

1384/13

5.12.2013

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Mukhtiar Ali, Assistant for respondent No. 1, and Attaullah, ADK for respondents No. 2 & 3 present. Written reply of respondents No. 2 and 3 filed. Copy handed over to counsel for the appellant. Applicant Azeemullah, with his counsel present. Counsel for the appellant has no objection for impleadment of applicant. As such Zarif, Patwari is impleaded as private respondent No.4. Entry be made in the heading of appeal. To come up for written reply of respondents No. 1 & 4 on main appeal as well as reply/arguments on stay application on 12.12.2013. Till then status quo is extended.

MEMBER

MEMBER

12.12.2013

Appellant with counsel, Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary and Attaullah, ADK for the official respondents and private respondent No. 4 with counsel present. Appellant requested for withdrawal of the appeal. His signature also obtained in the margin of order sheet. As such the appeal is dismissed as withdrawn. File be consigned to the record.

ANNOUNCED
12.12.2013.

MEMBER

MEMBER

Handwritten signature and date: 12/12

Handwritten signature and initials: OBR

25.10.2013.

Appellant with counsel and Mr. Ziaullah, G.P with Mukhtiar Ali, Supdt for respondent No. 1 and Mr. Attaullah, ADK for respondents No. 2 and 3 present and requested for time to file written reply. Mr. Muhammad Aamir Nazir, learned Member is on leave, therefore, case to come up for written reply on main appeal as well as reply/arguments on stay application on 28.10.2013. Till then status quo be maintained.

MEMBER

MEMBER

28.10.2013.

Appellant with counsel, Mr. Usman Ghani, Sr.GP with Mir Qasam, Assistant Secretary for respondent No. 1, and Mr. Attaullah, ADK for respondent No.3 present and requested for further time. None is available on behalf of respondent No.2. Fresh notice be issued to him positively. To come up for written reply on main appeal as well as reply/arguments on stay application on 19.11.2013. Till then status quo is extended.

MEMBER

19.11.2013

Appellant with counsel, Mr. Muhammad Adeel Butt, AAG with Mir Qasam Assistant Secretary for respondent No. 1 present and requested for further time. Mr. Imran Clerk on behalf of respondent No. 3 present and stated that Mr. Attaullah, ADK who dealing the cases is on leave. None is available on behalf of respondent No. 2. Fresh notice be issued to him positively. Mr. Zarif Khan, Applicant with counsel (Mr. Adil Majeed, Advocate) present and submitted an application for impleadment as necessary party. Copy handed over to counsel for the appellant. To come up for written reply on main appeal, reply/arguments on stay application and reply/arguments on application for impleadment on 5.12.2013. Till then status quo is extended.

MEMBER

MEMBER

Appeal No. 1384/2013
Mr. Siraj Muhammad

07.10.2013

Counsel for the appellant present and heard on preliminary.

Contended that the appellant has not been treated in accordance with law/rules. The impugned rejection order dated 03.10.2013 is not a speaking order and in violation of section 24-A of the General Clauses Act. He further stated that the original order is pre-mature and politically motivated. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections/limitation. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Appellant also filed an application for suspension of the impugned order dated 03.10.2013. Notice of application should also be issued to the respondents. To come up for written reply on main appeal on 19.11.2013 as well as reply/arguments on application on stay application on 11.10.2013.

Appellant deposited
4 Process fee & Security
Rs. 1800/- Bank Receipt
attached with file

Member

07.10.2013

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

Chairman

11.10.2013.

Appellant with counsel and Mr. Muhammad Jan, GP present. None is present on behalf of the respondents. Preliminary arguments on application for suspension of impugned order heard and case file perused. Since the points raised by the learned counsel for the appellant cannot be redressed without going through written reply of the respondents, therefore, application for suspension would be decided after submission of written reply and replication. Fresh notices be issued to the respondents positively. To come up for written reply on main appeal as well as reply/arguments on stay application on 25.10.2013.

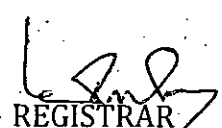
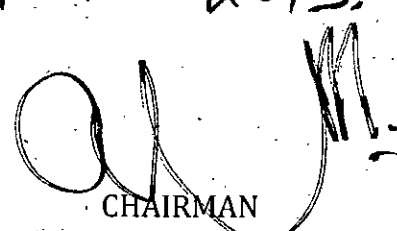
MEMBER

MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1384. /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04/10/2013	<p>The appeal of Mr. Siraj Muhammad submitted today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	4-10-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>7-10-2013.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KHYBERPAKHTUNKHWA
PESHAWAR

Service Appeal NO. 1384/2013

Siraj Muhammad -----Petitioner

VERSUS

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

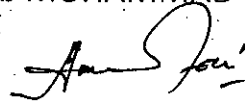
INDEX.

