


FORM OF ORDER SHEET

Court of _____

Appeal No. 919/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/07/2024	<p>The appeal of Mr. Shafiq Ullah Khan presented today by Mr. Muhammad Tariq Qureshi Advocate. It is fixed for preliminary hearing before touring Single Bench at Bannu on 21.08.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: _____

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <i>Counsel</i>	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?		✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	-	-
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: _____

Muhammed Tariq Qureshi
A-Sc

Signature: _____

Dated: _____

(1-7-02)

BEFORE KHYBER PAKHTONKHWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No. 919 /2024.

Shafiq Ullah Khan

..... (Appellant)

VERSUS

Govt. of Khyber Pakhton Khuwa through Secretary C & W Department
KPK, Peshawar and others.

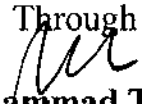
..... (Respondents).

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Dated: 01-07-2024

Appellant
Shafiq Ullah Khan
Through Counsel


Muhammad Tariq Qureshi
Advocate Supreme Court of Pakistan

①

BEFORE KHYBER PAKHTONKHWASERVICE TRIBUNAL
PESHAWAR.

Appeal No. 919 /2024.

Shafiq Ullah Khan S/OAziz Ur RehmanR/O Senior Clerk Office
ofExecutive Engineer (High Way) Division C & W Dept:North
Waziristan, Presently at Office of Executive Engineer (High Way) C & W
Dept:Abbattabad.

..... (Petitioner)

VERSUS

1. Govt: of Khyber PakhtonKhuwa through Secretary C & W Department
KPK, Peshawar.
2. Chief Engineer (Centre) C & W Deptt: Khyber Pakhtunkhwa, Peshawar.
3. Adnan InayatSenior Clerk Office of Executive Engineer (High Way)
Division C &W Dept: Abbottabad, Presently at Office of Executive
Engineer (High Way) C & W Dept: North Waziristan.

..... (Respondents).

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUN
KHWASERVICE TRIBUNAL ACT 1974 AGAINST THE
IMPUGNED ORDER DATED 05-03-2024 VIDE LETTER NO.CEC/C
& WD/2-3/E &A 369 WHEREBY APPELLANT WAS
TRANSFERRED FROM EXECUTIVE ENGINEER HIGHWAY
DIVISION NORTHWAZIRISTAN TO EXECUTIVE ENGINEER
HIGHWAY DIVISION ABBOTTABADAGAINST POLICY.**

Prayer in appeal:

On the acceptance of instant appeal, impugned order vide letter
No.CEC/C & WD/2-3/E &A 369 dated 05-03-2024 of respondent No.2
may kindly be set-aside and office order vide letter No. CEC/C &
WD/2-3/E &A / 319 dated 20-10-2023 may kindly be restored.

Note:- Addresses of the parties above are sufficient for the purpose of
services.

Respectively Sheweth:-

1. That, the appellant was appointed on 08-02-2010 as Junior Clerk (BPS-7
) and now appellant is working as senior clerk (BPS-14) and was posted

(2)

at C & W (Bulling Division) Northwaziristan. After successful completion of his tenure, appellant was posted at/transferred to Executive Engineer office Highway Division Northwaziristan as Senior clerk on dated 20-10-2023 vide letter No. CEC/C & WD/2-3/E &A 319.

2. That, again on dated 05-03-2024, the appellant was once again transferred to Executive Engineer Highway Division Abbottabad vide CEC/C & WD/2-3/E &A 369 on political basis and without completion of tenure at the above station.
3. That, the appellant is serving the C & W department for about 14 Years with great zeal & zest, honestly & with great devotion but the above transfer order dated 05-03-2024 are based on malafide, upon liking and disliking manner rather than evaluating the working / efficiency of subordinate official and against the transfer policy.
4. That, the appellant transferred order vide letter No. CEC/C & WD/2-3/E &A 319 dated 05-03-2024 is on malafide and political basis which is being against policy, left the appellant aggrieved unhappy hence on dated 01-04-2024, the appellant submitted representation / departmental appeal to the concerned authority / Secretary communication and works department Peshawar. After laps of 90 days of filing departmental appeal, no order was passed on his representation. Hence appellant has no other remedy but to invoke the appellate jurisdiction of this Honorable Court inter-alia on the following grounds.
5. That, the following are the documents on which appellant places his reliance:-

Copy of appointment order, Transfer order vide letter No. CEC/C & WD/2-3/E &A 319 dated 20-10-2023, Transfer Oder dated vide letter No. CEC/C & WD/2-3/E &A 369 dated 05-03-2024, departmental appeal, receiptare annexed herewith as Annexure "A,B,C,D,E".

