18 to 35	By initial appointment from amongst the Patwar passed candidate entered in the Tehsil patwar candidate register maintained by District Collector of the district concerned.
9.	Naib Tehsil Accountant / Naib Tehsil Office Kanungo	District Collector	-	-	-	By transfer from amongst the Patwaris.

Sd/-  
 SECRETARY TO GOVERNMENT  
 REVENUE AND ESTATE DEPARTMENT



No 1943-81/Estt-I/135/SSRC

Copy forwarded for information and necessary action to the:-

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

*M*  
DEPUTY SECRETARY TO GOVERNMENT OF KHYB  
REVENUE & ESTATE DEPARTMENT

**OFFICE OF THE  
DEPUTY COMMISSIONER BUNER.**

/DC(B)/Estt./Seniority-List

August 01, 2019

**FINAL SENIORITY LIST OF TEHSIL ACCOUNTANT (BPS-07)  
AT THE OFFICE OF DEPUTY COMMISSIONER OFFICE**

S.#	Name of Tehsil Accountant with BS	D. O. B	Date of 1 <sup>st</sup> Appointment	Date of promotion / Appointment to the present post	Educational Qualification
1	Muhammad Irfan. BS-07	24/06/1987	28/09/2009	15/02/2016	BA

Besides, the undersigned thoroughly scrutinized the previous record / inquiries in the matter and it was revealed that Mr. Muhammad Irfan is the only designated Tehsil Revenue Accountant (BPS-07) in the district.

**DEPUTY COMMISSIONER,  
BUNER.**

Endst. No. & date even:

1. Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar w/r to his letter No. Estt:V/PF/Seniority list/24250 dated 12.07.2019.
2. Commissioner, Malakand Division.
3. Official concerned.

**DEPUTY COMMISSIONER,  
BUNER.**

BEFORE THE COMMISSIONER, MALAKAND DIVISION  
AT SAIDU SHARIF SWAT.

Case No. 2/26/Estt:/CMD

Date of Institution: 27.08.2015

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

VERSUS

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

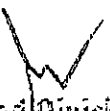
Appeal against Office Order No. 13453/1/6/DK, dated  
13.08.2015 passed by Respondent No.2 wherein appellant was  
malafidely transferred from the post of TRA Daggar to Halqa  
Ghwardara as a Patwari.

ORDER  
05.10.2015.

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

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

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

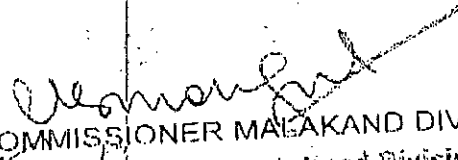
  
Commissioner Malakand Division

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

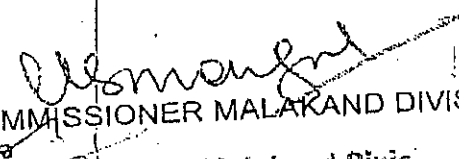
Page-2

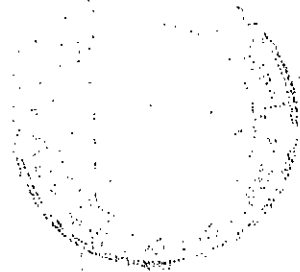
A copy of this order be sent to the Deputy Commissioner,  
Buner for compliance.

Announced  
05.10.2015

  
COMMISSIONER MALAKAND DIVISION.  
Commissioner Malakand Division.

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

  
COMMISSIONER MALAKAND DIVISION.  
Commissioner Malakand Division.



26.10.2015

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

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

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

*SA*

*Sd/-  
Chairman*

BEFORE THE KHYBER PAKHTUNKHWA,  
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1168 /2015

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

Versus

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

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

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Respectfully Sheweth,

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

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

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

Grounds:

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



31.01.2018

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

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

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

*Sd/-*  
Member

*Sd/-*  
Chairman  
Camp court swat

*Sd/-*

Date of Presentation of Application	6-8-2018
Number of Words	800
Copying Fee	0-0
Urgent	2-0
Total	8-0
Name of Applicant	Samiullah
Date of Completion of Copy	6-8-2018
Date of Delivery of Copy	6-8-2018



Before the Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Service Appeal No. 1463/2018

Mukhtar Ali .....Appellant.

Versus

Deputy Commissioner, Buner & others .....Respondents.

Preliminary Objections:

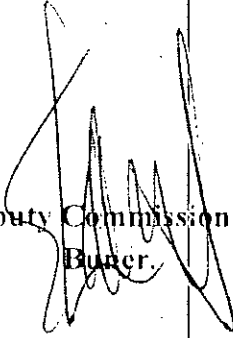
1. Application is baseless having no legal grounds.
2. The appellant has not come to the court with clean hands.
3. The appellant has tried to conceal facts from the Honorable Tribunal.

PARAWISE REPLY.

1. No comments. Pertains to the record.
2. Correct. The Departmental Promotion Committee meeting was called after fulfilling all the legal pre-requisites. There is no status-quo ordered by the Honorable Tribunal in the case in question. The important post of District Revenue Accountant has been lying vacant since long and the official work is being suffered badly. Before moving forward for holding the Departmental Promotion Committee meeting in question, all the legal aspects and available documents have been checked minutely. Since there was no status-quo granted in the case, it was held expedient to fill up the post of District Revenue Accountant.
3. Denied. Everything for holding the meeting of Departmental Promotion Committee meeting has been done as per the prescribed law and rules on the subject. Abidance by law should never inflict personal loss to anyone.
4. Denied. The whole legal prescribed procedure has been followed in the case in question.
5. No Comments. The main appeal has already been replied parawise, copy enclosed.
6. Denied. Please refer to the above paras.

