

INDEX

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO	INSTITUTION	ORIGINAL INSTITUTION	DECISION	PAGES
1961/2023	-	28-09-2024	03.05.2024	81

M. Nauman vs Fisheries Department

Sr.No.	No of Pages	Documents	Page No
Part-A			
1	01 - 05	Judgment	05
2	06 - 15	Order Sheet	10
3	16 - 45	Memo of Appeal	30
4	46 - 74	Reply	29
5	75 - 76	Wakalat Namaa	02
6	77 - 80	Notices	04
7	81 - 81	Challan	01
8	-		
9	-		
10	-		
11	-		
12	-		
Part-B			
1	-		
2	-		
3	-		

Total Pages in Part-A	81
Total Pages in Part-B	0

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3/6/24

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Incharge Judicial Branch
3/6/24

00524242 SHARID CNIC: 1350308009819 Desig: CERTIFIED TEACHER (80044191) Grade: 15 MIN: Buckle No.: Gasetted/Non-Gasetted: N

0001 Basic Pay	17,320.00	1015 GPF Subscription - Rs	1,965.00-	GPF#	524242	101,131.00
1000 House Rent Allowance	1,556.00	3501 Benevolent Fund	180.00-			
1210 Convey Allowance 20	2,956.00	3511 Addl Group Insurance	13.00-			
1300 Medical Allowance	1,500.00	3604 Group Insurance	115.00-			
1523 GPF-CHEER 20% (1-15)	1,000.00	3990 Exp.Edu. Fund-RPK	100.00-			
1948 Adhoc Allowance 2010	2,370.00					
2148 15% Adhoc Relief All	1,905.00					
2174 Adhoc Relief Allow-2	1,270.00					
2155 Adhoc Relief Allow 2	1,732.00					

PAYMENTS 31,519.00 DEDUCTIONS 2,373.00 NET PAY 29,146.00 01.12.2015 31.12.2015
 Branch Code: 221387 BAFTA KASBI BANK LIMITED BAFTA HANSEHRA Acct.No: 7100045603

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
MUHAMMAD AKBAR KHAN ... MEMBER (E)

Service Appeal No. 1961/2023

Date of presentation of Appeal.....28.09.2023
Date of Hearing.....03.05.2024
Date of Decision.....03.05.2024

Muhammad Nauman, Assistant Director, Fisheries Department, Under Transfer to District Nowshera.....**(Appellant)**

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Secretary Agriculture, Livestock, Fisheries & Coop Department, Civil Secretariat, Peshawar.
2. Director General, Directorate General Fisheries, Khyber Pakhtunkhwa, Shami Road, Peshawar.
3. Mr. Tanveer Shehzad, Assistant Director Fisheries (BPS-17), Under Transfer to District Mardan.
4. Mr. Muhammad Israil, Assistant Director Fisheries (Acting Charge), Under Transfer to District Mardan.**(Respondents)**

KHALED REHMAN,
Advocate

--- For appellant.

MUHAMMAD JAN,
District Attorney

--- For official respondents

NOOR MUHAMMAD KHATTAK
Advocate

--- For private respondent No. 4

JUDGMENT

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

"That on acceptance of the instant appeal, the impugned office order dated 26.05.023 issued by respondent No. 2

SCANNED
Khyber Pakhtunkhwa
Fisheries Department

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may graciously be set aside and appellant may be allowed to complete his tenure at District Mardan."

02. Brief facts of the case are that the appellant was serving as Assistant Director (BPS-17) in the Fisheries and Cooperative Department Khyber Pakhtunkhwa and was posted at Charsadda vide Notification dated 05.04.2021; that the appellant was transferred from District Charsadda to District Mardan vide order dated 30.11.2022; that after lapse of six months the appellant was transfer from District Mardan to District Nowshera vide another transfer order dated 26.05.2023, and the private respondent No.4 was transferred back from District Shangla to District Mardan. Feeling aggrieved, he filed departmental appeal on 01.06.2023 followed by Writ Petition No.2406-P/2016 before the Hon'ble Peshawar High Court, Peshawar; that vide order dated 15.06.2023, in the said Writ Petition, the respondents were directed to decide the departmental appeal in accordance with law and rules, however, the same was not responded within 90 days, hence, preferred the instant service appeal on 28.09.2023.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned District Attorney for official respondents as well as learned counsel for private respondent No. 4 and have gone through the record with their valuable assistance.

04. Learned counsel for the appellant contended the respondents have not treated the appellant in accordance with law, rule and policy and Article-4 of the Constitution of Islamic Republic of Pakistan, 1973; that the impugned

order is unjust, unfair hence not sustainable in the eye of law; that an FIR was lodged by the authorities of Anti-Corruption against EX-MPAs and other state persons including private respondent No. 3 who was posted at District Mardan, the impugned Notification was circulated which depicts a sketch of political pressure and unfair preference and is violative of Transfer/Posting Policy; that the appellant was prematurely transferred within a short span of six months while private respondent No. 3 was reverted back to his former place of posting without completion of his normal tenure which is neither in the public interest nor in any exigency of service rules; that respondent No. 4 who is an acting charge Assistant Director Fisheries has been illegally transferred during the pendency of earlier service appeal No. 1961/2023 which is against the law and hit by the doctrine of the lis pendency. It is settled law that when an issue is seized of by any court of law then the matter should be left for the disposal of the court and the department cannot preempt the jurisdiction of the court.

Mh RCP

05. On the other hand, learned District Attorney as well as learned counsel for private respondent No. 4 contended that according to Section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 a civil servant was liable to serve anywhere in the province; that the private respondent No. 4 was transferred vide Notification dated 15.07.2022 after completion of his normal tenure and took over the charge of the said post; that the appellant was transferred from District Charsadda to District Mardan after completion of normal tenure, wherein the officer did not improve his efficiency due to which the appellant was transferred to adjacent District Nowshera under supervision of Deputy Director, Fisheries for improving his efficiency both in

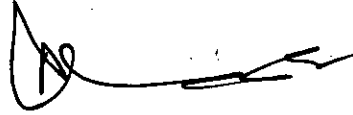
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administrative & financial in the best public interest; that the appellant himself actualized the posting/transfer order dated 26.05.2023, therefore, the instant appeal may be dismissed.

06. Scrutiny of record reveal that the appellant was the domicile holder of district Mardan and joined the respondent department as Assistant Director, Fisheries on 28.01.2021. He was posted as Assistant Director Fisheries Charsadda District where after completion of normal tenure he was transferred to Mardan District on 30.11.2022. Again the appellant was posted to the adjacent District Nowshera vide Notification dated 26.05.2023. The appellant relinquished the charge of Assistant Director, Fisheries Mardan on 14.06.2023 and took over the charge of his post in District Nowshera. From the three orders issued since first appointment of the appellant, it appears that he is enjoying the posting either in his home district or the adjacent districts. His stance is that he may be allowed to continue to hold the post of Assistant Director, Fisheries Mardan as he has not completed his tenure against the post in District Mardan. However, the Executive Authority in their reply have taken the stance that the appellant has been posted at the adjacent District of Nowshera, where the Headquarter of the field formation of the respondent department is situated, for improving the capabilities of the appellant in connection with the official work in the public interest. The civil servant, as provided under Section-10 of the Civil Servants Act, is required to serve and posted anywhere within the limits of the province or even outside the limits of the province. A civil servant has no vested right to claim his choice of posting. Similarly a civil servant has no vested right to continue or hold of particular post at a particular place.

07. We did not find any malafide in the impugned order dated 26.05.2023 as such the impugned order does not require any interference by the Tribunal. The instant appeal, therefore, stands dismissed. Costs shall follow the event. Consign.

08. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 03rd day of May, 2024.*



(KALIM ARSHAD KHAN)
CHAIRMAN



(MUHAMMAD AKBAR KHAN)
MEMBER (E)

6

ORDER

03.05.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, learned District Attorney for official respondents present. Learned counsel for private respondent No. 4 present. Arguments heard and record perused.
2. Vide our detailed judgment of today separately placed on file, we did not find any malafide in the impugned order dated 26.05.2023 as such the impugned order does not require any interference by the Tribunal. The instant appeal, therefore, stands dismissed. Costs shall follow the event. Consign.
3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 03rd day of May, 2024.*



(KALIM ARSHAD KHAN)
CHAIRMAN



(MUHAMMAD AKBAR KHAN)
MEMBER (E)

7

30th April, 2024

1. Junior to counsel for the appellant present. Mr. Muhammad Jan, District Attorney for official respondents present.

2. Former requested for adjournment as senior counsel was busy in Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 03.05.2024 before the D.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
~~(Farzha Paul)~~
Member (Executive)

(Kalim Arshad Khan)
Chairman

(8)

15.04.2024 1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney alongwith Ghulam Muhammad, Superintendent for the respondents present.

2. Both the parties are requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 23.04.2024 before D.B: P.P given to parties.

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Kaleemullah


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

23.04.2024 1. Clerk of counsel for the appellant present. Mr. Muhammad Jan, District Attorney, alongwith Ghulam Muhammad, Superintendent for the official respondents present. Learned counsel for private respondents No. 4 present.

2. Former requested for adjournment on the ground that senior learned counsel for the appellant is busy before Worthy Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 30.04.2024 before D.B. P:P given to parties.


(Fareeha Paul)
Member (E)



(Rashida Bano)
Member (J)


Kaleemullah

29.02.2024 1. Learned counsel for the appellant. Mr. Muhammad Jan learned District Attorney for the official respondents present. Junior to counsel for private respondent No. 4 present.

2. Junior to counsel for private respondent No.4 requested for adjournment on the ground that learned counsel is busy in Worthy Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 22.03.2024 before D.B. P.P given to the parties.

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(Fareeha Paul)
Member (E)



(Rashida Bano)
Member (J)

22.03.2024 1. Clerk of learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney alongwith Ghulam Muhammad, Superintendent for the official respondents present. Learned counsel for the private respondent No.4 present.

2. Former requested for adjournment on the ground that learned counsel for the appellant is busy before Worthy Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 15.04.2024 before D.B. P.P given to parties.

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Kaleemullah

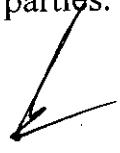

(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

01.02.2024 1. Learned counsel for the appellant. Mr. Asif Masood Ali Shah learned Deputy District Attorney alongwith Ghulam Mohammad, Superintendent for the official respondent present. Private respondent No. 4 in person present.

2. Private respondent No. 4 requested for adjournment on the ground that he want to engage counsel as well as submit reply. Granted with direction to submit written reply within ten days. Adjourned. To come up for arguments on 15.02.2024 before D.B. P.P given to the parties.

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(Muhammad Akbar Khan)
Member (E)



(Rashida Bano)
Member (J)

15.02.2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney alongwith Mehtab Gul, Law Officer for the respondents present. Junior to counsel for private respondent No. 4 present.

2. Written reply on behalf of private respond No.4 submitted which is placed on file. A copy of the same is hand over to the learned counsel for the appellant. To come up for arguments on 29.02.2024 before D.B. P.P given to the parties.

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Peshawar



(Fareeha Paul)
Member (E)





(Rashida Bano)
Member (J)

11.01.2024

Appellant alongwith his counsel present. Mr. Asad Ali Khan, Assistant Advocate General for official respondents present. None present on behalf of private respondents No. 3 & 4 despite being summoned through TCS, hence placed ex-parte. Adjourned. To come up for arguments on 25.01.2024 before the D.B. Parcha Peshi given to the parties.

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(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

Naeem Amin

25.01.2024

Clerk of learned counsel for the appellant present. Mr. Muhammad Israel, Assistant Director and Mr. Ghulam Muhammad, Superintendent alongwith Mr. Muhammad Jan, District Attorney for official respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 02.02.2024 before the D.B. Parcha Peshi given to the parties.

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(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

Naeem Amin

21.12.2023 1. Appellant alongwith his counsel present. Mr. Muhammad Jan learned District Attorney for the respondents present.

2. Learned counsel for the appellant want to amend the appeal as during pendency of instant appeal office order was issued in respect of post in question wherein someone else was posted, who is necessary party for the just decision of the appeal in hand. Request

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Peshawar

of learned counsel to amend the appeal to the extent of impleadment as well as challenging the said order is accepted. He is directed to file amended appeal within fortnight. To come up on 03.01.2024 before D.B. P.P given to the parties.

(Fareeha Paul)
Member (E)

(Rashida Bano)
Member (J)

KaleemUllah

3rd Jan. 2024

1. Learned counsel for the appellant and Mr. Habib Anwar, Additional Advocate General for the official respondents present.

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2. When amended filed in the light of order dated 21.12.2023, wherein, private respondent have been made party. Private respondents are not before the Tribunal. They be summoned through TCS, the expenses of which be deposited by the appellant, by tomorrow, positively. To come up for arguments on 11.01.2024 before D.B. P.P given to the parties.

(Fareeha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman

Muazem Shah

23.11.2023 1. Learned counsel for the appellant present. Mr. Asad Ali Khan learned Assistant Advocate General Shahid Riaz, Assistant for the respondents present.

2. Written reply on behalf of respondents not submitted. Representative of respondents seeks time for submission of written reply. To come up for written reply/comments on 11.12.2023 before S.B. P.P given to the parties.

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(Rashida Bano)
Member (J)

11th Dec, 2023 1. Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Written reply/comments on behalf of the respondents have been submitted which is found placed on file. To come up for arguments on 20.12.2023 before D.B. P.P given to the parties.

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*Adnan Shah *


(Kalim Arshad Khan)
Chairman

06th Oct. 2023

01. Learned counsel for the appellant present and heard.

02. Point raised need consideration. The appeal is admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security fee within 10 days. Thereafter, notices be issued to the respondents through TCS the expenses of which shall be deposited by the appellant within 03 days. To come up for reply/comments on 18.10.2023 before the S.B. Parcha Peshi given to learned counsel for the appellant.


(FAREEHA PAUL)
Member (E)

Fazle Subhan, P.S

18th Oct. 2023

1. Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Shahid Riaz, Assistant for the respondents present. None present on behalf of private respondent, hence proceeded ex-parte.

2. Reply/comments on behalf of respondents not submitted. Representative of the respondent requested for time to submit reply/comments. Granted. To come up for reply/comments on 23.11.2023 before S.B. P.P given to the parties.


(Muhammad Akbar Khan)
Member (E)


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FORM OF ORDER SHEET

Court of

Appeal No. 1961/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1	28/09/2023	<p>The appeal of Mr. Muhammed Nauman presented today by Mr. Khaled Rehman, Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 06/10/2023. Parcha Peshai is given to the counsel for the appellant.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

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Peshawar

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

M. Nauman

Versus

Govt

..... Appellant

..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
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?	x	
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:- M. Nauman

Signature:- [Signature]

Dated:- 28-9-23



17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No.1961/2023

**SCANNED
KPST
Peshawar**

Muhammad Nauman.....Appellant

3/1/24

Versus

The Govt. of KPK & others Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Amended Appeal with Affidavit			1-6
2.	Notification of appellant's posting	05.04.2021	A	7-9
3.	Notification of appellant's transfer to District Mardan	30.11.2022	B	10
4.	Another Transfer Notification of appellant	26.05.2023	C	11
5.	Departmental Appeal	01.06.2023	D	12-13
6.	Writ Petition No.2406-P/2023		E	14-15
7.	Posting/Transfer Policy		F	16-18
8.	Notification of transfer of Respondent No.4 to the subject post during pendency of appeal	05.12.2023	G	19
9.	FIR		H	20
10.	Wakakat Nama			

Through

Appellant ^

Khaled Rehman
Advocate, Supreme Court

&

Muhammad Ghazanfar Ali
Advocate, High Court

4-B , Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458

Dated: 03 /01/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Amended Service Appeal No.1961/2023

Diary No. 10227

Dated 3-1-2024

Muhammad Nauman

Assistant Director,
Fisheries Department,
Under Transfer to District Nowshera

Appellant

Versus

**SCANNED
KPST
Peshawar**

3/1/24

1. **The Govt. of Khyber Pakhtunkhwa**
though Secretary Agriculture, Livestock, Fisheries
& COOP Department, Civil Secretariat, Peshawar.
2. **Director General,**
Directorate General Fisheries,
Khyber Pakhtunkhwa, Shami Road, Peshawar
3. **Mr. Tanveer Shehzad**
Assistant Director Fisheries (BPS-17),
Under Transfer to District Mardan
4. **Mr. Muhammad Israil**
Assistant Director Fisheries (Acting Charge),
Under transfer to District Mardan

Respondents

AMENDED SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER DATED 26.05.2023 WHEREBY APPELLANT WAS PREMATURELY TRANSFERRED AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL ON 01.06.2023 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned office order dated 26.05.2023 issued by Respondent No.2 may graciously be set aside and appellant may be allowed to complete his tenure at District Mardan.