GROUNDS

- A. That, the impugned office order dated 05-03-2024 is against law, rules of business and against the posting transfer policy of the government on the subject. The appellant has not been treated with law / policy.
- B. That, the petitioner being discriminated and treated unequally against the law and policy. Respondent No.2 has not followed the policy / rules for transfer and based his order on malafide basis, due to personal grudges, and was based on liking and disliking manner and

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on political basis, hence acting illegally only for disturbing and depriving the appellant and his family.


- C. That, appellant impugned transfer order is against law & Policy as the transfer is against the policy clearly abides the respondents to let the petitioner to complete his tenure at one station. But the respondents ignored the policy; the petitioner's transfer is liable to be restored.
- D. That, appellant's transfer order dated 05-03-2024 is against law, policy and beyond the jurisdiction of the official respondents and the order is based on malafide and ulterior motive and are the abuse and misuse the power and office and the said order is against policy, law.
- E. That, Counsel for the appellant seeks leave of this Honorable Court to rise further legal points during the course of advancing arguments.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 05-03-2024 may kindly be declared as illegal, against policy and on basis of malafide and may kindly be set-aside. The transferred order dated 20-10-2023 vide letter No.CEC/C & WD/2-3/E & A 319 may kindly be restored, with any other relief deeming fit and not specifically asked for.

Dated: 01-07-2024

Appellant 

**Shafiq Ullah Khan
Through Counsel**


Muhammad Tariq Qureshi ASC

(4)

BEFORE KHYBER PAKHTONKHTWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No. _____/2024.

Shafiq Ullah Khan S/O Aziz Ur Rehman R/O Hassani Kala Post office
Naizam Bazar, Tehsil & District Bannu.

..... (Appellant)

VERSUS

Govt: of Khyber Pakhton Khūwa through Secretary C & W Department
KPK, Peshawar and others.

..... (Respondents).

**APPLICATION FOR SUSPENSION OF IMPUGNED OFFICE ORDER
NO.CEC/C & WD/2-3/E & A 369 DATED.05-03-2024 OF CHIEF ENGINEER
(CENTRE) C & W PESHAWAR AND STATUS QUO MAY KINDLY BE
MAINTAINED.**

Respectfully Sheweth:

The appellant most humbly submits as under:-

1. That, the above caption appeal is pending adjudication before this Honorable Court.
2. That, instant application may kindly be read as part and parcel of the appeal in hand.
3. That, prima facie, the case in hand is strong case against the injustice done to appellant.
4. That, the operation of the impugned order is causing irreparable loss to the appellant herein and creating complexities in the case where

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the balance of convenience titles towards the appellant as there is no loss to respondents if the suspension of the impugned order is ordered.

5. That, the impugned order is illegal against policy and on the basis of malafide.
6. That, other grounds / points will be raised at the time of arguments with permission of this Honorable Court.

It is, therefore, humbly prayed that on acceptance of instant application, the impugned Office order No.CEC/C & WD/2-3/E & A 369 dated 05-03-2024 of chief Engineer (Centre) C & W Dept: Peshawar (Respondents No.02) may kindly be suspended and respondents may kindly be directed to restore the appellant on his own existing station / Office of Executive Engineer Highway division Northwaziristan and status quo in this behalf may kindly be maintained.

Dated: 01-07-2024

Appellant
Shafiq Ullah Khan
Through Counsel

Muhammad Tariq Qureshi
Advocate Supreme Court of Pakistan

(6)

BEFORE KHYBER PAKHTONKHWASERVICE TRIBUNAL
PESHAWAR.

Appeal No. _____/2024.

Shafiq Ullah Khan S/OAziz Ur Rehman R/O Hassani KalaPost office
Naizam Bazar, Tehsil & District Bannu.

..... (Appellant)

VERSUS

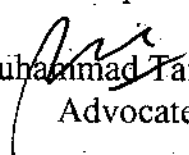
Govt: of Khyber Pakhton Khuwa through Secretary C & W Department
KPK, Peshawar and others.

..... (Respondents).

AFFIDAVIT

I, Muhammad Tariq Qureshi ASC hereby solemnly affirm and declare that
the contents of instant application are true and correct to the best of my knowledge
and belief.

Deponent


Muhammad Tariq Qureshi
Advocate (ASC)

Office of the Chief Engineer (Centre)
Communication & Work Department
N.W.F.P. Peshawar.

No. 23-EI 436 ICE/C&WD

Dated Peshawar the 08 / 12 / 2010.

OFFER OF APPOINTMENT.

