

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

**Service Appeal No. 2213/2023**

**BEFORE:** RASHIDA BANO --- MEMBER (J)  
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Abdul Majeed, son of Gulab Din, Naib Tehsildar,  
D.I.Khan.....(*Appellant*)

**VERSUS**

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar and  
others.....(*Respondents*)

**Present:-**

KHALID KHAN,  
Advocate --- For Appellant

ASIF MASOOD ALI SHAH,  
Deputy District Attorney --- For official respondents

SYED ABID HUSSAIN BUKHARI,  
Advocate --- For private respondent No. 6

Date of Institution.....26.10.2023  
Date of Hearing..... 08.03.2024  
Date of Decision..... 08.03.2024

**JUDGMENT.**

**MUHAMMAD AKBAR KHAN, MEMBER(E):-** The instant service  
appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa  
Service Tribunal, Act 1974 with the prayer copied as under;

*“That on acceptance of present service appeal and by setting  
aside order of the Senior Member Board of Revenue  
communicated to appellant vide letter No. EStt:V/PF/Abdul  
Majeed/NT23166 dated 18.10.2023 of the Board of Revenue,*

*Khyber Pakhtunkhwa, as well as Office Order No.5300-19/Estt: dated 28.09.2023 of Commissioner, D.I.Khan Division, D.I.Khan, to the extent of appellant, the posting of appellant as Naib Tehsildar Pharpur, may please be retained; and accordingly, the office orders No. 4856/Estt: dated 01.09.2023 and No. 4365/Estt. dated 16.08.2023 at the posting of appellant as Naib Tehsildar Pharpur may please be restored.”*

02. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was serving as Naib Tehsildar in District D.I.Khan. He was previously posted as Settlement Tehsildar D.I.Khan (OPS), and then transferred to the post of Naib Tehsildar Paharpur vide order dated 16.08.2023; that vide office order dated 17.08.2023, appellant was transferred from the post of Naib Tehsildar Pharpur and was directed to report to the Commissioner Office; that the respondent department cancelled the office order dated 17.08.2023 to the extent of appellant and the posting of appellant as Naib Tehsildar Pharpur was restored by respondent No. 4 vide order dated 01.09.2023. The Director Land Records/Inspector General of Registration, authorized the appellant to act as Sub Registrar, Tehsil Pharpur District D.I.Khan vide order dated 06.09.2023; that vide impugned order dated 28.09.2023, the appellant was again transferred from the post of Naib Tehsildar Pharpur to the post of Naib Tehsildar Consolidation D.I.Khan and Private respondent No. 6 was posted as Naib Tehsildar, Pharpur. Feeling aggrieved from the impugned order dated 28.09.2023, the appellant filed department appeal on 06.10.2023 which was filed vide order dated 18.10.2023, hence preferred the instant service appeal on 26.10.2023.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned Deputy District Attorney for official respondents and learned counsel for private respondent No. 6 and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended that the impugned orders dated 28.09.2023 & 18.10.2023 are the outcome of malafide, result of political victimization, without jurisdiction, without lawful authority; that the appellant was initially posted as Naib Tehsildar Pharpur vide order dated 16.08.2023 but he has not been allowed to perform his duties and complete his ordinary tenure of posting and as such impugned office order dated 28.09.2023 is nullity in the eyes of law; that private respondent No. 6 is the permanent resident of Tehsil Pharpur, and he cannot be posted as Naib Tehsildar Pharpur according to directives of the Board of Revenue Khyber Pakhtunkhwa regarding Posting & Transfer in the Revenue Department vide letter dated 09.01.2020 hence the impugned order of the appellant is liable to be set aside; that the appellant is at the verge of retirement and according to Posting & Transfer Policy of the Provincial Government the respondents have no lawful authority to make the appellant as a rolling stone; that the impugned transfer order is not in the public interest rather in the interest of respondent No. 6 only; that according to Khyber Pakhtunkhwa Posting & Transfer Policy, the normal tenure of service is three years and transfer in violation of such policy is simply to be recalled.