Respectfully Sheweth,

Facts giving rise to the present writ petition are as under:-

1. That initially appellant was inducted into the service of the Agriculture, Live Stock, Fisheries and Cooperative Department Khyber Pakhtunkhwa as Assistant Director (BPS-17) on 28.01.2021 and was posted at Charsadda vide Notification dated 05.04.2021 (**Annex:-A**) while Respondent No.3 was posted at Mardan. Since then appellant has been performing his duties to the entire satisfaction of the high-ups, so far he has never been proceeded against departmentally.
2. That while performing duties at District Charsadda appellant was transferred to District Mardan vide Notification dated 30.11.2022 (**Annex:-B**). Pursuant to the order ibid appellant took over charge against the respective post and started performing his duties optimally with full devotion. It is pertinent to mention here that respondent No.3 after completion of his usual tenure got transferred from District Mardan to District Swabi.
3. That appellant immediately started performing his duty at District Mardan and after a lapse of six months he was confronted yet with another transfer Notification dated 26.05.2023 (**Annex:-C**) wherein the services of the appellant was prematurely transferred from Mardan to Nowshera, where upon appellant being aggrieved of the impugned office order ibid preferred a departmental appeal dated 01.06.2023 (**Annex:-D**) followed by Writ Petition No.2406-P/2023 (**Annex:-E**) wherein it was held that:-

In View of the above, this writ petition, being not maintainable, stands dismissed, however, we direct the Respondents to decide the departmental appeal of the Petitioner strictly in accordance with law.

4. That as per Posting/Transfer policy of the Provincial Government (**Annex:-F**) "**All the posting/transfer shall be strictly in public interest and shall not be abused/misused to victimize the Government Servants**" It is further submitted that in the light of Posting/Transfer policy ibid the normal tenure of posting shall be 2 years. The Superior Courts of the Country time and again held that the instructions of the Policy in vogue

must be fulfilled and the civil servant must not be made a rolling stone by way of premature transfers. The Hon'ble Supreme Court of Pakistan in the case of "Syed Mehmood Akhtar Naqvi and others ...VS... The Federation of Pakistan" reported in PLD 2013 Supreme Court 195 has laid down the following principle regarding the tenure in posting/transfer:

"Tenure, posting and transfer: when the ordinary tenure for posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied except for compelling reasons which should be recorded in writing and are judicially reviewable."

- 5. **That** appellant filed Service appeal No.1961/2023 which was admitted for regular hearing and during pendency of the appeal Respondent No.4 (Mr. Muhammad Israil) an Acting Charge appointee was illegally transferred from District Shangla to District Mardan in violation of the law vide Notification dated 05.12.2023 (*Annex;-G*).
- 6. **That** on the last date of hearing, during the course of arguments, the transfer order of Respondent No.4 was produced before the Tribunal whereupon the appellant was directed to make Respondent No.4 as party in the array of Respondents being transferred to disputed post. Consequently, the instant amended Service Appeal inter-alia on the following grounds:-

Grounds:

- A. **That** Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned office order, which is unjust, unfair and hence not sustainable in the eye of law.
- B. **That** an FIR (*Annex:-H*) was lodged by authorities of Anti-Corruption against Ex-MPA's and other statespersons including respondent No.3 while posted at District Mardan. In order to cover up the ongoing unstable situation the impugned Notification was circulated which depicts a sketch of political pressure and unfair preference and is purely violative of the Transfer/Posting Policy *ibid*. It is necessary to add here that In spite of appellant being senior was transferred prematurely within a short span of

six months while Respondent No.3 was reverted back to his former place of posting without completion of his prescribed tenure which is neither in the public interest nor in any exigency of service rather clearly reveals mala fide.

- C. **That** while issuing the impugned office order, the terms as per transfer/posting policy has not been respected. It is admitted position that the appellant has served on the previous place of posting for short span of time, therefore, it will not be wrong to add here appellant has been made a rolling stone by way of premature transfer which is clear violation of law, Rules and Policy. Reliance is placed on 2016 PLC (CS) 526, 2018 SCMR 1411 and 2016 PLC (CS) 526; the relevant Head Notes are as under:-

2018 SCMR 1411

“---S. 10---Posting and transfer of civil servant---Minimum period of posting/transfer-- -While S. 10 of the Balochistan Civil Servants Act, 1974 did not prescribe a minimum period during which a civil servant must serve at his post, it did not mean that the Government without assigning any reason could move a civil servant from the place he was posted to after a month or subject the civil servant to repeated postings in a short period of time because that would amount to punishing him---Such postings also adversely affected the public interest and resulted in the wastage of scarce resources and constituted bad governance.”

2016 PLC (CS) 526

“---Transfer of employee---Mala fide---Effect---Two orders of transfer of employee were made within a span of a fortnight---Validity---Employee (appellant) was not a government servant but was an employee of Local Government Board which was an autonomous body---Where a person complained of the violation of statutory rules or had challenged an order which was tainted with mala fides then constitutional petition was maintainable---Employee was ordered to be repatriated to an authority which had ceased to exist and had become defunct---Validity---Employee was not treated fairly, justly and equitably---Transfer of employee was not in the public interest or was not necessitated by an exigency or his services were not required for a particular post or for a particular station---Employee had been made an officer-on-special duty and had been left in the lurch---If courts of law countenanced and approved such exercise of authority then it would make a mockery of law and travesty of justice---Such acts of department would not give a message of hope to the honest and scrupulous persons and might tend to undermine their confidence---Employees of government or autonomous bodies were not to be made rolling stones---Impugned order passed by the department was declared to have been passed without lawful authority and of no legal effect and authority---Employee would continue to discharge his duties at the place where he was performing the same prior to his transfer--

Impugned order was set aside--- Constitutional petition was accepted in circumstances."

- D. **That** repeated instructions of the Federal as well as Provincial Governments have been trampled with impunity while it has been emphatically directed by both the Governments to shun such like practice of posting as the same is not only against the public interest, judgments of the Hon'ble Supreme Court of Pakistan but also results in heartburning and discrimination amongst officers but inspite of the same, the directions were not followed which is against the ethics of good governance and an act of insubordination.

- E. **That** Respondent No.4 who is an Acting Charge Assistant Director Fisheries has been illegally transferred to the subject post during the pendency of the Service Appeal which is against the law and hit by the doctrine of the lis pendence. It is settled law that when an issue is seized of by any Court of law then the matter should be left for the disposal of the Court and the Department cannot pre-empt the jurisdiction of the Court.

- F. **That** appellatant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellatant.