S.NO	DOCUMENTS	ANNEXURE	PAGE.
1-	Memo of appeal.	---	1 - 4
2-	Stay application + affidavit.	---	5 - 6.
3-	Order dt. 4.7.2013.	A	7
4-	High Court order.	B	8 - 9
5-	Order dt. 15.4.2013.	B-1	10 -12
6-	Order dt.16.9.2013.	C	13
7-	Appeal.	D	14
8-	Rejection order.	E	15
9-	Posting policy.	F	16 - 19
10-	Vakalat nama.	---	20.

APPELLANT

SIRAJ MUHAMMAD

Through



M. ASIF YOUSAFZAI
ADVOCATE

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1384/2013

Siraj Muhammad s/o Wali Muhammad
R/O Wadpaga Tehsil & District Peshawar
presently posted as Patwari Halqa Rashida District Peshawar

KPK Service Tribunal Peshawar
No. 1431
04-10-13

-----Appellant

VERSUS

1. The Secretary to Government of Khyber Pakhtunkhwa,
Revenue & Estate Department, Peshawar.
2. Commissioner Peshawar Division, Peshawar.
3. Deputy Commissioner Peshawar.
4. Zariif Patwari halqa Ghari Rashida.
-----Respondents

SMP

*impleaded
vide order
sheet dated
5-12-2013*

**APPEAL U/4 OF THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 AGAINST THE ORDER DATED
3.10.2013 WHEREBY THE APPELLANT'S DEPARTMENTAL
APPEAL HAS BEEN REJECTED AGAINST THE TRANSFER
ORDER DATED. 16.9.2013 FOR NO GOOD GROUNDS.**

PRAYER:

*That on acceptance of this appeal the order dated.
3.10.2013 may be set-aside and the respondents
may be directed to modify the order dated.
16.9.2013 and to restore the appellant's posting at
Halqa Rasheeda Peshawar and not to transfer the
appellant in violation of Govt: instruction/policy.
Any other remedy which this august tribunal
deems fit that may also be awarded in favour of
appellant.*

KPK Service Tribunal Peshawar
4/10/13

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 the appellant has served at many stations in Peshawar District as Patwari Halqa and lastly he was posted at Patwar Halqa Rashida, Peshawar vide order No. 9211-15/DC/(P)/DK dated Peshawar the 4.7.2013 (copy of order is attached - A)
3. That once Respondent No. 3 vide his order dated 15.4.2013 transferred a large number of patwaries from one place to another place for no good reason at all. The appellant was one of them who has been transferred from Patwar Halqa Rashida to Patwar Halqa kaga Wala Alizai but appellant moved writ petition before Hon,ble Peshawar High Court Peshawar vide dated 4.6. 2013. declared the transfer order as unlawful, without lawful authority being made during the Interim Government.(copy of order dated 4.6.2013 is Annexure B & B-1)
4. That after serving less than two month, the respondent No. 3 once again transferred the appellant to the office of District Kanoongo Peshawar vide order dated 16.9.2013 on the basis of flimsy ground of complaints. (copy of order dated 16.9.2013 is Annexure C).
5. That the appellant aggrieved by the aforesaid order, filed Representation/ Appeal before the Commissioner Peshawar Division, Peshawar (Respondent No.3) which has been rejected vide order dated 20.9.2013(copy of the representation and order dated 20.9.2013 are Annexure D& E)
6. That the impugned posting and transfer order dated 16.9.2013 is void and without lawful authority as well as the final rejection order is also non speaking order, 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 two 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 complaint, whereas the appellant was never confronted with any complaint nor any inquiry was conducted in that respect.
- I. That posting/transfer cannot be made as punishment because the same is not provided punishment in the relevant E&D Rules. Thus the posting order dated. 16.9.2013 is liable to be set-aside.
- J. That the respondents have violated the Govt: posting /transfer policy dated. 15.2..2003. Copy of policy is attached as Annexure – F.
- K. That the final speaking order 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.

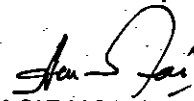
L. That the appellant seeks permissions to advance other grounds and proofs at the time of hearing.

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

APPELLANT

SIRAJ MUHAMMAD

Through



M. ASIF YOUSAFZAI

ADVOCATE

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal NO.-----/2013

Siraj Muhammad -----Petitioner

VERSUS

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

-----Respondents

APPLICATION FOR SUSPENSION OF IMPUGNED
ORDER DATED ~~16-9-2013~~³⁻¹⁰⁻²⁰¹³ TILL PENDING FINAL
DECISION OF MAIN APPEAL.

