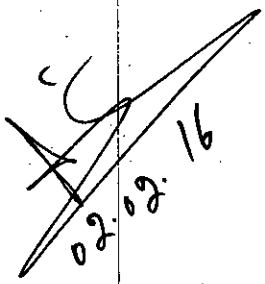
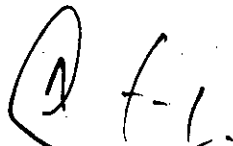



S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	02.02.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;"><u>APPEAL NO.960/2015</u></p> <p style="text-align: center;"><u>(Shah Zada -vs-Senior Member Board of Revenue Govt: of KPK, Peshawar and others.)</u></p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Appellant with counsel and Mr. Sami-ur-Rehman, Assistant alongwith Mr.Muhammad Zubair, Senior Govt. Pleader for respondents present. Arguments heard and record perused.</p> <p>2. Shah Zada, Superintendent (BPS-17), hereinafter referred to as the appellant, has assailed the transfer order dated 07.07.2015 in the instant service appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 which he has preferred when his departmental appeal was rejected by the appellate authority.</p> <p>3. According to the stance of the appellant his transfer order was premature and the result of certain allegations in the shape of stigma and passed by an authority not competent to transfer the appellant while according to the stance of the respondents the appellant was transferred by the competent authority to whom powers were delegated by the authority. In support of his contention he submitted copy of notification dated 08.07.2015..</p> <p>4. After hearing arguments of the learned counsel for the parties at length we are left with no option but to hold that anomalies in transfer order of the</p>



 02.02.16

appellant and similarly placed employees would require appraisal by the respondents for ascertaining the competent authority for posting/transfer of such officers. We are, therefore, constrained to accept the instant appeal and set aside the impugned transfer order dated 07.07.2015 and direct that before passing of transfer orders of appellant, the respondents shall ascertain the authority competent to pass such orders. The appeal is accepted in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record room.


(Abdul Latif)
Member


(Muhammad Azim Khan Afridi)
Chairman
02.02.16.

ANNOUNCED
02.02.2016

5.10.2015

Appellant in person and Mr.Rehmani Mulk, Tehsildar alongwith Mr.Muhammad Zubair, Sr.GP for official respondents No. 1 to 4 and private respondent No.5 in person present. Written reply submitted by official respondents No.1 to 4 while private respondent No.5 submitted undertaking relying on the comments of official respondents No.1 to 4. The appeal is assigned to D.B for rejoinder and final hearing for 3.11.2015 at Camp Court Swat. The restraint order shall continue.


Chairman
Camp Court Swat


03.11.2015

Appellant in person and Sami-ur-Rehman, Assistant alongwith Mr. Muhammad Zubair, Sr.GP for respondents present. Arguments could not be heard due to non-availability of D.B. To come up for rejoinder and final hearing before D.B on 9.12.2015 at Camp Court Swat. The restraint order shall continue.


Chairman
Camp Court Swat

9.12.2015

Appellant in person and Mr.Sami-ur-Rehman,Assistant alongwith Mr.Amir Qadir, G.P for respondents present. Due to non-availability of D.B, arguments could not be heard. To come up for ~~rejoinder~~ final hearing on 2.2.2016 before Rejoinder submitted. D.B at Camp Court Swat./The restraint order shall continue.


Chairman
Camp Court Swat

27.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Superintendent in BPS-16 on 20.11.2013 which post was upgraded to BPS -17 in the year 2014. That while so serving the appellant was transferred vide impugned order dated 7.7.2015 from District Bunir to District Shangla regarding which he preferred departmental appeal on the same date i.e 7.7.2015 which was rejected on 20.8.2015 and hence the instant service appeal on 24.8.2015.

That impugned transfer order is premature and based on certain allegations/stigma and, furthermore, Commissioner was not competent authority as under the provisions of rule-4 of APT Rules, 1989 it was the Chief Secretary who was a competent to pass such transfer orders.

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 7.9.2015 before S.B at Camp Court Swat as the matter pertains to the territorial limits of Malakand Division. Notice of application be also issued for the date fixed. Status-quo be maintained.


Chairman

07.09.2015

Appellant in person, Mr. Rehman-ul-Mulk, Tehsildar for respondent No. 3 alongwith Mr. Muhammad Zubair, Sr. GP for official respondents No. 1 to 4 and private respondent No. 5 in person present. Requested for adjournment. To come up for written reply/comments on 5.10.2015 before S.B at Camp Court Swat. Status-quo be maintained.


Chairman
Camp Court Swat

Appellant Deposited

Security & Process Fee





Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 960/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.08.2015	<p>The appeal of Mr. Shah Zada presented today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27-8-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 960 /2015

Shah Zada.....Appellant.

V E R S U S

SMBR & Others.....Respondents.

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-54
2.	Application for suspension with affidavit		5 -6
3.	Copy of Notification dated 20-11-2013, Office Order dated 02-12-2013 & charge assumption report	A, B & C	7-9
4.	Copy of Office Order dated 07-07-2015	D	10
5.	Copy of Departmental appeal & Order dated 20-08-2015	E & F	11-16
6.	Copy of suspension order and inquiry report	G & H	17- 18 20
7.	Copy of the letter dated 08-07-2015	I	18 21-
8.	Copy of comments, the suspension order and charge sheet	J, K & L	22-27
9.	Copy of Notification dated 23-01-2015	M	28-33
10.	Copy of Seniority list	N	34
11.	Wakalat Nama		35

Dated:-24-08-2015


Appellant

Through


Fazal Shah Mohmand

Advocate Peshawar.

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar

Cell# 0301 8804841

①

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 960 /2015

Shah Zada Superintendent (BPS-17) Deputy Commissioner Office Bunir.

.....Appellant.

V E R S U S

1. Senior Member Board of Revenue Govt. of KPK Peshawar.
2. Commissioner, Malakand Division at Saidu Sharif Swat.
3. Deputy Commissioner, Bunir.
4. Chief Secretary, Govt. of KPK Peshawar.
5. Bakht Raj Khan PS to Deputy Commissioner, Bunir.

K.P. PROVINCE
 Service Tribunal
 Diary No 1001
 Dated 24-8-2015

.....Respondents

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
 AGAINST THE ORDER DATED 20-08-2015 PASSED BY
 RESPONDENT NO 1 WHERE BY DEPARTMENTAL APPEAL OF
 THE APPELLANT FILED AGAINST THE ORDER DATED 07-07-
 2015, WHEREBY THE APPELLANT HAS BEEN TRANSFERRED
 FROM THE POST OF SUPERINTENDENT DEPUTY
 COMMISSIONER OFFICE BUNIR TO THE POST OF
 SUPERINTENDENT DEPUTY COMMISSIONER SHANGLA, OF
 RESPONDENT NO 2 HAS BEEN DISMISSED.**

PRAYER:-

On acceptance of this appeal the impugned order dated 20-08-2015 of respondent No 1 and Order dated 07-07-2015 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be posted as Superintendent Deputy Commissioner Office Bunir.

Respectfully Submitted:-

1. That the appellant was appointed as Junior Clerk in the office of Deputy Commissioner Swat in the year 1980 was promoted as Senior Clerk in the year 1991 and was promoted as Assistant BPS-14 in the year 2007.
2. That the appellant was promoted as Superintendent BPS-16 vide Order dated 20-11-2013 and was posted as Superintendent in the Office of Deputy Commissioner Bunir vide Office Order dated 02-12-

Handwritten notes:
 Filed to-day
 24/8/15

2013 and he accordingly assumed charge on 22-11-2013. It is pertinent to mention here that in the year 2014, the post of Superintendent was upgraded from BPS-16 to BPS-17. (Copy of Notification dated 20-11-2013, Office Order dated 02-12-2013 & charge assumption report is enclosed as Annexure A, B & C).

3. That astonishingly the appellant was transferred from the Office of Deputy Commissioner Bunir to the Office of Deputy Commissioner Shangla as Superintendent by respondent No 2 vide Office Order dated 07-07-2015 and respondent No 4 was transferred in his place. (Copy of Office Order dated 07-07-2015 is enclosed as Annexure D).
4. That the appellant filed departmental appeal before respondent No 1 on the same day i.e on 07-07-2015, upon which status quo was granted, however finally the departmental appeal of the appellant was dismissed vide Order dated 20-08-2015. (Copy of Departmental appeal & Order dated 20-08-2015 are enclosed as Annexure E & F).
5. That the impugned Order dated 20-08-2015 of respondent No 1 and Order dated 07-07-2015 of respondent No 2 are against the law, facts and principles of justice on grounds interalia as follows:-

GROUND:-

- A. That the impugned orders are illegal and void ab initio.
- B. That the appellant has not been treated according to law and rules and the respondents have badly violated the procedure set forth by the law and rules.
- A. That the impugned order is void ab initio being without jurisdiction and lawful authority, as according to Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 respondent No 2 is not the competent authority for those serving in BPS-17.
- B. That the orders are based on nepotism and favoritism besides politically oriented and thus not maintainable in the eyes of law.
- C. That even the transfer order is premature as the appellant was transferred just after about 18 months of his posting without any justification.

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2013 and he accordingly assumed charge on 22-11-2013. It is pertinent to mention here that in the year 2014, the post of Superintendent was upgraded from BP-19 to BP-21. (Copy of Notification dated 20-11-2013, Office Order dated 02-12-2013 & charge assumption report is enclosed as Annexure A, B & C).

3. That astonishingly the appellant was transferred from the Office of Deputy Commissioner Bunit to the Office of Deputy Commissioner Shargla as Superintendent by respondent No 2 vide Office Order dated 07-07-2015 and respondent No 4 was transferred in his place. (Copy of Office Order dated 07-07-2015 is enclosed as Annexure D).

4. That the appellant filed departmental appeal before respondent No 1 on the same day i.e. on 07-07-2015, upon which status quo was granted, however finally the departmental appeal of the appellant was dismissed vide Order dated 20-08-2015. (Copy of Departmental appeal & Order dated 20-08-2015 are enclosed as Annexure E & F).

5. That the impugned Order dated 20-08-2015 of respondent No 1 and Order dated 07-07-2015 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows:-

GROUND:-

- A. That the impugned orders are illegal and void ab initio.
- B. That the appellant has not been treated according to law and rules and the respondents have badly violated the procedure set forth by the law and rules.
- A. That the impugned order is void ab initio being without jurisdiction and lawful authority, as according to Civil Servants (Appointment, Promotion and Transfer) Rules, 1959 respondent No 2 is not the competent authority for those serving in BP-17.
- B. That the orders are passed on nepotism and favoritism besides politically oriented and thus not maintained in the eyes of law.
- C. That even the transfer order is promulgated as the appellant was transferred just after about 18 months of his posting without any justification.