On the recommendation of the Departmental Selection Committee as per its meeting held on 30th January 2010, the Competent Authority is pleased to offer a post of Junior Clerk (BPS-7) (Rs.3530-190-9230) to **Mr. Shafiq Ullah Khan S/O Aziz-ur-Rehman** on the following terms and conditions:

- 1). He will get pay at the minimum of BPS-7 (Rs.3530-190-9230) including usual allowances as admissible under the Rules. He will also be entitled to annual increment as per existing policy.
- 2). He shall, be governed by the NWFP Civil Servants Act-1973 and all the laws applicable to the Civil Servants and Rules made there under.
- 3). He shall, for all intents and purposes, be a Civil Servant except for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards Contributory Provident Fund (C.P.F) along with the contributions made by the Government to his account in the said fund, in the prescribed manner and rate fixed by the Government from time to time.
- 4). His employment in Communication & Works Department is purely temporary and his services are liable to be terminated without assigning any reasons at fourteen (14) days prior notice or on the payment of 14-days salary in lieu of the notice. In case he wishes to resign at any time, 14-days notice will be necessary or in lieu thereof 14-days pay will be forfeited.
- 5). He shall, initially be on probation for a period of two years extendable upto 3-years.
- 6). He shall, produce a Medical Certificate of fitness from the Medical Superintendent Police & Services Hospital Peshawar, before reporting himself for duty as required under the rules.
- 7). He has to join duty at his own expenses.
- 8). He shall have to serve any where in NWFP.
- 9). If he accepts the post on the above conditions, he should report to the office of the **Superintending Engineer C&W Circle Bannu (Road Research & Material Testing Laboratory)** within 14-days of the receipt of this offer and produce original certificates in connection with his qualification, domicile and health / age etc.

Attested

CAC

Hidayatullah Khan
(Engr. Hidayatullah Khan)
Chief Engineer.

Copy forwarded for information to the:

- 1). Secretary to Govt. of NWFP, C&W Department Peshawar.
- 2). Superintending Engineer C&W Circle Bannu.
- 3). District Accounts Officer Bannu.
- 4). Mr. Shafiq Ullah Khan S/O Aziz-ur-Rehman Resident of Village Hassani Kalan Surani, P.O Nizam Bazar Tehsil & District Bannu for necessary action.
- 5). Personal file of the official concerned.

Aminullah Khan
(Aminullah Khan)
Administrative Officer



OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-3/E&A, 13/8
Dated Peshawar the 20/10/2023

OFFICE ORDER

The following posting/transfer amongst the officials in C&W Department are hereby ordered with immediate effect, in the best public interest:

S.No.	Name	From	To	Remarks
1.	Mr. Shafiq Ullah Khan Senior Clerk (BPS-14)	O/O Executive Engineer Building Division North Waziristan.	O/O Executive Engineer Highway Division North Waziristan	Vice # 2
2.	Shehryar Senior Clerk (BPS-14)	O/O Executive Engineer Highway Division North Waziristan	O/O Executive Engineer Building Division North Waziristan.	Vice # 1

COPY FORWARDED TO THE:

1. Chief Engineer (South-II) C&W Department D.I. Khan.
2. Superintending Engineer C&W Circle Waziristan at Bannu.
3. Executive Engineer Building Division North Waziristan.
4. Executive Engineer Highway Division North Waziristan.
5. District Accounts Officer North Waziristan.
6. PS to Secretary for C&W Department Peshawar.
7. Officials concerned.

CHIEF ENGINEER (CENTRE)

Attested

CHIEF ENGINEER (CENTRE)



9 C
OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

No. CEC/C&WD/23/ESA 309
Dated Peshawar the, 05/03/24

OFFICE ORDER

The Competent Authority has been pleased to transfer the following Senior Clerks/SDA (SPS-14) in C&W Department, with immediate effect, in the best public interest.

S.No.	Name	From	To	Remarks
1.	Mr. Adnan Inayat	O/O Executive Engineer Highway Division Abbottabad.	O/O Executive Engineer Highway Division North Waziristan.	Vice # 2
2.	Mr. Shafiq Ullah Khan	O/O Executive Engineer Highway Division North Waziristan.	O/O Executive Engineer Highway Division Abbottabad.	Vice # 1

/
CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Chief Engineer (South-II) C&W Department D.I.Khan.
2. Chief Engineer (East) C&W Department Abbottabad.
3. Superintending Engineer C&W Circle Abbottabad.
4. Superintending Engineer C&W Circle Waziristan at Bannu.
5. Executive Engineer Highway Division Abbottabad.
6. Executive Engineer Highway Division North Waziristan.
7. PS to Secretary C&W Department Peshawar.
8. District Accounts Officer, Concerned.
9. Official Concerned.
10. Personal File.