Respectfully Sheweth,

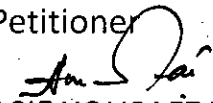
- 1- That the petitioner/ appellant has filed Appeal before this Hon,ble Tribunal in which no date hearing has been fixed so far.
- 2- That the appellant has got a good prima facie arguable case, the impugned order is without lawful authority and unsustainable in law, balance of convenience lies in his 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.

It is, therefore, prayed that the operation of impugned order dated ~~16-9-2013~~ may graciously be suspended till final decision of appeal.

3-10-2013

Through

Petitioner

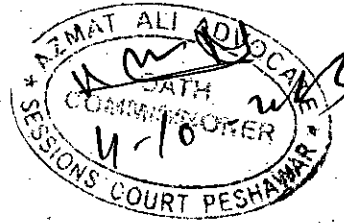

M. ASIF YOUSAFZAI
ADVOCATE

AFFIDAVIT

I, Siraj Muhammad s/o Wali Muhammad R/O Wadpaga Tehsil & District Peshawar presently posted as Patwari Halqa Rashida District Peshawar (petitioner) do hereby solemnly declare that the accompanying application is true and correct to best of my knowledge and belief and nothing has been concealed from this Hon,ble Tribunal.


DEPONENT

ATTESTED





ANNEXURE A

7

OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR.


Dated Peshawar the 04/07/2013

OFFICE ORDER.

In pursuance of the orders dated 4.6.2013 passed by the honourable Peshawar High Court in writ petition No.1094-P/2013, the postings/transfers of Mr. Siraj Mohammad and Mr. Noor Hussain Patwaris appearing at serial No.27 & 63 of office order No.5612-19/DC(P)/DK, dated 15.4.2013 is hereby withdrawn and both the Patwaris are posted to their previous position as prior to the above order as under:-

S#	Name of Patwari	From	To
1.	Mr. Siraj Mohammad	Under transfer to PH Kagawala Utmanzai.	P.H Rashida
2.	Mr. Noor Hussain	Under transfer to PH Rashida	Report to DK's office.

All previous orders viz suspension etc in respect of Mr. Siraj Mohammad are hereby withdrawn.


Deputy Commissioner
Peshawar.

Dated Peshawar the 04/07/2013

No. 9211-15 /DC(P)/DK

Copy forwarded to the:-

1. Additional Deputy Commissioner, Peshawar.
2. Assistant Commissioner, Peshawar.
3. Addl. ~~Asstt.~~ Commissioner (Rev), Peshawar.
4. Tehsildar Peshawar.
5. Official concerned.


Deputy Commissioner
Peshawar.

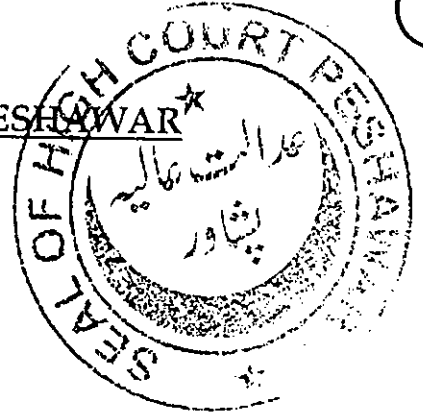
Attested
to be true copy

ATTESTED


ANNEXURE "B"

BEFORE PESHAWAR HIGH COURT PESHAWAR

W.P No. 1894-S/2013



Siraj Muhammad s/o Wali Muhammad R/O Wadpaga Tehsil & District Peshawar presently posted as Patwar Halqa Rashida District Peshawar.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department, Peshawar.
3. Commissioner Peshawar Division, Peshawar.
4. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
5. Deputy Commissioner Peshawar.....Respondents

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth

1. That the petitioner is a senior most Patwari, serving in the Revenue Department under control and command of Deputy Commissioner Peshawar.

ED TCD
ity Registrar
9 APR 2013

ATTESTED
EXAMINER
Peshawar High Court

ATTESTED
★

PESHAWAR HIGH COURT, PESHAWAR

(1) 9

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
04.06.2013	<p><u>W.P.No. 1094-P/2013 with I.R.</u></p> <p>Present: Mr. Muhammad Farooq Malik, Advocate, for the petitioner.</p> <p>Mr. Naveed Akhtar, AAG, for the official respondents.</p> <p style="text-align: center;">***</p> <p><u>DOST MUHAMMAD KHAN, C.J.-</u> Although adjournment application was submitted by the senior of learned counsel for the petitioner, however, he produced a short order of this Court dated 23.05.2013, based on the judgment of the Apex Court, and stated that he would not press this petition on that account. Order accordingly.</p> <p style="text-align: center;"><i>Ed- Dost Muhammad Khan Chief Justice</i></p> <p style="text-align: center;"><i>Ed- Roohul Amin Khan - J</i></p>
<p>No. <u>18599</u></p> <p>Date of Presentation of Application <u>06-6-13</u></p> <p>No of Pages <u>2P</u></p> <p>Copying fee <u>1</u></p> <p>Urgent Fee <u>1</u></p> <p>Total <u>14.00</u></p> <p>Date of Preparation of Copy <u>06-6-13</u></p> <p>Date Given For Delivery <u>06-6-13</u></p> <p>Date of Delivery of Copy <u>06-6-13</u></p>	<p style="text-align: center;">CERTIFIED TO BE TRUE COPY</p> <p style="text-align: center;">Examined Peshawar High Court Peshawar Authorised under Article 87 of The Qanun-e-Shahadat Order 1984</p> <p style="text-align: center;"><u>06-6-13</u></p>