- D. That after getting status quo on 07-07-2015, the son of the appellant namely Amal Zada serving as Naib Qasid in the office of respondent No 3 was suspended on the same day on flimsy grounds, which fact is proved from the inquiry conducted against him, wherein the allegations were not proved. **(Copy of suspension order and inquiry report is enclosed as Annexure G & H).**
- E. That the malafide of the respondents is proved from the fact that despite status quo granted by the respondent No 1, the salary of the appellant was stopped on 08-07-2015. **(Copy of the letter dated 08-07-2015 is enclosed as Annexure I).**
- F. That according to the comments filed before respondent No 1, the appellant was transferred on administrative grounds and being indulged in the submission of blank copies of arms licenses to respondent No 3, which fact is also negated on record, as the license clerk namely Ghani Rehman, was charge sheeted on the above allegations and the appellant had no concern with the same and even the impugned order has been made before the determination of real culprit. **(Copy of comments, the suspension order and charge sheet issued to Ghani Rehman are enclosed as Annexure J, K & L).**
- G. That even otherwise transfer could not be withheld as punishment, as the same is not enumerated as punishment in any law.
- H. That even otherwise the post of Superintendent is District/Divisional Cadre post and as such too the impugned order is not maintainable. **(Copy of Notification dated 23-01-2015 is enclosed as Annexure M).**
- I. That the appellant is the permanent resident of District Bunir and is also senior to respondent No 5. **(Copy of the Seniority list is enclosed as Annexure N).**
- J. That even there is no complaint of any sort against the appellant.
- K. That mandatory provisions of law have been violated by the respondents while taking action against the appellant.

D. That after getting status quo on 07-07-2015, the son of the appellant namely Amar Zada serving as Naib Qasid in the office of respondent No 3 was suspended on the same day on flimsy grounds, which fact is proved from the inquiry conducted against him, wherein the allegations were not proved. (Copy of suspension order and inquiry report is enclosed as Annexure G & H).

E. That the mistake of the respondents is proved from the fact that despite status quo granted by the respondent No 1 the salary of the appellant was stopped on 08-07-2015. (Copy of the letter dated 08-07-2015 is enclosed as Annexure I).

F. That according to the comments filed before respondent No 1, the appellant was transferred on administrative grounds and being indulged in the submission of blank copies of gams licenses to respondent No 3, which fact is also negated on record, as the license clerk namely Ghani Rehman was charge-sheeted on the above allegations and the appellant had no concern with the same and even the impugned order has been made before the determination of real culprit. (Copy of comments, the suspension order and charge sheet issued to Ghani Rehman are enclosed as Annexure J, K & L).

G. That even otherwise transfer could not be withdrawn as punishment, as the same is not enumerated as punishment in any law.

H. That even otherwise the post of Sub-Inspector is District/Divisional Cadre post and as such too the impugned order is not maintainable. (Copy of Notification dated 23-01-2015 is enclosed as Annexure M).

I. That the appellant is the permanent resident of District Buner and is also senior to respondent No 2. (Copy of the Seniority list is enclosed as Annexure N).

J. That even there is no complaint of any sort against the appellant

K. That mandatory provisions of law have been violated by the respondents while taking action against the appellant.

L. That the appellant has about 35 years of service with unblemished service record and has not relinquished the charge yet.

M. That the appellant seeks the permission of this honorable Tribunal for further/additional grounds at the time of arguments.

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

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

[Signature]
Appellant

Dated:-24-08-2015

Through

[Signature]

Fazal Shah Mohmand
Advocate, Peshawar.

AFFIDAVIT

I, Shah Zada Superintendent (BPS-17) Deputy Commissioner Office Bunir, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

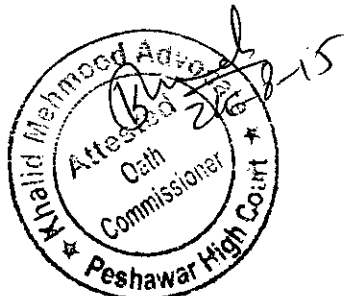
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[Signature]
DEPONENT

[Signature]

Fazal Shah Mohmand

Advocate Peshawar



L. That the appellant has about 25 years of service with
service record and has not relinquished the charge yet.

M. That the appellant seeks the commission of this honorable Tribunal for
further additional grounds at the time of arguments.

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

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

[Signature]
Appellant

Through

Dated: 24-08-2015

Fazal Shari Mohmand
Advocate, Peshawar.

AFFIDAVIT

I, Shari Zada Subintendant (BS-17) Deputy Commissioner Office Bunit,
do hereby solemnly affirm and declare on oath that the contents of this
Appeal are true and correct to the best of my knowledge and belief and
nothing has been concealed from this honorable Tribunal.

[Signature]
DEPONENT

Identified by

Fazal Shari Mohmand
Advocate Peshawar

5

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2015

Shah ZadaApplicant/Appellant.

V E R S U S

SMBR and Others.....Respondents.

APPLICATION FOR THE SUSPENSION OF IMPUGNED ORDERS DATED 20-08-2015 AND 07-07-2015 OF RESPONDENTS NO 1 AND 2 TILL THE FINAL DISPOSAL OF TITLED APPEAL BY MANTAINING STATUS QUO.

Respectfully Submitted:-


1. That the above titled appeal is being filed today, in which no date of hearing has been fixed so far.
2. That the facts and grounds of appeal may kindly be considered as integral part of this application.
3. That the applicant/appellant has got good prima facie case and is sanguine of its success.
4. That the balance of convenience also lies in favor of the applicant/appellant.
5. That if the impugned orders are not suspended the applicant/appellant will suffer an irreparable loss.

It is therefore prayed that on acceptance of this application, the impugned orders dated 20-08-2015 and 07-07-2015 may kindly be suspended till the final disposal of the titled appeal by maintaining status quo.


Applicant/Appellant

Dated:-24-08-2015

Through


Fazal Shah Mohmand
Advocate, Peshawar.

6

AFFIDAVIT

I, Shah Zada Superintendent (BPS-17) Deputy Commissioner Office Bunir, do hereby solemnly affirm and declare on oath that the contents of this Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

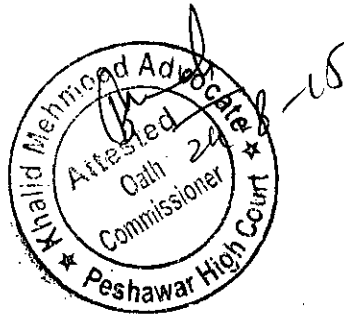
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DEPONENT



Fazal Shah Mohmand

Advocate Peshawar



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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 20.11.2013

NOTIFICATION

No.EStt. II/Supdt/_____. On the recommendation of Departmental Promotion Committee the following Assistant (BPS-14) of Malakand Division are promoted as Superintendent (BPS-16) on regular basis with immediate effect.

S.No.	Name of Official	Present post held by the official	Promoted to the next higher post
1.	Mr. Nisarul Haq	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
2.	Mst. Mula Gul	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
3.	Mr. Inayat Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
4.	Mr. Shahzada	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
5.	Mr. Bakht Raj Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
6.	Mr. Abid Hussain	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis

The official on promotion will remain on probation for a period of one year in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1980.

Consequent upon their promotion as Superintendents (BPS-16) on regular basis they are placed at the disposal of Commissioner, Malakand Division, Saidu Sharif for further posting in Division.

SD/-
Secretary

No.Estt:II/PS 2086/66

Copy forwarded to the:-

1. Commissioner, Malakand Division, Saidu Sharif with reference to his letter No.10086/2/24/Estt:V/Vol-III dated 10.10.2013
2. Deputy Commissioner, Malakand Dir Upper and Buner
3. Political Agent Bajaur
4. Official concerned.

SD/-
Assistant Secretary (Estt)

Attested
only
AS

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 25/11/2013

PROMOTION

For the recommendation of Departmental Promotion
concerning the following Assistants (BPS-14) of Malakand Division are provided as
Superintendent (BPS-16) on regular basis with immediate effect.

S.No	Name of official	Present post held by the official	Promoted to the next higher post
1	Mr. Ahmad Haq	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
2	Mr. Akbar Ghil	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
3	Mr. Hayat Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
4	Mr. Jhanzada	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
5	Mr. Malik Raj Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
6	Mr. Abdul Husain	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.

The officials on promotion will remain on probation for a period of one year in terms of Section 6 (2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15 (1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

Consequent upon their promotion as Superintendents (BPS-16) on regular basis, they are placed at the disposal of Commissioner, Malakand Division, Saidu Sharif for further posting to Division.

Sd/-
Secretary

No. HSL/BPS/2013-69

(Copy forwarded to the

1. Commissioner, Malakand Division, Saidu Sharif with reference to his letter No. 10086/224/Resu-V/10/2013.
2. Deputy Commissioners, Malakand, Dir Upper and Lower
3. Political Agent Bajaur.
4. Official concerned.

Assistant Secretary (Res)

Handwritten signature
Attest



Fasial

OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Dated 02 /12/2013

OFFICE ORDER

No. 12052 /2/24/Estt: Consequent upon the promotion of Assistants (BPS-14) to the post of Superintendent (BPS-16) vide Government of Khyber Pakhtunkhwa, Board of Revenue, Peshawar, Notification Endst: No.Estt:II/PS/20861-66, dated 20.11.2013, the following postings/transfers among the Superintendents of Malakand Division are hereby ordered with immediate effect in the public interest:-

Sr.	Name of Superintendent	Office to which belongs	Office/Place of Posting
1.	Mr. Nisarul Haq	DC, Dir Lower	Transferred and posted in the Deputy Commissioner's office Shangla against the vacant post of Superintendent.
2.	Mr. Inayat Khan	PA, Bajaur	Posted in the Political Agent's office Bajaur against the vacant post of Superintendent.
3.	Mr. Wahid Gul	DC, Buner	Transferred from Deputy Commissioner's office Buner & posted in the Deputy Commissioner's office Malakand against the vacant post of Superintendent.
4.	Mr. Shahzada	DC, Buner	Posted in the Deputy Commissioner's office Buner vice S. No.3.
5.	Bakht Raj Khan	DC, Buner	Transferred & posted in the Commissioner's office Malakand Division against the vacant post of Superintendent.
6.	Mr. Abul Hassan	Commissioner's Office, Malakand Divn:	Posted in the Commissioner's office Malakand Division against the vacant post of Superintendent.

By Order

COMMISSIONER MALAKAND DIVISION

Endst: No. 12053-67 /2/24/Estt:

Copy forwarded to:-

1. The Secretary, Board of Revenue Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner, Dir Lower.
3. The Deputy Commissioner, Buner.
4. The Deputy Commissioner, Shangla.
5. The Deputy Commissioner, Malakand.
6. The Political Agent, Bajaur Agency.
7. The District Comptroller of Accounts, Swat.
8. The District Accounts Officer, Dir Lower.
9. The District Accounts Officer, Buner.
10. The District Accounts Officer, Malakand.
11. The District Accounts Officer, Shangla.
12. The Agency Accounts Officer, Bajaur.
13. The Accounts Officer (Local).
14. The Officers concerned.
15. The Office Order file.

SECRETARY TO COMMISSIONER
MALAKAND DIVISION

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CHARGE ASSUMPTION REPORT.

In Compliance with the Government of Khyber Pakhtunkhwa, Board of Revenue, Revenue and Estate Department Notification No.Estt:/PS/20861-66, dated 20/11/2013, I Shahzada do hereby assume the charge of the post of Superintendent (BPS-16), today on 20/11/2013 (Fore-Noon).

(SHAHZADA)
SUPERINTENDENT.

Endst: No. 11698-704,

Dated Daggar the 22-11 /2013.

Copy forwarded to :

1. The Commissioner, Malakand Division, Saidu Sharif.
2. The Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commissioner, Buner.
4. The District Accounts Officer, Buner.
5. The District Accounts Officer, Swat.
6. Personnel File.

(SHAHZADA)
SUPERINTENDENT.