Through

Appellant

Khaled Rehman
Advocate Supreme Court

&

Muhammad Ghazanfar Ali
Advocates, High Court

Dated: 09/01/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No.1961/2023

Muhammad Nauman.....Appellant

Versus

The Govt. of KPK & others Respondents

Affidavit

I, Muhammad Nauman, Assistant Director, Fisheries Department, Under Transfer to District Nowshera, do hereby solemnly affirm and declare on oath that the contents of this writ petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

[Signature]
Deponent

Identified by

[Signature]
Khaled Rahman
Advocate, Peshawar

ATTESTED



[Signature]
03-01-2024

24



**GOVERNMENT OF KHYBER PAKHTUNKHWA
LIVESTOCK, FISHERIES & COOPERATIVE
DEPARTMENT**

Civil Secretariat Complex -II (Ex-FATA Sectt.), Warsak Road, Peshawar

- 19

Dated Peshawar the December 05, 2023

Amir B G

NOTIFICATION

NO.SO (E)LFC/2-4/2023: The posting/transfer of the following officers of Directorate General Fisheries Khyber Pakhtunkhwa are hereby ordered, in the public interest with immediate effect: -

S.No	Name & Designation of the officers	From	To
1	Mr. Tanveer Shehzad, Assistant Director Fisheries (BS-17).	Assistant Director Fisheries Mardan & lookafter charge of the post of Assistant Director Fisheries, Swabi.	Assistant Director Fisheries, Swabi.
2	Muhammad Israil, Assistant Director Fisheries (BPS-17) on acting charge basis.	Assistant Director Fisheries, Shangla.	Assistant Director Fisheries, Mardan.
3	Muhammad Miraj, Assistant Research Officer (BPS-16).	Assistant Research Officer office of Assistant Director Fisheries, Shangla.	Assistant Director Fisheries, Shangla (OPS).

**SD/-
SECRETARY
LIVESTOCK, FISHERIES & COOP:
DEPARTMENT**

Copy forwarded to the:-

1. Director General Fisheries, Khyber Pakhtunkhwa, Peshawar.
2. District Account Officers, Mardan, Shangla and Swabi.
3. PS to Secretary Livestock, Fisheries & Cooperative Department.
4. Officers concerned.
5. Master File.

Waqar Khan
05/12/23
(Waqar Khan)
Section Officer (Estt:)

AW

25

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1961 /2023

SCANNED
KPST
Peshawar

Muhammad Nauman.....Appellant

Versus

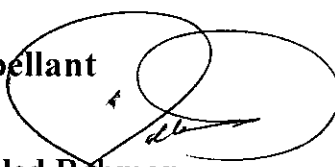
The Govt. of KPK & others Respondents

INDEX


S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Appeal with Affidavit			1-6
2.	Notification of appellant's posting	05.04.2021	A	7 - 9
3.	Notification of appellant's transfer to District Mardan	30.11.2022	B	10
4.	Another Transfer Notification of appellant	26.05.2023	C	11
5.	Departmental Appeal	01.06.2023	D	12 - 13
6.	Writ Petition No.2406-P/2023		E	14 - 15
7.	Posting/Transfer Policy		F	16 - 18
8.	FIR		G	19
9.	Wakakat Nama			20

Through

Appellant


Khaled Rehman
Advocate, Supreme Court ,

&


Muhammad Ghazanfar Ali
Advocate, High Court

4-B , Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458

Dated: 28/09/2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1961 /2023

Muhammad Nauman

Assistant Director,
Fisheries Department,
Under Transfer to District Nowshera **Appellant**

Versus

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 7988

Dated 28/09/23

1. **The Govt. of Khyber Pakhtunkhwa**
though Secretary Agriculture, Livestock, Fisheries
& COOP Department, Civil Secretariat, Peshawar.
2. **Director General,**
Directorate General Fisheries,
Khyber Pakhtunkhwa, Shami Road, Peshawar
3. **Mr. Tanveer Shehzad**
Assistant Director Fisheries (BPS-17),
Under Transfer to District Mardan

Respondents

~~Filed to day~~
28/09/23

REGISTRAR: SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER DATED 26.05.2023 WHEREBY APPELLANT WAS PREMATURELY TRANSFERRED AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL ON 01.06.2023 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned office order dated 26.05.2023 issued by Respondent No.2 may graciously be set aside and appellant may be allowed to complete his tenure at District Mardan.

Respectfully Sheweth,

Facts giving rise to the present writ petition are as under:-

1. That initially appellant was inducted into the service of the Agriculture, Live Stock, Fisheries and Cooperative Department Khyber Pakhtunkhwa as Assistant Director (BPS-17) on 28.01.2021 and was posted at Charsadda vide Notification dated 05.04.2021 (*Annex:-A*) while Respondent No.03 was posted at Mardan. Since then appellant has been performing his duties to the entire satisfaction of the high-ups, so far he has never been proceeded against departmentally.

2. That while performing duties at District Charsadda appellant was transferred to District Mardan vide Notification dated 30.11.2022 (*Annex:-B*). Pursuant to the order ibid appellant took over charge against the respective post and started performing his duties optimally with full devotion. It is pertinent to mention here that respondent No.3 after completion of his usual tenure got transferred from District Mardan to District Swabi.

3. That appellant immediately started performing his duty at District Mardan and after a lapse of six months he was confronted yet with another transfer Notification dated 26.05.2023 (*Annex:-C*) wherein the services of the appellant was prematurely transferred from Mardan to Nowshera. Where upon appellant being aggrieved of the impugned office order ibid preferred a departmental appeal dated 01.06.2023 (*Annex:-D*) followed by Writ Petition No.2406-P/2023 (*Annex:-E*) wherein it was held that:-

In View of the above, this writ petition, being not maintainable, stands dismissed, however, we direct the Respondents to decide the departmental appeal of the Petitioner strictly in accordance with law.

4. That as per Posting/Transfer policy of the Provincial Government (*Annex:-F*) "**All the posting/transfer shall be strictly in public interest and shall not be abused/misused to victimize the Government Servants**" It is further submitted that in the light of Posting/Transfer policy ibid the normal tenure of posting shall be **2 years**. The Superior Courts of the Country time and again held that the instructions of the Policy in vogue must be fulfilled and the civil servant must not be made a rolling stone by way of premature transfers. The Hon'ble Supreme Court of Pakistan in the case of "Syed Mehmood Akhtar Naqvi and others ...VS... The Federation"

of Pakistan” reported in PLD 2013 Supreme Court 195 has laid down the following principle regarding the tenure in posting/transfer:

“Tenure, posting and transfer: when the ordinary tenure for posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied except for compelling reasons which should be recorded in writing and are judicially reviewable.”

5. That appellant, being aggrieved of the acts and actions of Respondents and the impugned office order dated 26.05.2023, files the instant Service Appeal this inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned office order, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That an FIR (**Annex:-G**) was lodged by authorities of Anti-Corruption against Ex-MPA’s and other statespersons including respondent No.3 while posted at District Mardan. In order to cover up the ongoing unstable situation the impugned Notification was circulated which depicts a sketch of political pressure and unfair preference and is purely violative of the Transfer/Posting Policy *ibid*. It is necessary to add here that In spite of appellant being senior was transferred prematurely within a short span of six months while Respondent No.3 was reverted back to his former place of posting without completion of his prescribed tenure which is neither in the public interest nor in any exigency of service rather clearly reveals mala fide.
- C. That while issuing the impugned office order, the terms as per transfer/posting policy has not been respected. It is admitted position that the appellant has served on the previous place of posting for short span of time, therefore, it will not be wrong to add here appellant has been made a rolling stone by way of premature transfer which is clear violation of law,

Rules and Policy. Reliance is placed on 2016 PLC (CS) 526, 2018 SCMR 1411 and 2016 PLC (CS) 526; the relevant Head Notes are as under:-

2018 SCMR 1411

“---S. 10---Posting and transfer of civil servant---Minimum period of posting/transfer-- -While S. 10 of the Balochistan Civil Servants Act, 1974 did not prescribe a minimum period during which a civil servant must serve at his post, it did not mean that the Government without assigning any reason could move a civil servant from the place he was posted to after a month or subject the civil servant to repeated postings in a short period of time because that would amount to punishing him---Such postings also adversely affected the public interest and resulted in the wastage of scarce resources and constituted bad governance.”