/*Saif*/

2-11

ATTESTED
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B-1
10

**OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR.**

Dated Peshawar the 15/04/2013

**OFFICE ORDER
IMPLEMENTATION OF DIRECTIONS OF ELECTION COMMISSION OF
PAKISTAN - NEUTRALITY ASSESSMENT.**

In pursuance of Establishment Department, Government of Khyber Pakhtunkhwa Peshawar letter No.SO(E-1)E&AD/949/2012, dated 13.4.2013 coupled with the directives of Election Commission of Pakistan, a meeting was convened in the office of the undersigned to assess the necessary neutrality assessment of the Revenue Field Staff and consequently 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.	Mr. M. Yaseen	P.H Fata Abdul Rehman	P.H Ram Kishin vice No.12
2.	Mr. Mohammad Iqbal	Waiting for posting	P.H Tarnab vice No.4
3.	Mr. Abdul Wahab	P.H Khulizai	P.H Umar Bala vice No.21
4.	Mr. Fazle Muhtaq	P.H Tarnab	P.H Daman Hindki vice No.41
5.	Mr. Payo Gul	P.H Garhi Shordad	P.H Achini Bala vice No.43
6.	Mr. Nisar Mohammad	P.H Shah Dhand	P.H Pharipura vice No.17
7.	Mr. Riaz Ahmed	IAC Branch	P.H Pishtakhara Payan vice No.48
8.	Mr. Sadiq Akber	P.H Khazana	P.H Takhtabad Awal vice No.11
9.	Mr. Saeed Ahmed Khan	P.H Tukra No.1	P.H Pajaggi vice No.32
10.	Mr. Mohammad Qayas	P.H Achini Payan	P.H Pishtakhara Bala vice No.49
11.	Mr. Shaukat Ali	P.H Takhtabad Awal	P.H Tukra No.1 vice No.9
12.	Mr. Mohammad Aslam	P.H Ram Kishin	P.H Ghilji Kander Khel vice No.40
13.	Mr. Zikriya Khan	P.H Suleman Khel	P.H Dab Buryadi vice No.56
14.	Mr. Tilawatul Rehman	P.H Jala Bala	P.H Khazana vice No.8
15.	Mr. Mohammad Ali Jan	P.H Passani	P.H Mahal Gabri vice No.62
16.	Mr. Didar Khan	P.H Naulhia	P.H Suleman Khel vice No.13
17.	Mr. Tariq Javed Gul	P.H Pharipura	P.H Shah Dhand vice No.6
18.	Mr. Mukammal Shah	P.H Hazar Khawani	P.H Naulhia vice No.16
19.	Mr. Fazal Rabi	Waiting for posting	P.H Hazar Khawani vice No.18
20.	Mr. Mir Zaman	P.H Tauda	P.H Passani vice No.15
21.	Mr. Gulzar Ahmed	P.H Umar Bala	P.H Jala Bala vice No.14
22.	Mr. Qaiserud Din	Waiting for posting	P.H Pakha Chujam vice No.66
23.	Mr. Riaz Khan	Waiting for posting	P.H Shagi Hinkgayan vice No.24.