Attested
and
Ad



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION,
SAIDU SHARIF SWAT

Dated 07/07/2015

OFFICE ORDER

No. 1362 /2/24/Estt. The following posting/transfer among the Superintendents in Malakand Division is hereby ordered with immediate effect in the best public interest:-

S.No.	Name of Superintendent	From	To
1.	Mr. Shahzada	DC's Office Buner	Superintendent DC's Office Shangla against the vacant post.
2.	Mr. Bakht Raj Khan	PS to DC, Buner	Superintendent DC's Office Buner vice S.No. 1.

Sd-

COMMISSIONER MALAKAND DIVISION

Endst. No. 1363 /2/24/Estt.

Copy forwarded to:-

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar for information and with the request that a suitable officer may be posted against the vacant post of PS to DC, Buner in the best public interest, please.
2. The Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commissioner, Buner.
4. The Deputy Commissioner, Shangla.
5. The District Accounts Officer, Buner.
6. The District Accounts Officer, Shangla.
7. The officers concerned.
8. Office Order file.

SECRETARY TO COMMISSIONER
MALAKAND DIVISION

Approved
Co. G

07/07 2015 14:17

RECEIVED

"E" (11)

**BEFORE THE COURT OF SENIOR MEMBER BOARD OF
REVENUE & ESTATE GOVT: OF KPK, PESHAWAR.**

DEPARTMENTAL APPEAL AGAINST THE
ORDER DATED 07/07/2015 OF THE
COMMISSIONER MALAKAND DIVISION,
WHEREBY THE APPELLANT HAS BEEN
TRANSFERRED FROM THE DEPUTY
COMMISSIONER OFFICE BUNIR TO THE
DEPUTY COMMISSIONER OFFICE
SHANGHLA.

Respectfully Sheweth:-

- 1. That the appellant was appointed as Junior Clerk in the office of Deputy Commissioner Swat in the year, 1980, was promoted as Senior Clerk in the year, 1991 and was promoted as Assistant BPS-14 in the year, 2007.*
- 2. That the appellant was promoted as Superintendent BPS-16 vide order dated 20/11/2013 and was posted as Superintendent in the Office of Deputy Commissioner, Bunir vide office order dated 02/12/2013, where after, the appellant assumed charge there on 22/11/2013. It is pertinent to mention here that in the year, 2014, the post of Superintendent was upgraded from BPS-16 to BPS-17. (Copy of notification dated 20/11/2013, office order dated 02/12/2013 and charge assumption report are attached as annexure "A", "B" & "C").*
- 3. That astonishingly, the appellant was transferred from the office of Deputy Commissioner Bunir to the office of*

ATTESTED

11/1/2015
24/8/15
Reader To
SMBR
Khyber Pakhtunkhwa

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Deputy Commissioner Shanghla, by the Commissioner Malakand Division, Malakand, vide office order dated 07/07/2015, and one Bakht Raj Khan was transferred in his place. (Copy of office order dated 07/07/2015 is attached as annexure "B").

4. That the impugned office order dated 07/07/2015 of the Commissioner Malakand Division at Saidu Sharif Swat is against the law, facts and principles of justice on grounds inter alia as follows:-

Grounds:-

A. That the impugned order is illegal and void ab-initio being passed in utter violation of law, rules and policy on the subject.

B. That the impugned order is based on malafide as the favorite one has been transferred in place of the appellant, thus also the outcome of favoritism and nepotism coupled with political activism.

C. That even otherwise the impugned office order is without jurisdiction and lawful authority, as according to the rules, the transfer in BPS-17 is outside of the domain of the Commissioner. (Copy of rules is attached as annexure "E").

D. That the post of Superintendent is a District Cadre Post and as such too the impugned order is not maintainable in the eyes of law. (Copy of notification dated 23/01/2015 is attached as annexure "F").

ATTESTED

11/1
Reader To
S/ABR
Khyber Pakhtunkhwa
24/10/15

Attested
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- E. That the impugned order is also premature, thus against the transfer, posting policy of the Government of Khyber Pakhtunkhwa.
- F. That the appellant is the permanent resident of District Bunir and is senior to the official transferred in his place. (Copy of seniority list is attached as annexure "G").
- G. That the impugned order has been canceled only after about 1-1/2 year and that too without any reason.
- H. That the appellant has more than 35 years of service with unblemished service record.



ATTESTED

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 07/07/2015 of Commissioner Malakand Division, Saidu Sharif Swat may kindly be set-aside and the appellant may be ordered to be posted to the office of Deputy Commissioner, Bunir as Superintendent.

111 / 2015
 24/8/15
 Reader To
 SWBR
 Khyber Pakhtunkhwa

Dated:- 07/07/2015


 Shah Zada
 Superintendent
 Deputy Commissioner
 Office Bunir.

Attested



BEFORE THE COURT OF SENIOR MEMBER BOARD OF REVENUE & ESTATE GOVT: OF KPK, PESHAWAR.

APPLICATION FOR SUSPENSION OF THE IMPUGNED ORDER DATED 07/07/2015 OF THE COMMISSIONER MALAKAND DIVISION TILL THE FINAL DECISION OF THE DEPARTMENT APPEAL.

Respectfully Sheweth:-

1. *That the above noted Departmental Appeal is being filed before your honor, in which no date of hearing has yet been fixed.*

2. *That the appellant has got a good prima facie case in their favour, and are sanguine about its success.*

3. *That the balance of convenience also lies in favour of the appellant.*

ATTESTED
Reader To
SMBR
Khyber Pakhtunkhwa

That if the order dated 07/07/2015 of the Commissioner Malakand Division not suspended, than the appellants would suffer irreparable loss.

5. *That the facts and grounds of the departmental appeal may kindly be read as an integral part of this application.*

Attested
[Signature]
[Signature]




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11/18
11/19

It is, therefore, respectfully prayed that on acceptance of this application, the impugned order dated 07/07/2015 of Commissioner Malakand Division may kindly be suspended, till the final decision of the case.

Dated:- 07/07/2015


Shah Zada
Superintendent
Deputy Commissioner
Office Bunir

AFFIDAVIT:-

It is, stated on oath that the contents of the accompanying *Application* are true and correct to the best of my knowledge and belief and nothing has been concealed.


DEPONENT

Reader To
SMBR
Khyber Pakhtunkhwa

Attended
and
No

"F" (16)

**BEFORE THE SENIOR MEMBER BOARD OF REVENUE,
KHYBER PAKHTUNKHWA PESHAWAR**

Shahzada, Superintendent office of Deputy Commissioner, Buner

(Appellant)

VERSUS

Commissioner, Malakand Division

(Respondent)

Service Appeal No. 12/2015

The appeal in hand has been instituted by Shahzada Superintendent against the order passed by Commissioner, Malakand Division on 07.07.2015 whereby, the appellant was transferred from the office of Deputy Commissioner, Buner to the post of Superintendent of the office Deputy Commissioner, Shangla. The plea put forward by the appellant is that he was promoted from the post of Assistant as Superintendent (BPS - 16) on 20.11.2013 and was posted as Superintendent in the office of Deputy Commissioner, Buner being his District of domicile.

Appellant and Representative of Commissioner Malakand present. Counsel for the appellant contended that the post of Superintendent has recently been upgraded from (BS - 16 to BS - 17) under Rule 1(b) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, Competent Authority for the posts in Basic Pay Scale 17 and above is Chief Secretary while transfer order of appellant was issued by Commissioner, Malakand in violation of rules / regulation. The Commissioner, Malakand in his comments stated that the appellant was transferred from Buner to Shangla District on administrative grounds because the Deputy Commissioner, Buner was not satisfied from the work of the appellant and reported that the performance of the appellant is inordinately inefficient and not taking interest in his official duties.

Perusal of available record and comments of Commissioner, Malakand reveals that since the transfer order was made with the aim and purpose to ensure proper functioning and smooth running of the public Administration and official business. Moreover, Commissioner, Malakand is the Competent Authority for the transfer of Superintendents (BS - 17) within the Division. Furthermore, Section 10 of the Civil Servants Act, 1973 also provides that Every Civil Servant shall be liable to serve anywhere in the province. Appeal having no substance is accordingly dismissed and the order dated 07.07.2015 of Commissioner, Malakand is maintained. **ATTESTED**

Announced
20.08.2015

199/
Reader To
SMBR

Senior Member

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OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.

No. 12076-78 /DC/Buner/Estt.
July 07, 2015.

Office Order.

Based on disciplinary grounds, the salary of one Mr. Amal Zada Naib Qasid of this office is hereby stopped till further orders.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

Endst. No. & date even.

1. District Accounts Officer, Buner.
2. District Nazar.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

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OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.

No. 12228-29/DC/Buner/Estt.
July 10, 2015.

Inquiry.

Whereas, the attendance-register of the officials of this office reflexes that Mr. Amal Zada Naib Qasid attends the office regularly.

And whereas, he has never been seen in the office for the performance of his official duties.

And whereas, his whereabouts are unknown for months.

To probe into the matter and submit the factual position to the undersigned, Mr. Muhammad Iqbal, the Additional Assistant Commissioner, Revenue, Buner is hereby appointed as Inquiry Officer. He will submit his report in seven working days.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

Endst. No. & date even.

Mr. Muhammad Iqbal, the Additional Assistant Commissioner, Revenue, Buner for necessary action.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

Reader:
Summon the
official concerned on
28/07/15 for statements
recording.

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

No. 88 / AAC / Mandanr
Dated: the 12th of August, 2014

To

The Deputy Commissioner, Buner

Subject: **INQUIRY REPORT**

Memo:

Kindly refer to your office's Order No. 12804-6/DC/Buner/ Estt. Dated July 31, 2015 vide which the undersigned was appointed as Inquiry officer in the Inquiry ordered in the case of Mr. Amal Zada, Naib Qasid vide No. 1228-29/DC/Buner/ Estt. Dated 10-07-2015 to probe the matter and submit report. *(copy attached)*

The incumbent has been placed under inquiry on the grounds that he had been given to purposely absenting himself from the office assigned to him in the capacity of N/Qasid with his whereabouts unknown.

To unearth the factual position, the undersigned called upon the incumbent under report, sought requisite documents to this effect and ministered him an occasion to dilate upon the charges leveled against him (F/A).

In his defense, the incumbent categorically denied all the charges and entreated for exoneration with the pledge to remain even more cautious and dutiful ahead.

Subsequently, the undersigned got attested copies of the attendance Register to look up the attendance of the incumbent under report. As per the Register, the incumbent has been found quite regular and marked present (F/B).

FINDINGS:

- i. That the incumbent under Inquiry has been serving as N/Qasid in the Office of the Superintendent, DC's Office, Buner.
- ii. That the incumbent has been quite regular in the discharge of his duties as per the attendance Register **(Copies attached)**.
- iii. That the Inquiry has been initiated against the incumbent without any prior suspension order and show cause notices to this effect, hence derogates from the prescribed legal requirements.

*Attested
Copy
Asst*

RECOMMENDATIONS:

- i. In default of solid evidence as to the charges leveled against the incumbent under Inquiry, the incumbent may be exonerated and **CENSURED** as provided for under Rule 4(1) (a) (i) of Govt. of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011.
- ii. To judge the performance and worth from close-quarters, the incumbent may be transferred from his current place of duty and placed under observation for at least **ONE MONTH** under the supervision of any other officer.