A Husted
[Signature]

[Signature]
CHIEF ENGINEER (CENTRE)

بخدمت جناب سیکرٹری Communication اینڈ کس ڈیپارٹمنٹ پشاور

عنوان:- حکمانہ اپیل بر خلاف حکم / ٹرانسفر آرڈر نمبر CEC/C&WD/2-3/E&A 369

مورخہ 05-03-2024 یوجہات ذیل:

جناب عالی مؤدبانہ گزارش محض منظور انور ہے۔

(1) یہ کہ من ایپلانٹ سینئر کلرک حکم C&W / بلڈنگ C&W میرانشاہ میں ڈیوٹی سرانجام دے رہا تھا اور مورخہ 10-10-2023 کو من ایپلانٹ کو بوجہ Tenure پورا ہونے ایگزیکٹو انجینئر ہائے ڈورن نار تھ وزیرستان ٹرانسفر کیا گیا۔ جہاں پر من ساٹھ عرصہ تین ماہ سے ڈیوٹی سرانجام دے رہا ہوں۔

(2) یہ کہ مورخہ 05-03-2024 کو بروئے لیٹر بالا من ایپلانٹ کو ایگزیکٹو انجینئر ہائے ڈورن نار تھ وزیرستان سے ایگزیکٹو انجینئر ہائے ڈورن ایبٹ آباد ٹرانسفر کیا گیا حالانکہ من ایپلانٹ کا Tenure پورا نہیں ہوا ہے اور عرصہ تین ماہ من ایپلانٹ کو سیاسی اثر و رسوخ کی بنا پر ٹرانسفر کیا گیا ہے۔ حالانکہ من ایپلانٹ کے خلاف کوئی حکمانہ کیپلنٹ / شکایات / انکوآزی آج تک نہیں ہے۔ اور اپنی ڈیوٹی احسن طریقے سے سرانجام دے رہا ہوں۔

(3) یہ کہ من ایپلانٹ کا خاندان اور بچے بنوں میں رہائش پذیر اور بنوں ہی میں سکول میں داخل ہے اور اس ٹرانسفر سے من ایپلانٹ کا پورا خاندان متاثر ہو جائے گا اور بچوں کی پڑھائی وغیرہ بھی کافی متاثر ہو جائے گی۔

لہذا مسکمانہ اپیل ہے کہ مذکورہ بالا واقعات و حقائق اور من ایپلانٹ کی Tenure کو مد نظر رکھتے ہوئے انجناب سے صاحبزادہ استدعا ہے کہ مذکورہ آرڈر منسوخ فرمائے گا حکم صادر فرمایا جاوے

مورخہ: 01-04-2024

من ایپلانٹ تاج محمد ڈیپارٹمنٹ

شفیق اللہ حنان سینئر کلرک / SDA (BPS-14)

نوٹ: فضل بٹسٹریٹ مسزید کاروائی محفوظ کی ہے۔

Attested
[Signature]

وکالت نامہ

S No..

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

بعدالت

Appellant 1 20th منجانب 1-7-2024 مورخہ

SHAFIQ ULLAH

Govt. of KPK Through
Secretary C and
others

مقدمہ

دعویٰ

جرم

تھانہ

Service Appeal

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن
مقام لکی مروت / شامہ کے لئے ڈ طارق قریشی ایڈووکیٹ
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 و تقرر ثالثت و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت
ڈگری کرانے اجراء اور وصولی چک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر
اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
دائرہ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل
یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور
صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہونگے۔ اور اس کا ساختہ برداختہ منظور
و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق
وکیل صاحب موصوف ہونگے۔ نیز بقایا خرچہ کی وصولی کر نیز کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام
دورہ پر ہو یا جگہ سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کہ پیروی مقدمہ مذکور کریں۔

نیز اگر بھی وجہ بیماری، معذوری، علالت وغیرہ کی وجہ سے عارضی یا مستقل پیروی مقدمہ نہ کر سکیں تو بھی
وکیل صاحب یا اسکے لواحقین کو بقایا فیس (اگر کوئی ہے) ادا کرنے کا پابند ہوگا ہونگے اور ادا شدہ فیس کی
واپسی کا تقاضہ کرنے کا حق نہیں ہوگا۔ مضمون وکالت نامہ سن اور سمجھ کر وکالت نامہ لکھدیا کہ سند ہے

Accepted 20th

ماہ جون

المترقوم

گواہ شد العبد

العبد

بشاور بنوں کے لئے منظور ہے۔

بمقام