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24.	Mr. Mohammad Abid Mr. Ikramullah	P.H Shagi Hindkiyan P.H Tehkal Bala No.1	Acqn: Branch P.H Sarband vice No.46
26.	Mr. Falak Naz	P.H Ahmed Khel	P.H Khulozai vice No.3
27.	Mr. Siraj Mohammad	P.H Rashida	P.H Kagawala Ali Zai vice No.64
28.	Mr. Anwar Zeb	P.H Mullazai	P.H Urman Miana vice No.29
29.	Mr. Alamzeb	P.H Urman Miana	P.H Haji Pando vice No. 58
30.	Malik Zainul Abideen.	P.H Lala Ahmed	P.H Choha Gujar vice No. 47
31.	Mr. Sikander	P.H Kaniza	P.H Daag vice.No. 72
32.	Mr. Mohammad Younas	P.H Pajaggi	P.H Garhi Shordad vice No.5
33.	Mr. Sher Wali	P.H Surizai Bala	Report to Office
34.	Mr. Iffikhar Alam	P.H Badaber Maryamzai	P.H Tauda vice No.20
35.	Mr. Naeem Jan	P.H Sufaid Sang	P.H Mullazai vice No.28
36.	Mr. Amjed Khan Khalil	P.H Chagharmalli	P.H Lala vice No.26
37.	Mian Inamullah	P.H Lala	P.H Shahi Bala viceNo.38
38.	Mr. Ibrahlim Shah	P.H Shahi Bala	P.H Daman Afghani vice No.28
39.	Mr. Shindi Gul	P.H Daman Afghani	P.H Chaghar Malli vice No.25
40.	Mr. Mohammad Ejaz	P.H Ghajji Kander Khel.	Report to office:
41.	Waqar Ahmed	P.H Daman Hindki.	Report to Office
42.	Mr. Ghafoor Khan	P.H Sardar Garhi	P.H Hargoni vice No. 61
43.	Mr. Azimullah Khan	P.H Achini Bala	P.H Badaber Maryamzai vice No.34
44.	Mr. Nasrullah	P.H Essa Khel Topchian.	P.H Nodeh Payan vice No.67
45.	Mr. Sajjad Khan	P.H Palosi Talarzai	Report to Office
46.	Mr. Alamzeb Shahid	P.H Sarband	P.H Masho Gagar vice No.40
47.	Mr. Mashooq Jan	P.H Choha Gujar	P.H Ghajji Kander Khel vice No.40
48.	Mr. Ibrar Khan	P.H Pishlakhara Payan	P.H Pawaka/Abdara vice No. 52
49.	Mr. Sanaulah	P.H Pishtakhara Bala.	Report to DK office
50.	Mr. Saleem Shahzad	P.H Dheri Baghbanan	P.H Landi Yarghjo vice No. 74
51.	Mr. M. Nadeem	P.H Mashogagar	P.H Garhi Baghbanan vice No.76
52.	Mr. Mohamamd Kamran	P.H Pawaka	P.H Surizai Bala vice No.33
53.	Mr. Tahirullah	P.H Malhra	P.H Nahaqi vice No.68
54.	Mr. Waheed Khan	Waiting for posting	P.H Sufaid Sang vice No.35
55.	Malik Abdul Ghaffar.	P.H Achar	P.H Achini Payan vice No. 10
56.	Mr. Mohammad Yousaf	P.H Dab Bunyadi.	P.H Achar vice No.44
57.	Mr. Zarshad Khan	P.H Palosi Maqdarzai.	P.H Garhi Shordil vice No. 74
58.	Mr. Imtiaz Khan	P.H Haji Pando.	P.H Palosi Maqdarzai vice No.57
59.	Mr. Haroon Khan	P.H Nasirpur	P.H Musazai vice

ATTESTED

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60.	Mr. Saifullah	P.H Musazai	No.49.
61.	Malik Zahidullah	P.H Hargoni.	P.H Aadipura vice No.73
62.	Mr. Hassanat Shah	P.H Mahal Cabri	P.H Sardar Garhi vice No. 42
63.	Mr. Noor Hussain	Waiting for posting.	P.H Talu Abdul Rahim vice No.1
64.	Mr. Fayaz Khan	P.H Kajawala Alizai	P.H Rashida vice No.
65.	Mr. M. Ishfaq	Waiting for posting.	P.H Nasirpur vice No.59
66.	Mr. Mohammad Saeed	P.H Pakha Ghulam	P.H Maira Kachori vice No.71
67.	Mr. Shah Jehan	P.H. Nodeh Payan	P.H Lala Ahmed vice No.30
68.	Mr. Asadullah Khan	P.H Nahaqi	P.H Issa Khol Topchian vice No. 44
69.	Mian Saddiq Ali Shah	P.H Nodeh Bala	P.H Mathra vice No.53
70.	Mr. Aftab Ahmed	P.H Landi Akhun Ahmed	P.H Landi Akhun ahmed vice No.70
71.	Mr. Javed Ahmed	P.H Maira Kachori	P.H Nodeh Bala vice No.69
72.	Mr. Sher Alam	P.H Daag	P.H Ahmed Khol vice No.26
73.	Mr. Arshed Khan	Aadi pura	P.H Kaniza vice No. 31
74.	Mr. Amjed Suhail	Under transfer to Garhi Sherdil	P.H Tehkal Bala No.1 vice No.25
75.	Anwar Ali	Under transfer to Landi Yarghajo	P.H Dheri Baghbanan vice No.50
76.	Mohammad Bashir	P.H Garhi Baghbanan	Palosi Talarzai vice No.45
			Report to office.

[Signature]
Deputy Commissioner,
Peshawar.