**Additional Assistant Commissioner,
Mandaur, Buner**

Attested
Certified
Ad

OFFICE OF THE
SIGNER MAHARAJ SAH
10/7/2015

19

(21)

OFFICE OF THE D C Banni

AIC No

FOR THE MONTH OF July 2015

Case Contacts 27001

Description C Banni

Personnel No 71616

Employee name Mr. Shad Zada

Code 117

Designation Superintendent

FIELD NEW CONTACTS

CHANGE IN PAY DESCRIPTION
wage type Amount

Effective Date Remarks

Pay stop 117

SI transferred to 2015

Shangla side

Attest For

No. 1362

[Signature]

County Commissioner

Before the Court of Senior Member, Board of Revenue, Govt. of Khyber Pakhtunkhwa, Peshawar.


Departmental Appeal against the Order Dated 07-07-2015 of the Commissioner, Malakand Division Whereby the Appellant Has Been Transferred from the Deputy Commissioner Office Buner to the Deputy Commissioner Office Shangla.

Para-Wise Comments:

- 1. Correct.
- 2. Correct.
- 3. The transfer was made on administrative grounds because the Deputy Commissioner, Buner was not satisfied with the performance of the appellant.
- 4. No violation of any law or the principles of justice has been made. The transfer was made on the verbal request of the Deputy Commissioner, Buner.

Grounds:

- A. Incorrect. Order is according to the law, rules and policy.
- B. Denied. Transfer has not been made on the basis of favouritism and malafide.
- C. The appellant was promoted to the post of Superintendent alongside 05 others vide the notification No. Estt:II/Supdtt: dated 20-11-2013. Consequent upon their promotion, they were further placed at the disposal of the Commissioner, Malakand Division (**Annex-A**). Accordingly, the appellant was posted as Superintendent in the office of the Deputy Commissioner, Buner, while Mr. Bakht Raj Khan was posted in the office of the Commissioner, Malakand against the vacant posts (**Annex-B**). On the requisition of the Deputy Commissioner, Buner for the posting of Mr. Bakht Raj Khan as Accounts Officer in his office, Mr. Bakht Raj Khan was posted as Private Secretary in the office of the Deputy Commissioner, Buner against the vacant post in his own pay & scale (**Annex-C**). Similarly, in yet another Notification of the Board of Revenue dated 08-07-2015 whereby one Mr. Sultan Bahadur, Assistant in the office of the Deputy Commissioner, Malakand was promoted to the post of Superintendent, the Commissioner, Malakand Division besides Commissioner, Bannu was directed for the posting orders of the promoted officials (**Annex-D**). In compliance, the Commissioner, Malakand Division issued the Posting Order of Mr. Sultan Bahadur Superintendent in the office of the Deputy Commissioner, Malakand vide "Office Order" No. 1375/2/24/Estt: dated 08-07-2015 (**Annex-E**). All these orders show a tradition of the Commissioner's issuing the posting

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orders of the Superintendents. The impugned transfer order, thus, stands legal under tradition.

- D. The very words of the quoted notification say: "By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with at least five years service in the offices of the respective Deputy Commissioners and political Agents". The appellant has been unable to perceive the message of the words in the notification. There in the notification is no ban on the transfer of the Superintendents in between the districts. Rather it emphasizes on the promotion in between the Assistants inside a specific district. Hence denied.
- E. Inefficiency and misbehavior can be the reasons behind the premature transfer of an officer or official. The appellant has been inordinately inefficient in the eyes of his boss i.e. the Deputy Commissioner, Buner. He was time and again reiterated of the importance of his seat but to no avail. Finally, the Deputy Commissioner, Buner issued him warning when he was incapably found indulged in the submission of blank copies of the most sensitive arms' licenses for the signature of the authority. It was a serious slip on his part showing his incompetency and weakness in the grasping capacity of the situation. Thus due to the severity of his negligence, he was kept under watch for a period of three months (Annex-F). The nature of his post demanded extreme vigilance, which his boss doubted. The impugned order is however not premature that is to say the tenure of posting / transfer is 02 years for settled areas, 01 1/2 for unattractive areas and 01 year for hard areas. Hence denied.
- F. Correct.
- G. Reference Para-E.
- H. Reference Para-E

In light of the factual and legal reasons as given above, the appellant is not entitled for any relief asked for. The appeal in hand may therefore be dismissed.

Commissioner, Malakand Division,
Commissioner,
Malakand Division.

Attested
and
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OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.

No. 7304-05/DC/Buner/Estt.
April 30, 2015.

Suspension.

Whereas Mr. Ghani Rahman Assistant / License Clerk of this office submitted blank license-copies of the Arms' Licenses for the signatures of the undersigned.

And whereas, was required to fulfill all the legal formalities and fill in the copies before submission for signatures.

And whereas, he has time and again been told of the importance of his job resulting in vain.

Satisfied with the grounds above, now, therefore, I, **KHAISTA RAHMAN, DEPUTY COMMISSIONER, BUNER** as Competent Authority do hereby suspend Mr. Ghani Rahman Assistant from his service immediately. Mr. Shahab Hamid, the Additional deputy Commissioner, Buner is hereby appointed as Inquiry Officer. He will probe into the matter and find out all those involved and submit his findings to the undersigned within seven days.

(Khaista Rahman)
DEPUTY COMMISSIONER.
BUNER.

Enclosed Charge-Sheet and Statement of Allegations.
Endst. No. & date even.

1. The Additional Deputy Commissioner, Buner / Inquiry Officer.
2. Mr. Ghani Rahman, Assistant.

(Khaista Rahman)
DEPUTY COMMISSIONER.
BUNER.

Attested
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**OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.**

No. 7306-07 /DC/Buner/Estt.
April 30, 2015.

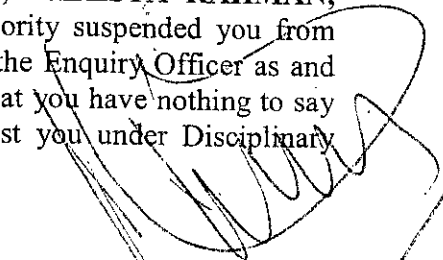
To Mr. Ghani Rahman,
Assistant.

Subject: Charge-Sheet.

Memo:

Whereas you submitted the blank copies of Arms' Licenses for the signatures of the undersigned while you must have fulfilled all the codal formalities before doing the same i.e. you must have filled in all the copies prior to the signatures of the undersigned.

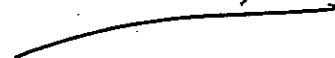
Satisfied with the grounds aforementioned, I, **KHAISTA RAHMAN, DEPUTY COMMISSIONER, BUNER** as Competent Authority suspended you from your service immediately. You are ordered to appear before the Enquiry Officer as and when he deemt necessary failing which it will be presumed that you have nothing to say in your defence invoking the undersigned to proceed against you under Disciplinary Rules.



(Khaista Rahman)
DEPUTY COMMISSIONER.
BUNER.

Endst. No. & date even.

The Additional Deputy Commissioner, Buner / Inquiry Officer.



(Khaista Rahman)
DEPUTY COMMISSIONER.
BUNER.

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Statement of Allegations.

Mr. Ghani Rahman Assistant / License Clerk submitted unfilled copies of Arms' Licenses for the signatures of the undersigned. He was required to complete all the codal formalities before doing the said official job. He has been found guilty of ignoring important official duties which is against the disciplinary rules.

(Khaista Rahman)
DEPUTY COMMISSIONER.
BUNER.

Endst. No. & date even. 7308-09

1. The Additional Deputy Commissioner, Buner / Inquiry Officer.
- ✓ 2. Mr. Ghani Rahman, Assistant.

(Khaista Rahman)
DEPUTY COMMISSIONER.
BUNER.

Attested
[Signature]
[Signature]

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OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.

No. 7301-03/DC/Buner/Estt.
April 30, 2015.

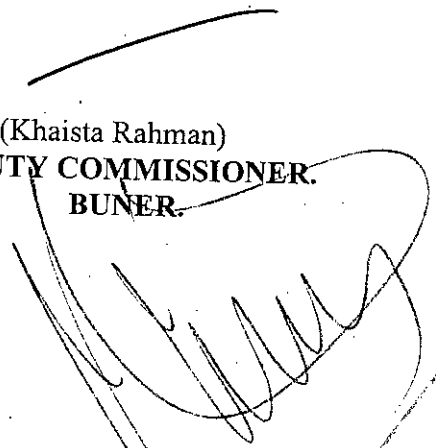
Office Order.

Following the suspension of Mr. Ghani Rahman, Assistant / License-Clerk, Mr. Muhammad Qamash Assistant is hereby posted as License-Clerk till the completion of inquiry and further orders in addition to his own duties in the best interest of public service.

Endst. No. & date even.

1. Superintendent.
2. Mr. Muhammad Qamash, Assistant.
3. Mr. Ghani Rahman, Assistant.

(Khaista Rahman)
DEPUTY COMMISSIONER.
BUNER.



(Khaista Rahman)
DEPUTY COMMISSIONER.
BUNER.

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

28

Peshawar Dated the 23/01/2015

NOTIFICATION

No. 2074/Estt:VII/135/SSRC. In pursuance of provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1939, the Revenue & Estate Department, in consultation with Establishment Department and the Finance Department hereby lays down the method of recruitment qualification and other condition specified in column 3 to 5 of the Appendix to this Notification and applicable to posts borne on the cadre strength of Deputy Commissioners specified in column 2 of the said Appendix.

S.No	Nomenclature of posts with BPS	Minimum qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1	Superintendent (BPS-17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with atleast five years service in the offices of respective Deputy Commissioners and Political Agents.

Attor for
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2.	Senior Scale Stenographer (BPS-16)	(i) At least Second Class Bachelor's Degree, from a recognized university; (ii) a speed of 70 words per minute in shorthand in English and 45 words per minutes in typing; and (iii) Knowledge of computer using MS Word, MS Excel.	20 to 32 years	(a) Sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Stenographers with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents; and (b) forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents; Provided that if no suitable person is available for promotion then by initial recruitment.
3.	Assistant (BPS-16)	At least Second Class Bachelor's Degree from a recognized University.	20 to 30 years	(a) Seventy five percent by promotion, on the basis of seniority-cum-fitness from amongst the Junior and Senior Clerk in the Offices of Deputy Commissioners and Political Agents of district concerned; and (b) twenty five percent by initial recruitment from amongst the candidates of the district concerned.
4.	Head Clerk (BPS-14)		By transfer from amongst Senior Clerks (BPS-14) of the district concerned.
5.	Stenographer (BPS-14)	(i) At least Second Class Intermediate or equivalent qualification from a recognized Board;	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.