05. Learned Deputy District Attorney on the other hand contended that the appellant was rightly transferred/posted as the posting and transfer are the terms and conditions of service; that the civil servant as provided under the Civil Servants Act, 1973 can be posted by the competent authority for performance of his official duty; that the posting/transfer and observance of tenure policy is followed, however under special circumstances when Tehsildar/Naib Tehsildar were recruited through Public Service Commission and their services were placed at the disposal of Commissioner D.I.Khan Division for further posting against the post of Tehsildar/Naib Tehsildar, resultantly all the incumbents who were working on OPS basis against various positions were reverted back to their original position, hence the matter of policy violation and contention of the appellant are baseless and respondent No. 6 has been legally posted at Pharpur.

06. Learned counsel for private respondent No. 6 relied upon the arguments advanced by learned Deputy District Attorney on behalf of official respondents.

07. Perusal of record reveals that the appellant was transferred 4<sup>th</sup> time within a short span of 42 days (from 16.08.2023 to 28.09.2023). The appellant was last posted as Naib Tehsildar, Pharpur D.I. Khan vide order 01.09.2023. However, he was transferred again from the post of Naib Tehsildar Pharpur to Naib Tehsildar Consolidation D.I.Khan District. Nothing is available on record nor advanced during course of arguments by the respondents that prompted transfer of the appellant within a period of less than one month from his present station of duty i.e. Naib Tehsildar Pharpur. In absence of any justifiable reasons or for that matter

administrative grounds substantiating public interest in the pre-premature transfer of the appellant the Tribunal has to take recourse to the policy instructions of the Provincial Government. Clause 4 of the Posting Transfer Policy provides that:-

*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 hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.*

08. Another policy guidelines circular dated 09.01.2020 adopted by the respondent department i.e. Board of Revenue, Revenue & Estate Department Government of Khyber Pakhtunkhwa clearly states posting of revenue staff in the following manner;

- a. *Tehsildar shall not be posted in the District of his domicile.*
- b. *Naib Tehsildar shall not be posted in his home Tehsil.*
- c. *Patwari shall not be posted in Patwar Halqa to which he belongs*

09. We find that the impugned orders are not in conformity with the above policy guidelines which have the same sanctity of law. The premature transfer of the appellant is violation/contravention of Class-IV of the Posting Transfer Policy. Similarly posting of private respondent No. 6 as Naib Tehsildar, Tehsil Pharpur, being domicile holder of Pharpur Tehsil is violation of Clause-b of the Policy governing posting of revenue staff which expressly prohibits posting of Naib Tehsildar in his home Tehsil. Therefore, we are constrained to set aside the impugned order dated 28.09.2023 to the extent of appellant and consequently the order bearing Endst. No. 4875-



62/Esst. dated 01.09.2023 shall stand restored. Costs shall follow the event.

Consign.

10. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 08<sup>th</sup> day of January, 2024.*



(Rashida Bano)  
Member (J)



(Muhammad Akbar Khan)  
Member (E)

\*Kamranullah\*

**ORDER**

08.03.2024

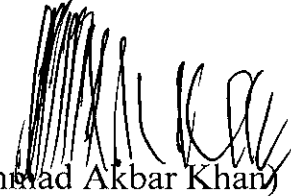
1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present. Learned counsel for private respondent No. 6 present. Arguments heard and record perused.

2. Vide our detailed judgment of today separately placed on file, we are constrained to set aside the impugned order dated 28.09.2023 to the extent of appellant and consequently the order bearing Endst. No. 4875-62/Esst. dated 01.09.2023 shall stand restored. Costs shall follow the event. Consign.

03. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 08<sup>th</sup> day of January, 2024.*



(Rashida Bano)  
Member (J)



(Muhammad Akbar Khan)  
Member (E)