No. 56:12-19/DC(P)/DK. Dated Peshawar the 15/04/2013

Copy forwarded to the:-

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

[Signature]
Deputy Commissioner,
Peshawar.

ATESTED
[Signature]



ANNEXURE

OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR.

Dated Peshawar the 16/09/2013.

OFFICE ORDER.

Due to bad reputation and public complaints, the following patwaris are hereby ordered to report to DK's office for further posting:-

1. Mr. Siraj Mohammad Patwari P.H Rashida.
2. Mr. Mohammad Iqbal, Patwari P.H Tarnab.
3. Mr. Tahirullah Patwari P.H Nahaqi.

The Revenue Officers concerned are directed to hand over the charge of the Patwar halqa to the contiguous Patwari in the same circle.


Deputy Commissioner,
Peshawar.

No. 1377-22 /DC(P)/DK Dated Peshawar the 16/09/2013

Copy forwarded to the:-

1. Commissioner, Peshawar Division Peshawar.
2. Addl: Deputy Commissioner, Peshawar.
3. PS to Senior Member Board of Revenue Khyber Pakhtunkhwa, Pesh.
4. Tehsildar/All Naib Tehsildars in District Peshawar.
5. Patwari concerned.
6. Revenue Bill Clerk.


Deputy Commissioner,
Peshawar.

Attested
to be a copy

ATTESTED

بخدرت جناب کمشنر صاحب لپش

جناب عالی!

هوڈ بانہ القماس ہے کہ میرا یعنی صاحب قحدر پٹواری حلقہ مانیا اردو

وز طرف ڈپٹی کمشنر صاحب اردو آرڈر 22-13717-N پر ڈی کے آسن
DEC 1952

ہوا جو کہ ایک ٹیلیفون از طرف درباب جہاندار کی علی عہدت

سے ہوا ہے نہ ہی قبضہ پر علاقہ کے لوگوں کی طرف سے کوئی

شکایت نہیں ہے اور نہ ہی قبضہ سے ایسا کوئی کام سرزد ہوا

ہے جس سے کسی کو کوئی نقصان نہ پہنچا ہو۔ میری طرف سے

بہی دشمنی بھی ہے کہ علاقہ کے لوگ قبضہ سے خوش ہیں

اور لوگوں کوئی شکایت کا موقع نہ ملے باوجود اس کے

میرے خلاف سازش کیوجہ سے اردو لیا گیا ہے۔

جو کہ نامناسب ہے لہذا اردو بحال لیا جاوے
عین ڈائری ہوگی

یہی

سراج قحدر پٹواری حلقہ رشیدہ
محمد انور

AC(R)

Director Peshawar

Dated 19/9/53

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13
موفق

Supt

Om

20/9



E (15)

**OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR**

APPEAL NO: 1
DATE OF INSTITUTION: 16.09.2013
DATE OF DECISION: 03.10.2013

SIRAJ KHAN PATWARI HALQA MOZA RASHEEDA TEHSIL & DISTRICT
PESHAWAR.....(Appellant)

VERSUS

DEPUTY COMMISSIONER, PESHAWAR.....(Respondent)

ORDER

This is a departmental appeal filed by the above name appellant against the order of Deputy Commissioner Peshawar bearing No.13717-22/DC(P)/DK dated 16.09.2013, whereby he was transferred from the post of Patwari Halqa Rasheeda to DK office Peshawar.

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
03.10.2013

ATTESTED


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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 15th 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 super-session 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

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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
<p><u>Outside the Secretariat.</u></p> <ol style="list-style-type: none"> 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: 	<p>Chief secretary in consultation with the Establishment Deptt. With the of the Chief Minister.</p>

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<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: -

19

<i>S.No</i>	<i>Officers</i>	<i>Authority</i>
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.

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Siraj Muhammad (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Revenue Dept. (Respondent)
(Defendant)

I/We Siraj Mohammad (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 4-10-2013

Siraj Muhammad
(CLIENT)

ACCEPTED

M. Asif Yousafzai
M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI

Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.

Ph.091-2211391-
0333-9103240.



OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR.

Dated Peshawar the 28/11/2013

OFFICE ORDER

You Mr. Mohammad Siraj Patwari Halqa Rashida have recorded cell number of irrelevant person instead of purchaser namely Mohammad Shakeel on the affidavit against mutation No.2615 dated 05.11.2013. The person who attended the call on cell No.0300-5830087 showed complete ignorance with regard to the afore-said mutation, which is clear violation of the instructions/directions issued by the Board of Revenue from time to time. This act on your part comes within the ambit of mis-conduct, insubordination, violation of discipline/instructions and good governance/corruption free reforms initiated by the present Government.