2016 PLC (CS) 526

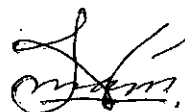
“---Transfer of employee---Mala fide---Effect---Two orders of transfer of employee were made within a span of a fortnight---Validity---Employee (appellant) was not a government servant but was an employee of Local Government Board which was an autonomous body---Where a person complained of the violation of statutory rules or had challenged an order which was tainted with mala fides then constitutional petition was maintainable---Employee was ordered to be repatriated to an authority which had ceased to exist and had become defunct---Validity---Employee was not treated fairly, justly and equitably---Transfer of employee was not in the public interest or was not necessitated by an exigency or his services were not required for a particular post or for a particular station---Employee had been made an officer-on-special duty and had been left in the lurch---If courts of law countenanced and approved such exercise of authority then it would make a mockery of law and travesty of justice---Such acts of department would not give a message of hope to the honest and scrupulous persons and might tend to undermine their confidence---Employees of government or autonomous bodies were not to be made rolling stones---Impugned order passed by the department was declared to have been passed without lawful authority and of no legal effect and authority---Employee would continue to discharge his duties at the place where he was performing the same prior to his transfer---Impugned order was set aside--- Constitutional petition was accepted in circumstances.”

- D. That repeated instructions of the Federal as well as Provincial Governments have been trampled with impunity while it has been emphatically directed by both the Governments to shun such like practice of posting as the same is not only against the public interest, judgments of the Hon'ble Supreme Court of Pakistan but also results in heartburning and discrimination amongst officers but inspite of the same, the directions were not followed which is against the ethics of good governance and an act of insubordination.

E. **That** appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

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



Appellant

Through



Khaled Rehman
Advocate Supreme Court

&



Muhammad Ghazanfar Ali
Advocates, High Court

Dated: 28/09/2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2023

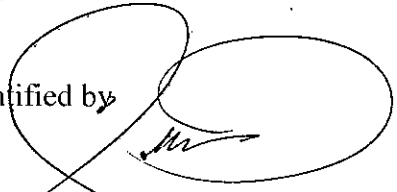
Muhammad Nauman.....Appellant

Versus

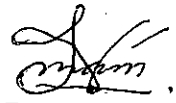
The Govt. of KPK & others Respondents

Affidavit

I, Muhammad Nauman, Assistant Director, Fisheries Department, Under Transfer to District Nowshera, do hereby solemnly affirm and declare on oath that the contents of this writ petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

Identified by 
Khaled Rahman
Advocate, Peshawar




Deponent



KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK, FISHERIES &
COOPERATIVE DEPARTMENT

Dated Peshawar the 07th April, 2021

NOTIFICATION

NO. SO (LFC) AD-11P-3(25)/2017

Consequent upon the appointment of following (09) Assistant Director Fisheries (BS-17) in Fisheries Department, Khyber Pakhtunkhwa vide this department's notification No (LFC) AD (P) 025/2017 dated 27-01-2021, the Competent Authority is pleased to order the following adjustment/transfers/posting of (BS-17) officers of Fisheries Department, Khyber Pakhtunkhwa, in the public interest with immediate effect:-

S#	Name & Designation of Officer	Present Place of Posting	Proposed Place of adjustment/ Posting Place
01.	Muhammad Naiman, Assistant Director Fisheries (BS-17)	Newly appointed as Assistant Director Fisheries (BS-17) District of Domicile, Mardan	Assistant Director Fisheries (BS-17), Charsadda
02.	Mr. Ilyas Shalazad, Assistant Director Fisheries (BS-17)	Newly appointed as Assistant Director Fisheries (BS-17), District of Domicile, Swabi.	Assistant Director Fisheries, (BS-17), Mardan
03.	Mr. Samavia Neelofar, Assistant Director Fisheries (BS-17)	Newly appointed as Assistant Director Fisheries (BS-17), District of Domicile, Abbottabad.	Assistant Director Fisheries, (BS-17), Manjerha
04.	Mr. Sadam Hussain, Assistant Director Fisheries (BS-17)	Newly appointed as Assistant Director Fisheries (BS-17), District of Domicile, Peshawar.	Assistant Director Fisheries, (BS-17), CI&TC, Peshawar.
05.	Mr. Shakil Ahmad, Assistant Director Fisheries (BS-17)	Newly appointed as Assistant Director Fisheries (BS-17), District of Domicile, Chitral.	Assistant Director Fisheries, (BS-17), Chitral (Lower)
06.	Mr. Maghfoor Khan, Assistant Director Fisheries (BS-17)	Newly appointed as Assistant Director Fisheries (BS-17), District of Domicile, Waziristan.	Assistant Director Fisheries, (BS-17), Torghar.
07.	Ms. Salma Noreen, Assistant Director Fisheries (BS-17)	Newly appointed as Assistant Director Fisheries (BS-17), District of Domicile, Harro.	Assistant Director Fisheries, (BS-17), O O Directorate General of Fisheries, KPR Peshawar.
08.	Mr. Shazia Lehman, Assistant Director Fisheries (BS-17)	Newly appointed as Assistant Director Fisheries (BS-17), District of Domicile, Kamk.	Assistant Director Fisheries, (BS-17), O O Directorate General of Fisheries, KPR Peshawar.
09.	Mr. Nusr Khan, Assistant Director Fisheries (BS-17)	Newly appointed as Assistant Director Fisheries (BS-17), District of Domicile, Haripur.	Assistant Director Fisheries, (BS-17), Kohistan Upper
10.	Mr. Tahir Jamil, Assistant Director Fisheries (BS-17)	Assistant Director Fisheries (BS-17), CI&TC, Peshawar.	Assistant Director Fisheries, (BS-17), Kohat.
11.	Mr. Wali Jan, Assistant Director Fisheries (BS-17)	Assistant Director Fisheries (BS-17), Kohat	Assistant Director Fisheries (BS-17), Kuruk

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ATTEST
As per true C

District Officer Fisheries
Charsadda

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GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK, FISHERIES &
COOPERATIVE DEPARTMENT

12.	Mr. Taj Muhammad, Assistant Director Fisheries (BS-17)	Assistant Director Fisheries (BS-17), Kohistan Upper,	Assistant Director Fisheries, (BS-17), Shingla.
13.	Mr. Shahid Mehmood, Assistant Director Fisheries (BS-17)	Assistant Director Fisheries (BS-17), Mardan.	Assistant Director Fisheries, (BS-17), Swabi.

Sd/-
SECRETARY AGRICULTURE,
LIVESTOCK, FISHERIES & COOP.
DEPARTMENT

Enclst No. & date of Evn.

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General (Fisheries), Khyber Pakhtunkhwa, Peshawar w/r to his letter no. 1766 dated: 15-05-2021.
3. District Accounts Officers, Charsadda, Mardan, Manshera, Chitral (Lower), Torghar, Kohistan (Upper), Kohat, Karak, Shingla and Swabi.
4. Officers concerned.
5. P.S. to Secretary Agriculture, Livestock, Fisheries & Cooperatives Department.
6. Master File.