Attest
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		(ii) a speed of 50 words per minute in shorthand in English and 35 words per minute in typing; and (iii) knowledge of computer in using MS Word, MS Excel.		
6.	Senior Clerk (BPS-14)			By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks of the district concerned with atleast two years service as such.
7.	Computer Operator (BPS-12)	(i) At least Second Class Bachelor's Degree in Computer Science/ Information Technology(BCS/BIT four years), from a recognized university; (ii) at least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.	18-to 28 years	By initial recruitment from amongst the candidates of the district concerned.
8	Post Imam (BPS-12)	Sanad in Dars-e-Nizami or a Sanad of Faza'le-Arabi	18-to 32-Years	By Initial recruitment from amongst the candidates of the district concerned
9.	Sub Engineer (BPS-11)	Diploma in Associate Engineering in Civil Technology from Board of Technical Education with certificate in Computer Aided Design (CAD) from recognized Institution.	18-30 years	By initial recruitment from amongst the candidates of the district concerned
10.	Junior Clerk (BPS-11)	(i) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) a speed of 30 words per minute in typing.	18 to 30 years	(a) Thirty three percent by promotion, on the basis of seniority-cum-fitness, from amongst the Qasids and Naib Qasids including holders of other equivalent posts in the district concerned with two years service as such, who have passed Secondary School Certificate Examination; and (b) sixty seven percent by initial recruitment from

Attested
and
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ASSISTANT
COMMISSIONER

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			<p>the candidates of the district concerned.</p> <p><u>Note:</u> For the purpose of promotion there shall be maintain a common seniority list of Qasid and Naib Qasid etc with reference to the date of their appointment.</p> <p>Provided that no separate seniority list of Matric and non-matric BS-1 (Class-IV) employees can be maintained being single cadre. Their seniority shall be fixed with reference to the date of their regular appointment.</p> <p><i>Provided further that where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possession the requisite qualification shall be promoted in preference to the senior official.</i></p>
11. Reader Record Keeper (BPS-7)	At least Second division in Secondary School Certificate or equivalent qualification from a recognized Board.	18 to 30 years	By initial recruitment from amongst candidates of the district concerned
12. Alhamad (BPS-5)	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board.	18-30 years	By initial recruitment from amongst the candidates of the district concerned.
13. Driver (BPS-4)	Literate having LTV driving license issued by the competent authority. Preference will be given to those who have sufficient experience in driving, repair and maintenance of vehicles.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
14. Khadim (BPS-4)	Literate. <u>Note:</u> Preference will be given to Hafiz-e-Quran	18-32 years	By initial recruitment from amongst the candidates of the district concerned.

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15.	Process Server (BPS-2)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
16.	Qasid (BPS-2)		---	By promotion on the basis of Seniority-cum-fitness, from amongst the Naib Qasids with two years as such.
17.	Naib Qasid/ Chowkidar/Sweeper/ Mali (BPS-1)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned."

Sd/-
 SECRETARY TO GOVERNMENT OF
 REVENUE & ESTATE DEPARTMENT

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5-2114/Estt:VII/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. in 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 supply 50 printed copies thereof to the undersigned for record.

DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
REVENUE & ESTATE DEPARTMENT

Attested
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33

FINAL DIVISIONAL SENIORITY LIST OF SUPERINTENDENTS (BPS-17) AND SENIOR SCALE STENOGRAPHERS (BPS-16) WORKING IN MALAKAND DIVISION AS IT STOOD ON 31.12.2014.

Dated 07/01/2015

NOTIFICATION:

No. 39 /2/16-Suptd./SSS/Estt. In pursuance of Section 8 (1) & (5) of the Civil Servant Act, 1973, Final Seniority List of Superintendents (BPS-17) and Senior Scale Stenographers (BPS-16), working in the office of the Commissioner Malakand Division and subordinate offices, as it stood on 31.12.2014, is hereby notified as follows for information of all concerned:-

I. SUPERINTENDENTS (BPS-17)

S.#	Name of Superintendent	Qualification	Date of Birth	Domicile	Date of 1 st entry into Govt. service	Date of appointment as JSS/Assistant	Date of regular appointment/promotion as SSS/Suptd.	Office	Method of appointment	Remarks
1	2	3	4	5	6	7	8	9	10	11
1.	Mr. Wahid Gul,	Matric	03.03.1955	Mardan	14.02.1974	08.01.1985	31.05.2007	DC, Malakand	Promotee	
2.	Mr. Matiur Rehman,	M.A	02.02.1963	Chitral	01.06.1990	01.06.1990	06.09.2011	DC, Chitral	Promotee	
3.	Mr. Gul Wahid,	Matric	04.02.1956	Swat	06.04.1977	20.10.1990	06.09.2011	DC, Swat	Promotee	
4.	Mr. Nisarul Haq,	M.A	04.02.1960	Dir (L)	07.01.1981	01.01.1994	20.11.2013	Commissioner Mkd: Division	Promotee	
5.	Mr. Inayat Khan,	Matric	05.05.1955	Bajaur	04.04.1974	21.03.1996	20.11.2013	PA, Bajaur	Promotee	
	Mr. Shahzada	B.A	04.04.1958	Buner	05.11.1980	01.06.2000	20.11.2013	DC, Buner	Promotee	
	Mr. Bakht Raj Khan	BA	03.03.1958	Buner	11.06.1981	01.06.2000	20.11.2013	Commissioner Mkd Division	Promotee	Presently working against the vacant post of PS to DC, Buner in OPS.
	Mr. Muhammad Ali	BA	21.09.1956	Swat	07.04.1977	29.03.2001	20.11.2013	Commissioner Mkd Division	Promotee	

Office of the DC Buner
 Diary No. 343
 Branch
 Signature

Attested
 [Signature]

1	2	3	4	5	6	7	8	9	10	11
		Date of Birth	Domicile	Date of 1 st entry into Govt. service	Name of appointment as SSS/Assistant	Date of regular appointment/promotion as SSS/Supdt:	Office	Method of appointment	Remarks	
1.	Mr. Fazal Hagan	B.A	Swat	10.06.1977	21.09.1980	21.03.2012	Commissioner Mkd. Division	Pro-tem	Appointed as Private Secretary (BPS-17) on A.C.B.	

No 40-49 /2/16-Supdt./SSS/Esit

Copy of Final Seniority List is forwarded to:

1. The Secretary, Board of Revenue, Revenue & Estate Department Khyber Pakhtunkhwa, Peshawar for information, please.
- 2-3. All the Deputy Commissioners in Malakand Division for circulation among the concerned officer, please.
4. The Political Agent, Bajaur Agency for circulation among the concerned officer, please.
10. The Superintendents at S.No. 4, 8 and SSS at S.No. 1 above of this office for information, please.

Buner

AKH
 AOW

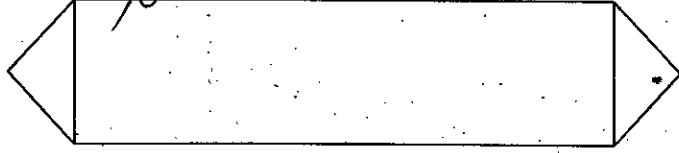
**SECRETARY TO COMMISSIONER
 MALAKAND DIVISION**
 Ph# 0946-8240458

**SECRETARY TO COMMISSIONER
 MALAKAND DIVISION**

064
 AOW

AC-11

بعدالت ہینا۔ سندس بیرون لیا اور



۱۵۱
 ۲۸ جناب قلمزارہ
 شہزادہ بنام SMBR و سہو

اس کی اپیل نمبر

مورخہ
 مقدمہ
 دعویٰ
 جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آن مقام للنداء کیلئے صنفی شاہ صمد اور دلہا
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
 اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا 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 اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
 سب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
 گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم ۲۶ ۱۱ ۲۰۲۱

شہزادہ بیولہ عصف
 [Signature]

العہدہ العہدہ العہدہ
 مقام

ATG
 [Signature]
 نامہ لکھ دیا

"B"

Regd

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

*TB
Swat*

No.

Appeal No. 960 of 20 15

Shah Taha Appellant/Petitioner

S.M.B.R. Kak ^{Nersms} Respondent

Respondent No. 5

Notice to: Bakht Raj Khan, D.S to Deputy
Commissioner Bunis.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7-9-15 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

~~Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this.....21.....

Day of 8.....20 15

(Application is also attached with appeal copy. (at camp court Swat))

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

Before the Service Tribunal, Khyber Pakhtunkhwa, Camp Court, Swat.

Service Appeal No. 960/2015

Shahzada Superintendent (BPS-17) Deputy Commissioner Office, Buner /Appellant

Vs

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Commissioner, Malakand Division at Saidu Sharif, Swat.
3. Deputy Commissioner, Buner.
4. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
5. Bakht Raj Khan, PS to Deputy Commissioner, Buner.

----- Respondents.

Parawise Comments on Behalf of Respondents No. 1 to 4.

Preliminary Objections:

1. The appeal is not maintainable.
2. The appeal has no legal grounds.
3. The appellant has misconceived the law & rules related to the subject.
4. The appellant is estopped to file the instant appeal.
5. The appeal is time-barred.
6. The appellant has not come to the worthy tribunal with clean hands.

Para-wise Comments:

1. Correct.
2. Correct.
3. Nothing to the astonishment. Transfers of employees of officer's rank are based upon necessities and the requirements of the situations. Section-10 of the Civil servants Act, 1973 provides that every civil servant shall be liable to serve anywhere in the province.
4. Correct.
5. Incorrect. Both the orders are in accordance with the law.

Grounds:


Note: The serial-wise sequence of the appeal is wrong however obeyed accordingly.

- A. Incorrect. The orders are in accordance with the law and rules.
- B. Incorrect. The appellant has been treated according to the law and laid down procedure.
- A. Incorrect. The order is according to the law. As per the tradition, the postings / transfers of Superintendents have always been made by the Commissioners in amongst their respective districts of jurisdiction.
- B. Incorrect. Strictly denied.
- C. Incorrect. Every civil servant is liable to serve anywhere in the province. The order is not premature as the tenure of posting / transfer is 01 ½ year for unattractive areas; Buner falls under the category of *unattractive*.
- D. Incorrect. The son of the appellant namely Amal Zada Naib Qasid has not been suspended rather under inquiry (**Annexure-A**). In the inquiry conducted against him, the allegations were not totally denied as the Inquiry Officer suggested two contrary recommendations i.e. EXONERATION & CENSURE (minor penalty). Due to the said confusion, denovo inquiry has been ordered in the case. Moreover, the para has got no relation with the subject-matter of the case, hence denied.
- E. Incorrect. The Order of Status-Quo had not been received in this office. As he had been

transferred on 07-07-2015, source-form for stopping his salary was signed. The source-form was however not implemented as soon as the status-quo was received in office. The salary of the appellant is still active.

- F. In the submission of blank copies, the appellant was equally responsible as just like the License-Clerk, he had produced his "INITIALS" as well. According to the laid down procedure of the office, it was the duty of Superintendent to examine all the files in accordance with the relevant laws and rules as well as make them error-free before they are put up to his superior officer. He was several times found guilty of the same negligence and inefficiency, hence breaching the trust of his high-ups however his transfer was issued in the public interest.
- G. The appellant was not transferred on punitive measures; rather the transfer was made in the public interest.
- H. The very words of the quoted notification say: "By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with at least five years service in the offices of the respective Deputy Commissioners and political Agents". The appellant has misconceived the words in the notification. There is no bar on the transfer of the Superintendents in between the districts, rather it emphasizes on the promotion in between the Assistants inside a specific district.
- I. Correct.
- J. The appellant has been inordinately inefficient. He was time and again reiterated of the importance of his seat but to no avail. Finally, warning was issued to him when he was incapably found indulged in the submission of blank copies of the most sensitive arms' licenses for the signature of the undersigned. It was a serious slip on his part showing his incompetency and weakness in the grasping capacity of the situation. The nature of his post demanded extreme vigilance, efficiency & care but he failed in discharge of the same.
- K. Incorrect. All the legal formalities have fully been adhered to while ordering the transfer.
- L. As per "Para-J" of the reply.
- M. No comments.

Based on the above mentioned reasons and legal justifications, it is requested that the appeal is baseless having no legal grounds therefore may kindly be dismissed with special costs.


Senior Member, Board of Revenue,
Khyber Pakhtunkhwa (Respondent No. 1)


Commissioner, Malakand Division
(Respondent No. 2).


Deputy Commissioner, Buner
(Respondent No. 3).


Chief Secretary, Khyber Pakhtunkhwa
(Respondent No. 4).

Chief Secretary
Govt. of Khyber Pakhtunkhwa

Affidavit.