Prayer:

It is requested that since the application is baseless having no legal grounds, it alongwith the Service Appeal No. 1463/2018 may be dismissed with cost.

  
Deputy Commissioner,  
Buner.

SERVICE APPEAL NO. 289/2020

IftikharAli .....(Appellant)

Versus

Deputy Commissioner and others .....(Respondents)

Parawise written reply on behalf of Respondent No. 6 (Mr. Muhammad Irfan DRA) is as under.

**Preliminary Objections**

- 1) Appellant has no locus stand to file the instant appeal.
- 2) That appellant has approached this Honorable Court with soiled hands.
- 3) That appellant has concealed real facts from this Honorable Court.
- 4) That appellant estopped by law and his conduct to file instant appeal.
- 5) That appellant had filed time Barred Departmental appeal. Therefore this is liable appeal to be dismissed on that score alone.
- 6) That appellant had not challenged the earlier orders therefore he has waived his right if any which are denied.

**Factual Objection.**

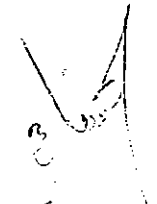
- 1) Para No.1 incorrect hence denied.  
Appellant was never appointed as TRA. In the law there is no scope of assurance besides if there was any such order, it was not made by the competent authority, nor it can be appointed on regular basis. Similarly no public can claim any vested right of regularization who has been appointed on deputation, in addition to above, appellant is drawing salary of post of Patwari BPS-09 while scale of TRA is BPS-07
- 2) Para No.2 incorrect and denied. The basic pay scale of Patwari is BPS-09 while that of TRA is BPS-07 appellant is drawing salary of Patwari Halqa not of TRA.
- 3) Para No.3 is incorrect moulded. Appellant was neither appointed as TRA nor was ever posted on regular basis. Above all, the instant controversy is with regard to posted TRA while appellant is seeking promotion to the post of DRA. First he should prove himself as TRA and then will seek promotion amongst his contemporary.
- 4) Para No.4 is incorrect. Appellant was never appointed as TRA he had participated in consecutive enquiries. Any how appellant is not TRA by designation. Rest of Para is related to answering respondent.
- 5) Para No.5 to the extent of appointment is correct but the appellant was never appointed as regular TRA.
- 6) Para No.6 is correct.

- 7) It is correct that respondent No.6 had filed Departmental appeal and thereafter approached this Honorable Tribunal for redressal of his grievances. But appeal was conditionally withdrawn as the appointment of respondent No.6 is in offing and later on respondent No.6 was adjusted on regular basis.
- 8) In reply to Para No.8, it is submitted that respondent No.6 is unaware about the application of appellant. However appellant was not appointed as TRA then how could he claim his promotion as DRA. No question of political pressure arises thus.
- 9) In reply to Para No.9, it is submitted that appellant despite his admission of submission of earlier applications did not file Departmental appeal within the prescribed period. Therefore the same may not have been decided.
- 10) Para No.10 is only a formality.

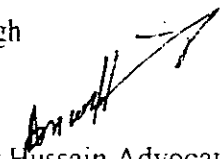
**Grounds.**

- 1) It is submitted that impugned order/letter is in accordance with law and rules. Appellant has no legal or vested right to challenge the various of aforesaid order.
- 2) Para No.2, is wrong and incorrect. Appellant was never appointed as TRA. He, therefore cannot claim seniority. The question of qualification cannot be determined by the appellant for, the qualification criteria is laid down by concerned quarters/authorities.
- 3) In reply to Para No.3, it is submitted that appellant is not a regular TRA. How he can be appointed as DRA then?
- 4) Para No.4 is incorrect. Appellant is not Regular TRA. Therefore he cannot claim promotion to the post of DRA.
- 5) Para No.5 is incorrect. Appellant has no legal or vested rights for promotion or appointment.
- 6) Para No.6 is incorrect. Appellant has not been appointed as Regular TRA.
- 7) Para No.7 pertained to this Honorable Court.

It is therefore humbly prayed that appeal may be dismissed.

  
Respondent No.6  
(Muhammad Irfan TRA)

Through

  
Anwar Hussain Advocate.

SERVICE APPEAL NO. 269/2020

IftikharAli .....(Appellant)

Versus

Deputy Commissioner and others .....(Respondents)

Parawise written reply on behalf of Respondent No.6 (Mr. Muhammad Irfan DRA) is as under.

**Preliminary Objections**

- 1) Appellant has no locus stand to file the instant appeal.
- 2) That appellant has approached this Honorable Court with soiled hands.
- 3) That appellant has concealed real facts from this Honorable Court.
- 4) That appellant estopped by law and his conduct to file instant appeal.
- 5) That appellant had filed time Barred Departmental appeal. Therefore this is liable appeal to be dismissed on that score alone.
- 6) That appellant had not challenged the earlier orders therefore he has waived his right if any which are denied.

**Factual Objection.**

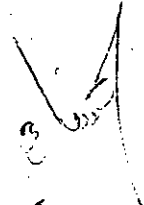
- 1) Para No.1 incorrect hence denied.  
Appellant was never appointed as TRA. In the law there is no scope of assurance besides if there was any such order, it was not made by the competent authority, nor it can be appointed on regular basis. Similarly no public can claim any vested right of regularization who has been appointed on deputation, in addition to above, appellant is drawing salary of post of Patwari BPS-09 while scale of TRA is BPS-07
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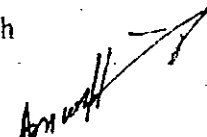
**Grounds.**

- 1) It is submitted that impugned order/letter is in accordance with law and rules. Appellant has no legal or vested right to challenge the various of aforesaid order.
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It is therefore humbly prayed that appeal may be dismissed.

  
Respondent No.6  
(Muhammad Irfan TRA)

Through

  
Anwar Hussain Advocate.