In view of the above allegations, you are hereby **suspended** from service with immediate effect. Tehsildar Peshawar is directed to hand over the charge of the Patwar Halqa Rashida to the contiguous Patwari in the same circle.



Deputy Commissioner,
Peshawar.

No. 18886-92/DC(P)/DK

Dated Peshawar the 28/11/2013

Copy forwarded to the:-

1. Commissioner, Peshawar Division Peshawar.
2. Addl: Deputy Commissioner, Peshawar.
3. Mr. Mohammad Fawad, AAC-VII Peshawar to conduct enquiry into the matter and submit his findings/recommendations within 15 days.
4. PS to SMBR, Khyber Pakhtunkhwa Peshawar.
5. Tehsildar Peshawar for necessary action.
6. Patwari concerned.
- ✓ 7. Revenue Bill Clerk.


Deputy Commissioner,
Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHAWA PESHAWAR.

Service appeal No. 1384/2013

Siraj Muhammad Petitioner

VS

Secretary Govt. of KPK Revenue and Estate

Respondent

Commissioner Peshawar Division Peshawar

Respondent

Deputy Commissioner Peshawar

Respondent

PARAWISE REPLY ON BEHALF OF RESPONDENT NO. 2 & 3

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 cancelled material fault from Honriable Tribunal and has not approached to the Tribunal with clean hands.
4. That this Honorabe Tribunal has got no jurisdiction to adjudicate the appeal.
5. That the appeal is bad in the present form due to non-joinder of necessary parties.
6. That the Office order vide No. 13717-22/DCP/DK, dated 16/9/2013 is an administrative order, which do not affect the posting / transfer policy or terms and condition of service of the appellant. Hence the appellant has got no cause of action and not maintainable.

RESPECTFULLY SHEWEATH

1. Correct
2. No comments
3. No comments
4. incorrect handed denied. The appellant was directed by the Competent Authority to report to DK office due to bad reputations and public complaints. The appellant has been suspended on the pretext of complaints on order vide no. 18586-92/DC/DK dated 23/11/2013
5. The departmental appeal was rejected on the ground of maintainability hence the appeal is not maintainable.
6. Incorrect. Order dated 16-09-2013 has been passed by the Competent Authority having no illegality.

GROUND

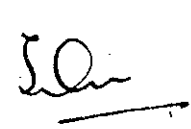
- a. Incorrect. No political motives are involved in the subject order. The order is purely on administrative and passed by the Competent Authority where by the appellant was directed to report to DK Office.
- b. Incorrect. Have denied and replied in para (a) above.
- c. Incorrect. No illegality has been done by the Competent Authority.
- d. Incorrect.
- e. Incorrect
- f. Incorrect
- g. Incorrect. The appellant was directed to report to DK Office only.
- h. Incorrect. The appeal is liable to be rejected.
- i. Incorrect. No policy has been violated.
- j. No comments.
- k. No Comments.
- l. No Comments.

It is therefore, requested that the appeal may please be dismissed with cost.

1. Respondent

2. Respondent

3. Respondent



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHAWA PESHAWAR.

Service appeal No. 1384/2013

Siraj Muhammad Petitioner

VS

Secretary Govt: of KPK Revenue and Estate

Respondent

PARAWISE REPLY ON BEHALF OF RESPONDENT NO. 2 & 3 AGAINST THE STAY APPLICATION OF THE APPELLANT.

Preliminary objections:-

1. That the appellant has cancelled material faulti from Honriable Tribunal and has not approached to the Tribunal with clean hands.
2. That This Honorabe Tribunal has got no jurisdiction to adjudicate the appeal.
3. That the appeal is bad in the present form due to non-jainder of necessary parties.
4. That the Office order vide No. 13717-22/DCP/DK, dated 16-~~19~~/2013 is an administrative order, which do not affect the posting / transfer policy or terms and condition of service of the appellant. Hence the appellant has got no cause of action and not maintainable.

RESPECTFULLY SHEWEATH

1. Correct
2. Incorrect. The petitioner / appellant has got no para wise case having no balance of convenience. The question of irreparable loss does not appear at all. The petitioner is liable to be rejected having no legal force / requirements.
3. No. Comments.

It is therefore, requested that the appeal may kindly be dismissed with cost.