I, Deputy Commissioner, Buner do hereby solemnly affirm and declare on oath that the reply to this Appeal is true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable tribunal.


DEPUTY COMMISSIONER, BUNER.

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Annexure A

OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.

No. 12228-29/DC/Buner/Estt.
July 10, 2015.

Inquiry.

Whereas, the attendance-register of the officials of this office reflexes that Mr. Amal Zada Naib Qasid attends the office regularly.

And whereas, he has never been seen in the office for the performance of his official duties.

And whereas, his whereabouts are unknown for months.

To probe into the matter and submit the factual position to the undersigned, Mr. Muhammad Iqbal, the Additional Assistant Commissioner, Revenue, Buner is hereby appointed as Inquiry Officer. He will submit his report in seven working days.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

Endst. No. & date even.

Mr. Muhammad Iqbal, the Additional Assistant Commissioner, Revenue, Buner for necessary action.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

Attested to be
true copy

Deputy Commissioner
Buner

Before the Service Tribunal, Khyber Pakhtunkhwa, Camp Court, Swat.
Service Appeal No. 960/2015

Shahzada Superintendent (BPS-17) Deputy Commissioner Office, Buner / Appellant

Vs

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Commissioner, Malakand Division at Saidu Sharif, Swat.
3. Deputy Commissioner, Buner.
4. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
5. Bakht Raj Khan, PS to Deputy Commissioner, Buner.....Respondents.

Application for the Suspension of Impugned Orders dated 20-08-2015 & 07-07-2015 of Respondents No. 1 & 2 Till the Final Disposal of Titled Appeal by Maintaining Status-Quo.

Reply to the Status-Quo Application on Behalf of Respondent No. 1 to 4.

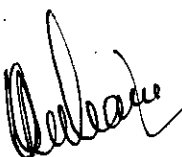
Respectfully submitted:

1. That the above titled appeal has been fixed for hearing on 07-09-2015.
2. The appeal is illegal, against the law and facts. Both the orders are in accordance with the law. Hence denied.
3. The appeal is illegal, against the law and facts. The appellant has not good prima facie case. Hence denied.
4. The appeal is illegal, against the law and facts. The balance of convenience does not lie in favour of the appellant rather it lies in favour of the respondents. Hence denied.
5. The appeal is illegal, against the law and facts. If the injunction is granted, the respondents may suffer irreparable loss. If the status-quo is vacated, the appellant will not suffer.

It is therefore humbly prayed that on the acceptance of this reply, the application of the appellant (for status-quo) may kindly be dismissed with heavy cost.

Thanks,

Respondents No. 1 to 4
THROUGH
Senior Government Pleader,
Swat.

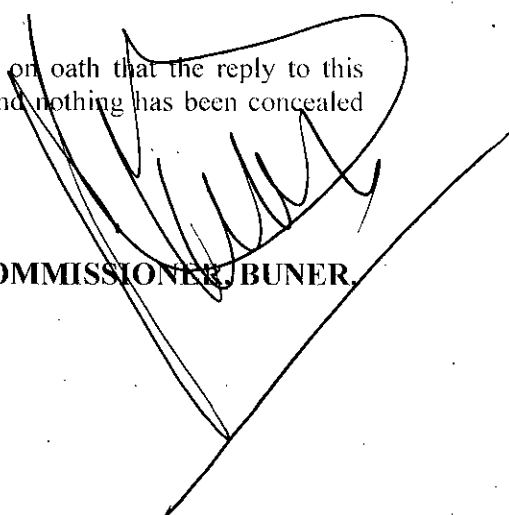


Affidavit.

I, Deputy Commissioner, Buner do hereby solemnly affirm and declare on oath that the reply to this Application is true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable tribunal.

DEPUTY COMMISSIONER, BUNER.

5



In the Court of Honourable K.P.K
Service Tribunal App Court Smt

Service Appeal No. 960/2015

Shahzada Suptd (BPS-17) DC Buner
Office

V/s

(Appellant)

- ① Senior Member Board of Revenue.
- ② Commissioner Malakand Division.
- ③ Deputy Commissioner Buner.
- ④ Chief Secretary K.P.K.
- ⑤ Bahat Raj Ichan PS DC Buner

Appeal u/s 4 of the K.P.K (Respondents)
Service Tribunal Act 1974.

Comments of Respondent No.5

The Comments filed by the
Dept. in the above stated case
may please be considered

reply/ ^{comments} of Respondent No.5 also.

However, the order of transfer made by
the Commissioner Malakand Division in
light of notification no. 20801-66 dt
20/11/2013 is attached ^{for reference}
To G.O. & Law.

Bahat Raj Ichan PS
Respondent No.5
5/11/15

Annex A

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 20/10/2013

PROMOTION

No Estt: HPS/Estt: _____ of the Government of Financial Promotion Committee the following Assistant (BPS-14) of Malakand Division are promoted as Superintendent (BPS-16) on regular basis as follows:

S.No	Name of official	Present post held by the official	Promoted to the new higher post
1.	Mr. Masud Haq	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
2.	Mr. Gulab Gul	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
3.	Mr. Anayat Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
4.	Mr. Ghuliyada	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
5.	Mr. Bakht Raj Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
6.	Mr. Abul Hussain	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.

The officials on promotion will remain on probation for a period of one year in terms of Section 6 (2) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-13 (1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989.

Consequent upon their promotion as Superintendents (BPS-16) on regular basis, they are placed at the disposal of Commissioner, Malakand Division, Saidh Shari for further posting in Division.

Sd/-
Secretary

No Estt: HPS 20861-66

Copy forwarded to the:-

1. Commissioner, Malakand Division, Saidh Shari with reference to his letter No. 10086/2/24/Estt:V/Vol:III dated 10/10/2013.
2. Deputy Commissioners, Malakand, Dir Upper and Buner.
3. Political Agent Bajaur.
4. Official concerned.

Secretary

Assistant Secretary

Page 1

E-A

21/11

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 960/2015

Shahzada.....(Appellant)

VERSUS

S.M.B.R and others(Respondents)

REJOINDER ON BEHALF OF APPELLANT.

Respectfully Sheweth:

Reply to preliminary objections:

All the preliminary objections raised by the respondents are incorrect, hence denied. Instant Service Appeal is maintainable, based on sound legal grounds and is well within time. The appellant has come to this Hon'ble Tribunal with clean hands, the appellant is not estopped to file the instant Appeal and the appellant has not misconceived law and rules on the subject.

Reply to facts/ Grounds:

Comments of the respondents are full of contradictions, rather amounts to admissions. Respondents have failed to deny the plea of the appellant. The appellant was transferred malafidely and on administrative grounds as respondents have mentioned in their comments before respondent No.

1. The malafide is also proved from the departmental action taken against the son of the appellant and despite exoneration by the Inquiry Officer, fresh inquiry has been ordered.

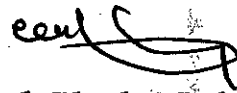
Respondents have not denied the plea of the appellant that the transfer order was made by an officer who is not competent as per law. The version of the respondents that the transfer postings are always made by the Commissioner and that it is made as per tradition, is above the law, and warrants interference of this Hon'ble Tribunal. Respondents on one hand say that the transfer order has been made on in public interest while the other hand they say that the appellant is inefficient.

As such the impugned order is not maintainable and liable to be set aside.

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


Appellant

Through



Dated: 22/10/2015


Fazal Shah Mohmand
Advocate High Court,
Peshawar.

AFFIDAVIT:

I, **Shehzada** Superintendent (BPS-17) Deputy Commissioner Office, Buner, do hereby solemnly affirm and declare on oath, that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

Identified by:


Fazal Shah Mohmand
Advocate High Court,
Peshawar.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 960/2015

Shahzada.....(Appellant)

VERSUS

S.M.B.R and others(Respondents)

REJOINDER ON BEHALF OF APPELLANT.

Respectfully Sheweth:

Reply to preliminary objections:

All the preliminary objections raised by the respondents are incorrect, hence denied. Instant Service Appeal is maintainable, based on sound legal grounds and is well within time. The appellant has come to this Hon'ble Tribunal with clean hands, the appellant is not estopped to file the instant Appeal and the appellant has not misconceived law and rules on the subject.

Reply to facts/ Grounds:


Comments of the respondents are full of contradictions, rather amounts to admissions. Respondents have failed to deny the plea of the appellant. The appellant was transferred malafidely and on administrative grounds as respondents have mentioned in their comments before respondent No.

1. The malafide is also proved from the departmental action taken against the son of the appellant and despite exoneration by the Inquiry Officer, fresh inquiry has been ordered.

Respondents have not denied the plea of the appellant that the transfer order was made by an officer who is not competent as per law. The version of the respondents that the transfer postings are always made by the Commissioner and that it is made as per tradition, is above the law, and warrants interference of this Hon'ble Tribunal. Respondents on one hand say that the transfer order has been made on in public interest while the other hand they say that the appellant is inefficient.


As such the impugned order is not maintainable and liable to be set aside.

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


Appellant

Through

Dated: 22/10/2015



Fazal Shah Mohmand
Advocate High Court,
Peshawar.

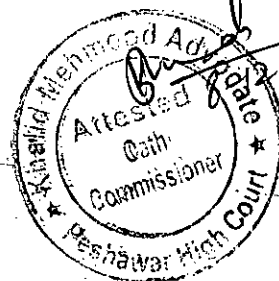
AFFIDAVIT:

I, **Shehzada** Superintendent (BPS-17) Deputy Commissioner Office, Buner, do hereby solemnly affirm and declare on oath, that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

Identified by:


Fazal Shah Mohmand
Advocate High Court,
Peshawar.



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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 8/07/2015

NOTIFICATION

No. Estt:II/DPS/Suptd:/_____ On the recommendation of Departmental Promotion Committee, the following Assistant (BS-16) of the offices mentioned against their names are promoted as Superintendent (BS-17) on regular basis with immediate effect:-

S.No.	Name of official	Offices
1.	Amir Jan, Assistant	Commissioner office Bannu
2.	Bashirullah Khan, Assistant	Deputy Commissioner office Bannu
3. ✓	Sultan Bahadur, Assistant	Deputy Commissioner office Malakand

Consequent upon their promotion, they will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules-1989.

Sd/-
Senior Member

End: No. Estt:II/DPS/Suptd:/ 16522-26

Copy forwarded to the: -

1. Commissioner Bannu & Malakand Division with the request to issue posting orders of the officials. ✓
2. Deputy Commissioners Bannu and Malakand District.
3. District Accounts Officer, Bannu and Malakand District.
4. Officials concerned.
5. Office Order File.

Secretary-I



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Dated 08 /07/2015

OFFICE ORDER

No. 1375 /2/24/Estt: On the promotion of Mr. Sultan Bahadur, Assistant (BPS-16) office of the Deputy Commissioner, Malakand to the post of Superintendent (BPS-17), vide Government of Khyber Pakhtunkhwa, Board of Revenue, Revenue & Estate Department, Peshawar Notification Endst: No. Estt:II/DPS/Suptd:/ 16522-26, dated 08.07.2015. He is hereby posted in the office of Deputy Commissioner, Malakand against the vacant post of Superintendent with immediate effect in the public interest.

Sd/-

COMMISSIONER MALAKAND DIVISION

Endst: No. 1376-80 /2/24/Estt:

Copy forwarded to:-

1. The Secretary-I, Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa, Peshawar with reference to above for information, please..
2. The Deputy Commissioner, Malakand.
3. The District Accounts Officer, Malakand.
4. Official concerned.
5. Office Order file.