Muhammad Hussain
SECTION OFFICER (DEPT)

M. P. Man
District Officer Fisheries
Charsadda

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to be true Copy

[Signature]
ATTESTED

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GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK, FISHERIES &
COOPERATIVE DEPARTMENT

Dated Peshawar the 5th April, 2021

NOTIFICATION

NO.SO(LFC)AD-DF-3(25)/2017. Consequent upon the appointment of following (09) Assistant Director Fisheries (BPS-17) in Fisheries Department, Khyber Pakhtunkhwa vide the department's Notification No. (LFC)AD-DF-3(25)/2017 dated 27.01.2021, the Competent Authority is pleased to order the following Adjustment/Transfer/Posting of (BPS-17) officers of Fisheries Department, Khyber Pakhtunkhwa in the best interest of Public service with immediate effect:-

S#	Name & Designation of Officer	Present Place of Posting	Proposed Place of adjustment/posting place
01.	Muhammad Nauman, Assistant Director Fisheries (BPS-17)	Newly appointed as Assistant Director Fisheries	Assistant Director Fisheries (BPS-17), Charsadda
02.	Mr. Tanveer Shehzad, Assistant Director Fisheries (BPS-17)	Newly appointed as Assistant Director Fisheries (BPS-17), District of Domicile, Swabi	Assistant Director Fisheries (BPS-17), Mardan
13.	Mr. Shahid Mehmood, Assistant Director Fisheries (BPS-17)	Assistant Director Fisheries (BPS-17), District of Mardan	Assistant Director Fisheries (BPS-17), District, Swabi

Sd/-

SECRETARY AGRICULTURE,
LIVESTOCK, FISHERIES & COOP:
DEPARTMENT

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- 10 Annex B



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK, FISHERIES & COOPERATIVE
DEPARTMENT

Dated Peshawar the 30th November, 2022

NOTIFICATION

NO. 50 (LFC) AD/2-4/2022:- The following posting/transfer of Officers of (BS-17) of Fisheries Department, Khyber Pakhtunkhwa, are hereby ordered in the public interest with immediate effect:-

S.No	Name Of Officer - With Designation	From	To
1.	Mr. Muhammad Nauman Assistant Director Fisheries (BS-17)	The Assistant Director Fisheries, Charsadda	The Assistant Director Fisheries, Mardan
2.	Mr. Shahid Mehmood, Assistant Director Fisheries (BS-17)	The Assistant Director Fisheries, Swabi	The Assistant Director Fisheries, Charsadda
3.	Mr. Tanveer Shahzad, Assistant Director Fisheries (BS-17)	The Assistant Director Fisheries, Mardan	The Assistant Director Fisheries, Swabi

SD/-
SECRETARY AGRICULTURE,
LIVESTOCK, FISHERIES & COOP
DEPARTMENT

Ends. No. & date of Even.
Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. The Director General, Fisheries Khyber Pakhtunkhwa.
3. District Account Officer Charsadda, Mardan & Swabi.
4. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperatives Department.
5. Officers Concerned.
6. Master file.

SECTION OFFICER (LFC)

30/11/22

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Endst: No. 4079-83 /DGF/Estt:

Dated Peshawar the 01 /11 /2022.

Copy of the above is forwarded for information and necessary action to:-

- 1- The District Accounts Officer, Mardan, Charsadda & Swabi.
- 2- The Assistant Director Fisheries, Charsadda.
- 3- The Assistant Director Fisheries, Mardan.
- 4- The Assistant Director Fisheries, Swabi.
- 5- Officers concerned.


DIRECTOR GENERAL FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR.


ATTESTED



**GOVERNMENT OF KHYBER PAKHTUNKHWA
LIVESTOCK, FISHERIES & COOPERATIVE
DEPARTMENT**
Civil Secretariat Complex -II (Ex-FATA Sectt.), Warsak Road, Peshawar

- 11 / Dated Peshawar the May 26, 2023

NOTIFICATION

NO.SO (E)LFC/2-4/2023: The posting/transfer of the following officers of Directorate General Fisheries Khyber Pakhtunkhwa are hereby ordered, in the public interest with immediate effect: -

S.No	Name & Designation of the officers	From	To
1	Muhammad Nauman, Assistant Director Fisheries, (BS-17)	Office of Assistant Director Fisheries, Mardan	Office of Assistant Director Fisheries, Nowshera
2	Mr. Tanveer Shahzad, Assistant Director Fisheries (BS-17)	Office of Assistant Director Fisheries, Swabi	Office of Assistant Director Fisheries Mardan & entrusted lookafter charge of the post of Assistant Director Fisheries, Swabi.
3	Mr. Nasir Khan Assistant Director Fisheries (BS-17)	District Officer Fisheries, Mansehra	District Officer Fisheries, Haripur
4	Mr. Mulazim Hussain Assistant Research Officer (BS-16)	O/O Assistant Director Fisheries, D.I Khan	Against the vacant post of Assistant Director Fisheries (BS-17), South Waziristan on his own pay and scale

**SD/-
SECRETARY
LIVESTOCK, FISHERIES & COOP:
DEPARTMENT**

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Director General Fisheries, Khyber Pakhtunkhwa, Peshawar.
3. District Account Officers, D.I Khan, Haripur, Mardan, Nowshera, Swabi & South Waziristan.
4. PS to Secretary Livestock, Fisheries & Cooperative Department.
5. Officers concerned.
6. Master File.

(Waqar Khan)
(Waqar Khan) 26.05.23
Section Officer (Estt:)

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02-6-23

[Signature]
02-6-23
Ana D

To,

The Worthy Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED NOTIFICATION DATED 26.11.2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM THE POST OF ASSISTANT DIRECTOR FISHERIES (BPS-17), DISTRICT MARDAN TO THE OFFICE OF ASSISTANT DIRECTOR FISHERIES, NOWSHERA PRE-MATURELY AND IN VIOLATION OF THE TRANSFER/POSTING POLICY OF THE PROVINCIAL GOVERNMENT

Respected Sir,

With great reverence it is stated that the appellant is the employee of Livestock, Fisheries & Cooperative Department and is serving as Assistant Director Fisheries, (BPS-17) at Mardan quite efficiently and upto the entire satisfaction of his superiors.

That the appellant while performing his duty as Assistant Director Fisheries (BPS-17) at Charsadda was transferred and posted at the Office of Assistant Director, Mardan vide Notification dated 30.11.2022. That in compliance of Notification dated 30.11.2022 the appellant took over the charge against his respective post at District Mardan and started performing his duty with devotion and with all zeal and zest.

That astonishingly the Worthy Secretary, Agriculture, Livestock, Fisheries & Cooperative Department, Khyber Pakhtunkhwa, Peshawar just after the lapse of hardly six months issued the impugned Notification dated 26.05.2023 whereby the appellant has been transferred from the Office of Assistant Director Livestock, Mardan to the Office of Assistant Director, Nowshera and posted his blue eyed person Mr. Tanveer Shehzad, Assistant Director Fisheries (BPS-17) in place of appellant.

That it is pertinent to mention that Mr. Tanveer Shehzad already completed his normal tenure at the Office of Assistant Director, Mardan with effect from 05.04.2021 to 30.11.2022. That vide Notification dated 30.11.2022 Mr. Tanveer Shehzad, Assistant Director Fisheries was transferred from Mardan to District Swabi and after the lapse of 6 months without completion of his normal tenure at District Swabi once again transferred and posted in District Mardan vide Notification dated 26.05.2023 in violation of law and rules ibid.

That the impugned Notification dated 26.05.2023 is based on malafide intention of the authority concerned which has been just to accommodate his blue eyed person i.e. Mr. Tanveer Shehzad.

That the impugned Notification dated 26.05.2023 has been in clear violation of Clause-I, IV and XIII of the transfer/posting policy of the Provincial Government which is not tenable and liable to be set aside to the extent of appellant and Mr. Tanveer Shehzad.

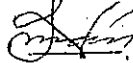
That the impugned Notification dated 26.05.2023 is also violative of Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

That the appellant feeling aggrieved from the impugned Notification dated 26.05.2023 preferred the instant departmental appeal before your good self for redressal of the grievances of appellant.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal the impugned Notification dated 26.05.2023 may very kindly be set aside to the extent of appellant and Mr. Tanveer Shehzad and the authority concerned be directed not to transfer the appellant from the Office of Assistant Director Fisheries (BPS-17), District Mardan till completion of his normal tenure. Any other relief which your good self deems fit that may also be awarded in favor of the appellant.

Dated: 01.06.2023.

Your sincerely



MUHAMMAD NAUMAN,
Assistant Director Fisheries (BPS-17),
District Mardan



ATTESTED



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14

Amir E

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

WRIT PETITION NO. _____/2023



Mr. Muhammad Nauman, Assistant Director Fisheries (BPS-17),
O/O the Assistant Director Fisheries, District Mardan.