1. Respondent

2. Respondent

3. Respondent



IN THE KPK SERVICE TRIBUNAL PESHAWAR

In Re; service appeal#1384/2013

Siraj Mohd. Vs Govt. Of KPK etc

**APPLICATION FOR IMPLEADMENT OF
PETITIONER IN THE PANEL OF RESPONDENTS
IN THE CAPTIONED APPEAL BEING NECESSARY
AND PROPER PARTY**

RESPECTFULLY SHEWETH:-

1. That the captioned service is pending before this hon'ble tribunal and is fixed for today
2. That the appellant Siraj Mohd. has challenged order dated 16/09/2013 of his transfer from Mauza Garhi Rashida to the office of District Kanungo Peshawar.
3. That after the aforementioned transfer order the post of patwari halqa Mauza Garhi Rashida was lying vacant.
4. That before filing of instant appeal, the applicant has been posted as patwari halqa Mauza Garhi Rashida vide order dated 01/10/2013
5. Despite the fact that after his posting as patwari halqa mauza Garhi Rashida present applicant is a necessary party as his rights are involved in the captioned appeal, he has not been made a party by the appellant.
6. The appellant was well aware of order of posting of the applicant dated 01/10/2013 but has malifidely not arrayed the later as a party in the captioned appeal
7. Present applicant is a necessary and proper party in the captioned appeal as an order passed by this hon'ble tribunal may affect him adversely and the captioned appeal could not be adjudicated upon in absence of the applicant

8. There is no legal or factual bar in allowing the instant application and its rejection may cause irreparable loss to the applicant.

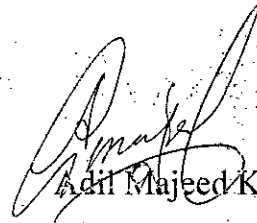
It is therefore most humbly prayed that on acceptance of instant application the applicant may be impleaded in the panel of respondents so as to enable him to defend his rights involved in the captioned appeal

Applicant/Zarif

Patwari halqa Garhi Rashida

28/10/13

Through



Adil Majeed Khan

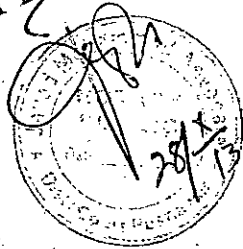
Advocate

High Court, Peshawar.

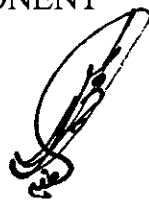
AFFIDAVIT

It is hereby solemnly affirmed and declared on oath that contents of instant application are true and correct

ATTESTED



DEPONENT





OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR.

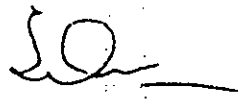
Dated Peshawar the 01 / X / 2013

OFFICE ORDER

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

S#	Name of Patwari	From	To
1.	Mr. Noor Hussain.	Patwari P.H. Mushtarzai.	Patwari P.H. Mahal Terai vice No.7
2.	Mr. Zahir.	Patwari P.H. Urmar Miana	Patwari P.H. Rashida
3.	Mr. Farmanullah.	Patwari P.H. Surizai Payan.	Patwari P.H. Tehkal Payan against the vacant post.
4.	Mr. Ibrahim Shah	Patwari P.H. Hargoni.	Patwari P.H. Lala.
5.	Mr. Azimullah	Patwari P.H. Bada Ber Maryamzai.	Patwari P.H. Tarnab
6.	Mr. M. Nadeem	Patwari P.H. Masho Peki.	Patwari P.H. Shan Alam against vacant post
7.	Mr. Ismail Haq	Patwari P.H. Mahal Terai.	Patwari P.H. Khazana
8.	Mr. Bikhhar Alam	Patwari DK's office Pesh.	Patwari P.H. Tukra No.1
9.	Mr. Wisal Khan	Patwari P.H. Tukra No.1	Report to DK's office.

NOTE: On expiry of leave, Mr. Amjed Khalil Patwari (PH Lala) and Mr. Sadiq Akbar Patwari (PH Khazana) will report to DK's office.


Deputy Commissioner,
Peshawar.

No. 14705/14 /DC(P)/DK

Dated Peshawar the 01 / X / 2013

Copy forwarded to the:-

1. Commissioner, Peshawar Division Peshawar.
2. Addl. Deputy Commissioner, Peshawar.
3. PS to Senior Member Board of Revenue Khyber Pakhtunkhwa, Pesh.
4. Tehsildar/All Naib Tehsildars in District Peshawar.
5. Patwari concerned.
6. Revenue Bill Clerk.



KPK Service Tribunal Peshawar بعدالت

Service Appeal # 1384/2013

منجانب سائل / ظریف

2013

موزنہ

مقدمہ

دعویٰ

جرم

بنام S.M.B.R مسرت محمد

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ آن مقام لیسے سر کیلئے **عادل مجید خان** ایڈووکیٹ ہائی کورٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار دیا گیا۔ نیز کیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے، جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک در و پیہ راضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہو گا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے۔ اور کا ساختہ پر داختم منظور و قبول ہوگا در ان مقدمہ میں جو خرچہ ہر جانہ التواء نے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ یہ ایسی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

2013

ماہ الکتوبر

28

المرقوم

مقام: KPK Service Tribunal Peshawar کے لئے منظور ہے۔