SECRETARY TO COMMISSIONER
MALAKAND DIVISION
Ph# 0946-9240458

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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 20.11.2013

NOTIFICATION

No.EStt. II/Supdt/_____ On the recommendation of Departmental Promotion Committee the following Assistant (BPS-14) of Malakand Division are promoted as Superintendent (BPS-16) on regular basis with immediate effect.

S.No.	Name of Official	Present post held by the official	Promoted to the next higher post
1.	Mr. Nisarul Haq	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
2.	Mst. Mula Gul	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
3.	Mr. Inayat Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
4.	Mr. Shahzada	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
5.	Mr. Bakht Raj Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis
6.	Mr. Abid Hussain	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis

The official on promotion will remain on probation for a period of one year in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1980.

Consequent upon their promotion as Superintendents (BPS-16) on regular basis they are placed at the disposal of Commissioner, Malakand Division, Saidu Sharif for further posting in Division.

SD/-
Secretary

No.Estt:II/PS 2086/66

Copy forwardēd to the:-

1. Commissioner, Malakand Division, Saidu Sharif with reference to his letter No.10086/2/24/Estt:V/Vol-III dated 10.10.2013
2. Deputy Commissioner, Malakand Dir Upper and Buner
3. Political Agent Bajaur
4. Official concerned.

SD/-
Assistant Secretary (Estt)

A Heer
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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 2nd / 11 / 2013

PROMOTION

On the recommendation of Departmental Promotion Committee the following Assistants (BPS-14) of Malakand Division are promoted as Superintendent (BPS-16) on regular basis with immediate effect:

S.No	Name of Official	Present post held by the official	Promoted to the next higher post.
1.	Mr. Ghansid Hani	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
2.	Mr. Mulla Gul	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
3.	Mr. Inayat Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
4.	Mr. Ghulzada	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
5.	Mr. Bakht Raj Khan	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.
6.	Mr. Abdul Hussain	Assistant (BPS-14)	Superintendent (BPS-16) on regular basis.

The officials on promotion will remain on probation for a period of one year in terms of Section 6 (2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15 (J) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989.

Consequent upon their promotion as Superintendents (BPS-16) on regular basis, they are placed at the disposal of Commissioner, Malakand Division, Saidu Sharif for further posting in Division.

Sd/-
Secretary

No Estt: BPS 20861-66

Copy forwarded to the:

1. Commissioner, Malakand Division, Saidu Sharif with reference to his letter No. 10086/2724/Estt-V/Vol:III dated 10/10/2013.
2. Deputy Commissioners, Malakand, Dir Upper and Buner X
3. Political Agent Bajaur.
4. Official concerned.

[Signature]
Assistant Secretary (Estt)

Enc: 13

Attache
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Ad

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OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

18

Dated 02 /12/2013OFFICE ORDER

No. 12052 /2/24/Estt: Consequent upon the promotion of Assistants (BPS-14) to the post of Superintendent (BPS-16) vide Government of Khyber Pakhtunkhwa, Board of Revenue, Peshawar, Notification Enst. No. Estt. II/PS/20861-66, dated 20.11.2013, the following postings/transfers among the Superintendents of Malakand Division are hereby ordered with immediate effect in the public interest:-

No.	Name of Superintendent	Office to which he belongs	Office/Place of Posting
1.	Mr. Nisarul Haq	DC, Dir Lower	Transferred and posted in the Deputy Commissioner's office Shangla against the vacant post of Superintendent.
2.	Mr. Inayat Khan	PA, Bajaur	Posted in the Political Agent's office Bajaur against the vacant post of Superintendent.
3.	Mr. Wahid Gul	DC, Buner	Transferred from Deputy Commissioner's office Buner & posted in the Deputy Commissioner's office Malakand against the vacant post of Superintendent.
4.	Mr. Shahzada	DC, Buner	Posted in the Deputy Commissioner's office Buner vice S. No. 3.
5.	Bakht Raj Khan	DC, Buner	Transferred & posted in the Commissioner's office Malakand Division against the vacant post of Superintendent.
6.	Mr. Abul Hassan	Commissioner's Office, Malakand Divn:	Posted in the Commissioner's office Malakand Division against the vacant post of Superintendent.

By Order

COMMISSIONER MALAKAND DIVISION

Endst: No. 12053-67 /2/24/Estt:

Copy forwarded to:-

1. The Secretary, Board of Revenue Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner, Dir Lower.
3. The Deputy Commissioner, Buner.
4. The Deputy Commissioner, Shangla.
5. The Deputy Commissioner, Malakand.
6. The Political Agent, Bajaur Agency.
7. The District Comptroller of Accounts, Swat.
8. The District Accounts Officer, Dir Lower.
9. The District Accounts Officer, Buner.
10. The District Accounts Officer, Malakand.
11. The District Accounts Officer, Shangla.
12. The Agency Accounts Officer, Bajaur.
13. The Accounts Officer (Local).
14. The Officers concerned.
15. The Office Order file.

SECRETARY TO COMMISSIONER
MALAKAND DIVISION

Attest
[Signature]
[Signature]



OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

Dated 07/07/2016

OFFICE ORDER

No. 1362 /2/24/Estt. The following posting/transfer among the Superintendents in Malakand Division is hereby ordered with immediate effect in the best public interest:-

S.No.	Name of Superintendent	From	To
1.	Mr. Shahzada	DC's Office, Buner	Superintendent DC's Office Shangla against the vacant post
2.	Mr. Bakht Raj Khan	PS to DC, Buner	Superintendent DC's Office Buner vice S.No. 1.

Sd-
COMMISSIONER MALAKAND DIVISION

Endst. No. 1363 /2/24/Estt.

Copy forwarded to:-

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar for information and with the request that a suitable officer may be posted against the vacant post of PS to DC, Buner in the best public interest please.
2. The Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commissioner, Buner.
4. The Deputy Commissioner, Shangla.
5. The District Accounts Officer, Buner.
6. The District Accounts Officer, Shangla.
7. The officers concerned.
8. Office Order file.

SECRETARY TO COMMISSIONER
MALAKAND DIVISION

Asst. Secy

Secy

07/07 2016 14:17

RECEIVED

"F" (16)

**BEFORE THE SENIOR MEMBER BOARD OF REVENUE,
KHYBER PAKHTUNKHWA PESHAWAR**

Shahzada Superintendent office of Deputy Commissioner, Buner

(Appellant)

Commissioner, Malakand Division

VERSUS

(Respondent)

Service Appeal No. 12/2015

The appeal in hand has been instituted by Shahzada Superintendent against the order passed by Commissioner, Malakand Division on 07.07.2015 whereby, the appellant was transferred from the office of Deputy Commissioner, Buner to the post of Superintendent of the office Deputy Commissioner, Shangla. The plea put forward by the appellant is that he was promoted from the post of Assistant as Superintendent (BPS - 16) on 20.11.2013 and was posted as Superintendent in the office of Deputy Commissioner, Buner being his District of domicile.

Appellant and Representative of Commissioner Malakand present. Counsel for the appellant contended that the post of Superintendent has recently been upgraded from (BS - 16 to BS - 17) under Rule 1(b) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, Competent Authority for the posts in Basic Pay Scale 17 and above is Chief Secretary while transfer order of appellant was issued by Commissioner, Malakand in violation of rules / regulation. The Commissioner Malakand in his comments stated that the appellant was transferred from Buner to Shangla District on administrative grounds because the Deputy Commissioner, Buner was not satisfied from the work of the appellant and reported that the performance of the appellant is inordinately inefficient and not taking interest in his official duties.

Perusal of available record and comments of Commissioner, Malakand reveals that since the transfer order was made with the aim and purpose to ensure proper functioning and smooth running of the public Administration and official business. Moreover, Commissioner, Malakand is the Competent Authority for the transfer of Superintendents (BS - 17) within the Division. Furthermore, Section 10 of the Civil Servants Act, 1973 also provides that Every Civil Servant shall be liable to serve anywhere in the province. Appeal having no substance is accordingly dismissed and the order dated 07.07.2015 of Commissioner, Malakand is maintained.

ATTESTED

Announced
20.08.2015

Judgement

111/2015
Reader To
SMER
Khyber Pakhtunkhwa

Senior Member

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18

OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.

No. 12228-29/DC/Buner/Estt.
July 10, 2015.

Inquiry.

Whereas, the attendance-register of the officials of this office reflexes that Mr. Amal Zada Naib Qasid attends the office regularly.

And whereas, he has never been seen in the office for the performance of his official duties.

And whereas, his whereabouts are unknown for months.

To probe into the matter and submit the factual position to the undersigned, Mr. Muhammad Iqbal, the Additional Assistant Commissioner, Revenue, Buner is hereby appointed as Inquiry Officer. He will submit his report in seven working days.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

Endst. No. & date even.

Mr. Muhammad Iqbal, the Additional Assistant Commissioner, Revenue, Buner for necessary action.

[Faint signature and stamp]

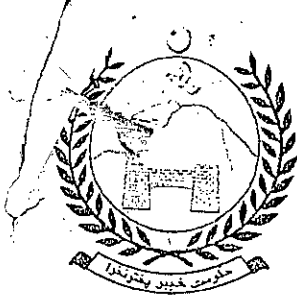
(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

Reader

*Summon the
official concerned on
28/07/15 for
recording statements*

[Handwritten mark]

*Attested
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Ad*



19

OFFICE OF THE
ADDITIONAL ASSISTANT COMMISSIONER
MANDANR, BUNER

No. 88 /AAC / Mandanr
Dated: the 12th of August, 2014

To

The Deputy Commissioner, Buner

Subject: INQUIRY REPORT

Memo:

Kindly refer to your office's Order No. 12804-6/DC/Buner/ Estt. Dated July 31, 2015 vide which the undersigned was appointed as Inquiry officer in the Inquiry ordered in the case of Mr. Amal Zada, Naib Qasid vide No. 1228-29/DC/Buner/ Estt. Dated 10-07-2015 to probe the matter and submit report. (copy attached)

The incumbent has been placed under inquiry on the grounds that he had been given to purposely absenting himself from the office assigned to him in the capacity of N/Qasid with his whereabouts unknown.

To unearth the factual position, the undersigned called upon the incumbent under report, sought requisite documents to this effect and ministered him an occasion to dilate upon the charges leveled against him (F/A).

In his defense, the incumbent categorically denied all the charges and entreated for exoneration with the pledge to remain even more cautious and dutiful ahead.

Subsequently, the undersigned got attested copies of the attendance Register to look up the attendance of the incumbent under report. As per the Register, the incumbent has been found quite regular and marked present (F/B).

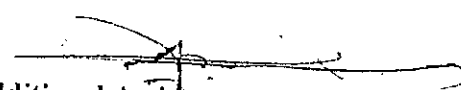
FINDINGS:

- i. That the incumbent under Inquiry has been serving as N/Qasid in the Office of the Superintendant, DC's Office, Buner.
- ii. That the incumbent has been quite regular in the discharge of his duties as per the attendance Register (Copies attached).
- iii. That the Inquiry has been initiated against the incumbent without any prior suspension order and show cause notices to this effect, hence derogates from the prescribed legal requirements.

Attested
Cand
Aor

RECOMMENDATIONS:

- i. In default of solid evidence as to the charges leveled against the incumbent under Inquiry, the incumbent may be exonerated and **CENSURED** as provided for under Rule 4(1) (a) (i) of Govt; of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011.
- ii. To judge the performance and worth from close-quarters, the incumbent may be transferred from his current place of duty and placed under observation for at least **ONE MONTH** under the supervision of any other officer.