PETITIONER

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary, Agriculture, Livestock, Fisheries and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
- 3- Mr. Tanveer Shehzad, Assistant Director Fisheries (BPS-17), District Swabi.

RESPONDENTS

**WRIT PETITION UNDER ARTICLE-199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973 AS AMENDED UP TO DATE**

**R/SHEWETH:
ON FACTS:**

**Brief facts giving rise to the present writ petition are
as under:**

- 1- That the petitioner is the employee of Agriculture, Livestock, Fisheries and Cooperative Department and is servicing as Assistant Director Fisheries, (BPS-17) at Mardan quite efficiently and upto the entire satisfaction of his superiors.
- 2- That the petitioner while performing his duty as Assistant Director Fisheries (BPS-17) at Charsadda was transferred and posted as Assistant Director, Mardan vide Notification dated 30.11.2022 vice private respondent No.3 and he was transferred to the post of Assistant Director Fisheries (BPS-17), District Swabi due to completion of his normal tenure at Mardan. That in compliance of Notification dated 30.11.2022 the appelland took over the charge against his respective post at District Mardan and started performing his duty with devotion and with all zeal and zest. Copy of the Notification dated 30.11.2022 is attached as annexure.....A.
- 3- That astonishingly the respondent No.2 just after the lapse of hardly (6) months issued the impugned Notification dated 26.05.2023 whereby the petitioner has been transferred from the Office of Assistant Director Livestock, Mardan and posted as Assistant Director Fisheries, Nowshera while the private respondent No.3 once again posted at District Mardan vice the petitioner. Copy of the impugned Notification dated 26.05.2023 is attached as annexure.....B.

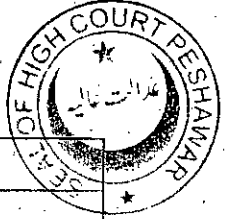
TESTED

**ATTESTED
EXAMINER**

41

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s).
1	2
<p>15.06.2023</p>	<p><u>W.P. No.2406-P/2023 with IR</u></p> <p>Present: Mr. Mir Zaman Safi, Advocate, for the petitioner.</p> <p>Muhammad Isa Khan Khalil, AAG, for the official respondents.</p> <p>*****</p> <p><u>IJAZ ANWAR, J.</u> Learned counsel for the petitioner has argued the case at some length, however, we when confronted him that the issue pertains to the terms and conditions of service of the petitioner, he stated that petitioner would be satisfied if direction is issued to the respondents for decision of his departmental appeal.</p> <p>2. In view of the above, this writ petition, being not maintainable, stands dismissed, however, we direct the respondents to decide the departmental appeal of the petitioner strictly in accordance with law.</p> <p>Announced Dt: 15.06.2023</p> <p>Date of Presentation of Application: 16-06-2023</p> <p>No. of Pages: 2</p> <p>Copying fee: 8-00</p> <p>Total: 8-00</p> <p>Date of Preparation of Copy: 16-06-2023</p> <p>Date of Delivery of Copy: 16-06-2023</p> <p>IR: [Signature]</p> <p style="text-align: right;">[Signature] JUDGE</p> <p style="text-align: right;">[Signature] JUDGE</p>

(Muhammadullah)

(DB) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Syed Muhammad Attique Shah

ATTESTED

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8.7 of
the Oath and Shariat Act 1984

15 JUN 2023

(42)

16 - Annex F

Transfer Policy -- updated till 10 Jan, 2009



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posting/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained.
- vi) While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eight months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thana) of his area/residence is situated.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of him deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2005, dated 21-09-2004

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a) Within the same Department	Secretary of the Department concerned.
b) To and from an Attached Department	Secretary of the Dept. in consultation with Head of Attached Department concerned.
c) Within the Secretariat from one Department to another.	Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/transfer orders could be exercised only in the following cases:

- i) Promotions, posting/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government.
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Officials in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

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Posting - Transfer Policy - updated III-10 Jan, 2005

- viii) No posting/transfers of the officers/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- ~~xi)~~ Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the District of their domicile and be allowed to serve there till the retirement.
DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales.
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Paldatan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent:	

Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

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Attest

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Page 9

ابتدائی اطلاعی رپورٹ

مردان

ACE

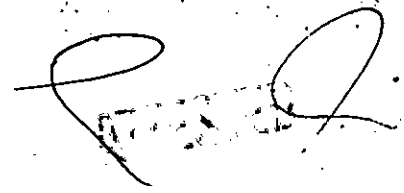
01

تاریخ وقت: 05 10 2023

1	تاریخ وقت: 05 10 2023	تاریخ وقت: 05 10 2023
2	آئی ایس ڈی	آئی ایس ڈی
3	PC Act 409/5(2)	PC Act 409/5(2)
4	مردان	مردان
5	نام سبب: ...	نام سبب: ...
6

ابتدائی اطلاع نئے درج کرو۔ سن CO کہ باوقوت ذراخ سے معلوم ہوا تھا کہ ...
 مکمل میسٹر برصغیر ...
 DAC سے آؤٹ انٹرویو ایئر 5 سال 2023 کی اجازت حاصل کر کے انٹرویو کا ناما اور نا آغاز فرم سے ...
 دوران انٹرویو جلد متعلقہ ریکارڈ ویکہ میسٹر مردان سے حاصل کر کے اور ساتھ ہی ...
 کر کے معلوم ہوا کہ انٹرویو آؤٹ اسٹیشن کا فوج سے آؤٹ اسٹیشن کیلئے تحریری ...
 DAC صاحب نے میراں خان سینئر آڈیٹر بغرض آؤٹ اسٹیشن ہانڈ کیا جس سے پہلے ریکارڈ کی روشنی میں آؤٹ ...
 اسٹیشن کر کے آؤٹ رپورٹ جاری کر کے جس کے مطابق سرکاری خزانہ کو تنخواہ کی مد میں مبلغ 2356765 رو ...
 کا نقصان پہنچایا گیا ہے۔ آؤٹ رپورٹ ہانڈ انٹرویو سے 1) عارف خان 2) ظہیر شاہ 3) ملک شوکت 4) امیر فرزند ...
 5) امتیاز مشران 6) عبدالسلام آفریدی سابقہ ایم بی ایئر 7) مجاہد خان 8) علی محمد خان سابقہ ایم ایئر 9) D ...
 میسٹر 10) عارف علی ولد دل راز 11) شاہ فیصل ولد بادشاہ شہد 12) محمد ناز دھتر شہد 13) ذاکر حسین دا ...
 بہادر شہر 14) علی احمد ولد بادشاہ شہد 15) عمران اللہ ولد زرنج خان 16) گل ضیاد ولد باجہ گل گنیٹاریا۔
 جا کر فائنل رپورٹ بغرض اندراج مقدمہ بھجوا گیا تھا صاحب DAC صاحب نے بحوالہ حکم نمبر 229 ...
 مورخہ 08/05/2023 ملزمان مالا کے خلاف مقدمہ درج کرنے کا حکم صادر کر کے حسب الہ حکم صاحب DAC ...
 صاحب مقدمہ بر خلاف ملزمان بالا بچراخ بالا درج رجسٹر کیا جاتا ہے انٹرویو کا خدات و نقول FIR بغرض ...
 تفتیش حوالہ شعیبہ اللہ کی لئے جاتا ہے اس کے دوران تفتیش دیگر کوئی شخص یا اس کے مرنات پائی گیا ...
 کارروائی حسب ضابطہ ہوگی۔ پرجہ گزارش ہے۔

CO-ACE- Mandan
 10-05-2023



46

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA
PESHAWAR.