Additional Assistant Commissioner,
Mandaur, Buner

Attested
Certified
Ad

28

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

Peshawar Dated the 23/01/2015

NOTIFICATION

Ns. 1074-Estt./VI/165/SSRC.

In pursuance of provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1939, the Revenue & Estate Department, in consultation with Establishment Department and the Finance Department hereby lays down the method of recruitment qualification and other condition specified in column 3 to 5 of the Appendix to this Notification and applicable to posts borne on the cadre strength of Deputy Commissioners specified in column 2 of the said Appendix.

S.No	Nomenclature of posts with BPS	Minimum qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1.	Superintendent (BPS-17)	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with atleast five years service in the offices of respective Deputy Commissioners and Political Agents.

Attested
[Signature]

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Senior Scale Stenographer (BPS-17)	(i) At least Second Class Bachelor's Degree, from a recognized university; (ii) a speed of 70 words per minute in shorthand in English and 45 words per minutes in typing; and (iii) Knowledge of computer using MS Word, MS Excel.	20 to 32 years	(a) Sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Stenographers with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents; and (b) forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents;
5. Assistant (BPS-16)	At least Second Class Bachelor's Degree from a recognized University.	20 to 30 years	Provided that if no suitable person is available for promotion then by initial recruitment. (a) Seventy five percent by promotion, on the basis of seniority-cum-fitness from amongst the Junior and Senior Clerk in the Offices of Deputy Commissioners and Political Agents of district concerned; and (b) twenty five percent by initial recruitment from amongst the candidates of the district concerned.
4. Head Clerk (BPS-14)			By transfer from amongst Senior Clerks (BPS-14) of the district concerned.
3. Stenographer (BPS-14)	(i) At least Second Class Intermediate or equivalent qualification from a recognized Board;	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.

Attest
[Signature]

OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.

No. 13603-5
/DC/Buner/Estt.
August 21, 2015.

De Novo Inquiry.

Whereas, the case to the effect that Mr. Amal Zada Naib Qasid was never seen in office and his attendance recorded regularly in the register was inquired through Mr. Baseer Ali Rahman, the Additional Assistant Commissioner, Mandanr.

And whereas, after going through the process, the Inquiry Officer submitted his report with the recommendations included.

And whereas, in the Inquiry Report, it was astonishing that the Inquiry Officer had suggested two alternate recommendations which were completely contrary i.e. EXONERATION & MINOR PENALTY. This was something vague.

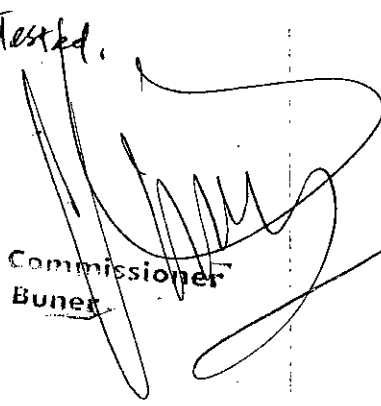
And whereas, the undersigned feels it necessary that the matter is re-inquired.

Having not satisfied with the inquiry report of the Additional Assistant Commissioner, Mandanr, a De Novo Inquiry under the head of Mr. Jamshed Khan, the Additional Assistant Commissioner, Gagra is hereby ordered with immediate effect. He is to submit his report to the undersigned within seven days of the receipt of this order. He is given the authority to call whom he may deem necessary in the course of inquiry.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

Endst. No. & date even.

1. Assistant Commissioner, Gagra. (Enclosed: The Inquiry File of the Additional Assistant Commissioner, Mandanr).
2. Additional Assistant Commissioner, Mandanr w/r to his report no. 88/AAC/Mandanr dated 12-08-2015.
3. Mr. Amal Zada, Naib Qasid.

Attested.

Deputy Commissioner
Buner.

(Khaista Rahman)
DEPUTY COMMISSIONER,
BUNER.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 960/2015

Shahzada.....(Appellant)

VERSUS

S.M.B:R and others(Respondents)

REJOINDER ON BEHALF OF APPELLANT.

Respectfully Sheweth:

Reply to preliminary objections:

All the preliminary objections raised by the respondents are incorrect, hence denied. Instant Service Appeal is maintainable, based on sound legal grounds and is well within time. The appellant has come to this Hon'ble Tribunal with clean hands, the appellant is not estopped to file the instant Appeal and the appellant has not misconceived law and rules on the subject.

Reply to facts/ Grounds:


Comments of the respondents are full of contradictions, rather amounts to admissions. Respondents have failed to deny the plea of the appellant. The appellant was transferred malafidely and on administrative grounds as respondents have mentioned in their comments before respondent No.

1. The malafide is also proved from the departmental action taken against the son of the appellant and despite exoneration by the Inquiry Officer, fresh inquiry has been ordered.

Respondents have not denied the plea of the appellant that the transfer order was made by an officer who is not competent as per law. The version of the respondents that the transfer posting are always made by the Commissioner and that it is made as per tradition, is above the law, and warrants interference of this Hon'ble Tribunal. Respondents on one hand say that the transfer order has been made on in public interest while the other hand they say that the appellant is inefficient.


As such the impugned order is not maintainable and liable to be set aside.

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


Appellant

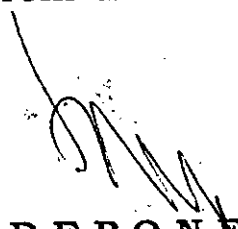
Through

Dated: 22/10/2015



Fazal Shah Mohmand
Advocate High Court,
Peshawar.

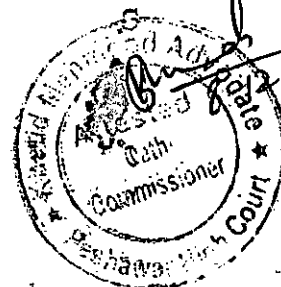
AFFIDAVIT:

Shehzada Superintendent (BPS-17) Deputy Commissioner Office, Buner, do hereby solemnly affirm and declare on oath, that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

Identified by:


Fazal Shah Mohmand
Advocate High Court,
Peshawar.



Before the Service Tribunal, Khyber Pakhtunkhwa, Camp Court, Swat.

Service Appeal No. 960/2015

Shahzada Superintendent (BPS-17) Deputy Commissioner Office, Buner /Appellant

Vs

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Commissioner, Malakand Division at Saidu Sharif, Swat.
3. Deputy Commissioner, Buner.
4. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
5. Bakht Raj Khan, PS to Deputy Commissioner. Buner.

----- Respondents.

Parawise Comments on Behalf of Respondents No. 1 to 4.

Preliminary Objections:

1. The appeal is not maintainable.
2. The appeal has no legal grounds.
3. The appellant has misconceived the law & rules related to the subject.
4. The appellant is estopped to file the instant appeal.
5. The appeal is time-barred.
6. The appellant has not come to the worthy tribunal with clean hands.

Para-wise Comments:

1. Correct.
2. Correct.
3. Nothing to the astonishment. Transfers of employees of officer's rank are based upon necessities and the requirements of the situations. Section-10 of the Civil servants Act, 1973 provides that every civil servant shall be liable to serve anywhere in the province.
4. Correct.
5. Incorrect. Both the orders are in accordance with the law.

Grounds:

Note: The serial-wise sequence of the appeal is wrong however obeyed accordingly.

- A. Incorrect. The orders are in accordance with the law and rules.
- B. Incorrect. The appellant has been treated according to the law and laid down procedure.
- A. Incorrect. The order is according to the law. As per the tradition, the postings / transfers of Superintendents have always been made by the Commissioners in amongst their respective districts of jurisdiction.
- B. Incorrect. Strictly denied.
- C. Incorrect. Every civil servant is liable to serve anywhere in the province. The order is not premature as the tenure of posting / transfer is 01 ½ year for unattractive areas; Buner falls under the category of *unattractive*.
- D. Incorrect. The son of the appellant namely Amal Zada Naib Qasid has not been suspended rather under inquiry (**Annexure-A**). In the inquiry conducted against him, the allegations were not totally denied as the Inquiry Officer suggested two contrary recommendations i.e. EXONERATION & CENSURE (minor penalty). Due to the said confusion, denovo inquiry has been ordered in the case. Moreover, the para has got no relation with the subject-matter of the case, hence denied.
- E. Incorrect. The Order of Status-Quo had not been received in this office. As he had been

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

No. 88 /AAC / Mandanr
Dated: the 12th of August, 2014

EA

DI examine
Buner part 10
12/8/14

To

The Deputy Commissioner, Buner

Subject: **INQUIRY REPORT**

Memo:

Kindly refer to your office's Order No. 12804-6/DC/Buner/ Estt. Dated July 31, 2015 vide which the undersigned was appointed as Inquiry officer in the Inquiry ordered in the case of Mr. Amal Zada, Naib Qasid vide No. 1228-29/DC/Buner/ Estt. Dated 10-07-2015 to probe the matter and submit report. *(copy attached)*

The incumbent has been placed under inquiry on the grounds that he had been given to purposely absenting himself from the office assigned to him in the capacity of N/Qasid with his whereabouts unknown.

To unearth the factual position, the undersigned called upon the incumbent under report, sought requisite documents to this effect and ministered him an occasion to dilate upon the charges leveled against him (F/A).

In his defense, the incumbent categorically denied all the charges and entreated for exoneration with the pledge to remain even more cautious and dutiful ahead.

Subsequently, the undersigned got attested copies of the attendance Register to look up the attendance of the incumbent under report. As per the Register, the incumbent has been found quite regular and marked present (F/B).

FINDINGS:

- i. That the incumbent under Inquiry has been serving as N/Qasid in the Office of the Superintendent, DC's Office, Buner.
- ii. That the incumbent has been quite regular in the discharge of his duties as per the attendance Register *(Copies attached)*.
- iii. That the Inquiry has been initiated against the incumbent without any prior suspension order and show cause notices to this effect, hence derogates from the prescribed legal requirements.

Attested

**Deputy Commissioner
Buner**

Office of The DC Buner
Buner No. 8004
12 8-15

RECOMMENDATIONS:

- In default of solid evidence as to the charges leveled against the incumbent under Inquiry, the incumbent may be exonerated and **CENSURED** as provided for under Rule 4(1) (a) (i) of Govt; of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011.
- ii. To judge the performance and worth from close-quarters, the incumbent may be transferred from his current place of duty and placed under observation for at least **ONE MONTH** under the supervision of any other officer.

Attested.

**Deputy Commissioner
Buner**

**Additional Assistant Commissioner,
Mandaur, Buner**

**Deputy Commissioner
Buner**

OFFICE OF THE
DEPUTY COMMISSIONER,
BUNER.

No. 13603-5 /DC/Buner/Estt.
August 21, 2015.

De Novo Inquiry.

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(Khaista Rahman)

9-13
DEPUTY COMMISSIONER,
BUNER.

Endst. No. & date even.

1. Assistant Commissioner, Gagra. (Enclosed: The Inquiry File of the Additional Assistant Commissioner, Mandanr).
2. Additional Assistant Commissioner, Mandanr w/r to his report no. 88/AAC/Mandanr dated 12-08-2015.
3. Mr. Amal Zada, Naib Qasid.

(Khaista Rahman)

9-13
DEPUTY COMMISSIONER,
BUNER.

Attested,

Deputy Commissioner,
Buner