SERVICE APPEAL NO.1961/2023

SCANNED
KPST
Peshawar

Muhammad Nauman

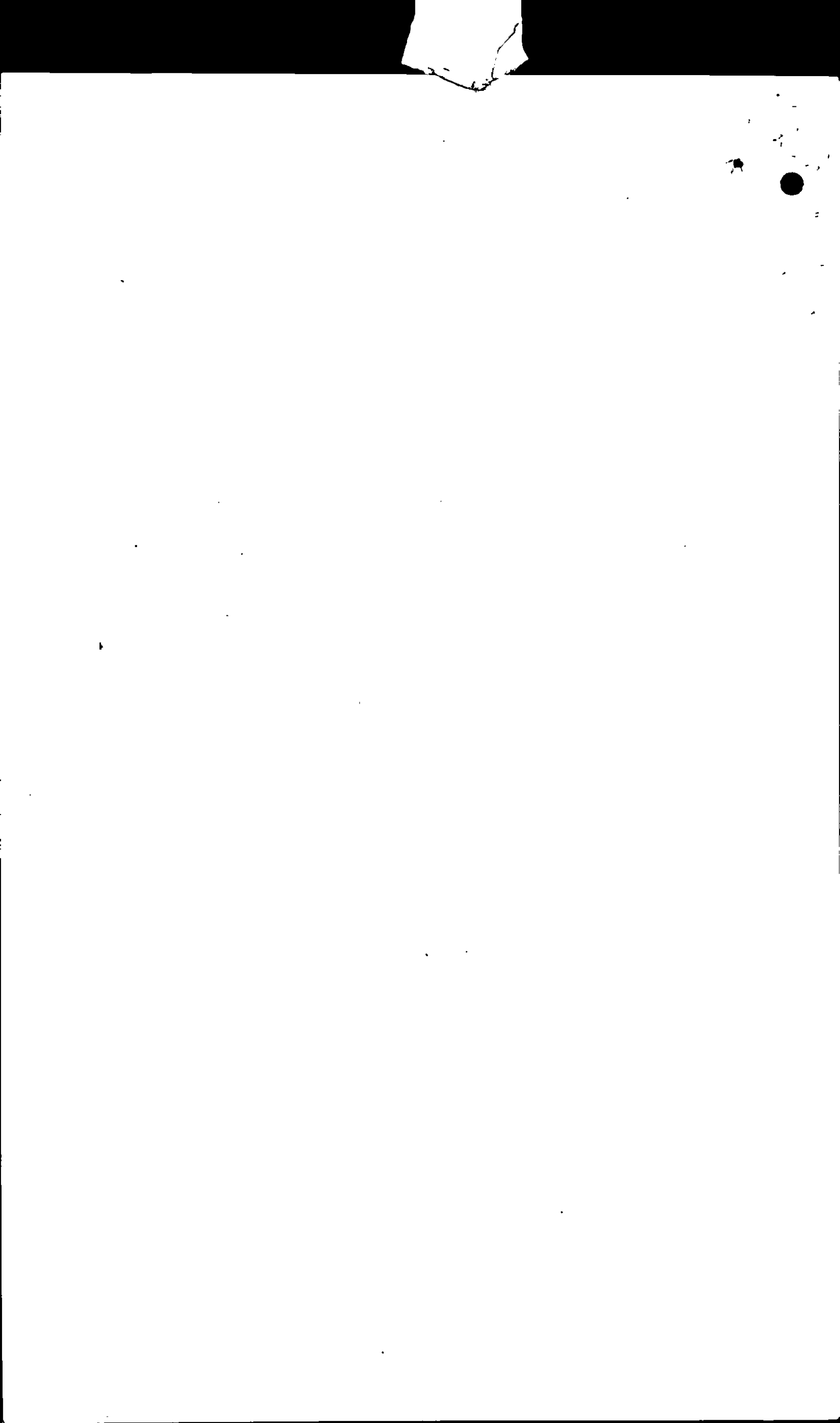
VERSUS

Government of Khyber Pakhtunkhwa &
Others

11/12/23

S/No.	Documents.	Annexure	Page.
1	Reply/Comments.	-----	1-3
2	Authority letter.	-----	4.
3	Affidavit.	-----	5.
4	Detail of visits to Directorate General Fisheries, Khyber Pakhtunkhwa, Peshawar.	A.	6-13
5	Notification regarding posting Transfer dated 26.05.2023	B	14
6	Charge Relinquish of Mr. Nauman	C	15
7	Charge assumption of Mr. Nauman	D	16
8	Departmental appeal	E	17-19

Deposited



in administrative & financial disciplines, that too in the best interest of public "Copy is hereby enclosed as Annexure-B". The appellant complied his posting orders, & relinquished himself from Fisheries Department, District Mardan with effect from 14-06-2023 (AN) vide No.273-78/DOF/M dated.14-06-2023 "Copy is hereby enclosed as Annexure-C" & reported for duty in the Fisheries Department, District Nowshera on 15/06/2022 (FN) "Copy is hereby enclosed as Annexure- D" & regularly getting his salary & other allied facilities.

- 2- Incorrect, as already been explained above in para-01.
- 3- Incorrect. The factual position has already been explained above in para-01. Furthermore, both the departmental representation dated.01-06-2023 of the appellant as mentioned in the para was received on 20-06-2023 Annexure- E & the writ petition No.2406-P/2023 was also been disposed of by the Peshawar High Court, Peshawar during the preliminary hearing unilaterally on 15-06-2023, after relinquishing of charge of the post of Assistant Director Fisheries, District Mardan on 14-06-2023 by the appellant was automatically become infructuous in its present form, therefore no further action was taken by the respondents.
- 4- Incorrect, hence denied. The factual position has already been explained above in para-01 & para-03.
- 5- Incorrect. The appellant himself matured the posting/transfer order dated.26-05-2023, then how he aggrieved & considering the instant posting transfer as impugned, therefore, the instant appeal is requested to be dismissed throughout in the larger interest of justice.

GROUND.

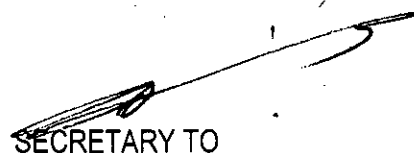
- A. Incorrect. The factual position has already been explained above in para-01, para-03 & para-05 of the reply on the facts.
- B. Incorrect. The FIR dated.10-05-2023 mentioned in the instant para, which was lodged against the MNAs/MPAs has no concerned with the appointment process of the Fisheries Department, District Mardan, as no interference/ involvement of any such MNAs/MPAs in the recruitment process was found in the record of the Fisheries Department, District Mardan, therefore the nomination of Respondent No.03 in the said FIR is not understandable. However, the scenario behind the posting/transfer of the appellant has been explained above in para-01, Para-03 & para-05 of the reply on the facts.

49

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- C. Incorrect. The factual position has already been explained above in para-01, Para-03 & para-05 of the reply on the facts.
- D. Incorrect. The factual position has already been explained above in para-01, Para-03 & para-05 of the reply on the facts.
- E. The respondents also seek permission to raise additional grounds at the time of arguments.

It is therefore requested that on acceptance of the instant para wise comments, the appeal of the appellant may kindly be dismissed.



SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
LIVESTOCK, FISHERIES & COOPERATIVE
DEPARTMENT.
(Respondent No.1)
(MUHAMMAD ISRAR)



DIRECTOR GENERAL FISHERIES,
KHYBER PAKHTUNKHWA
PESHAWAR
(Respondent No.2)
(KHISRAD KALIM)

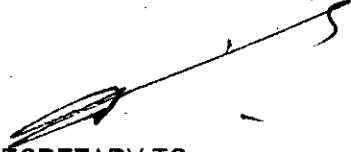
(50)

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(4)

AUTHORITY LETTER.

Mr. Ghulam Muhammad, Superintendent BPS-17, Directorate General Fisheries, 2-Shami Road Peshawar is hereby authorized to submit affidavit & attend Khyber Pakhtunkhwa, Service Tribunal in service appeal No.1961/2023 titled "Muhammad Nauman Vs Government of Khyber Pakhtunkhwa & Others" on behalf of undersigned on each & every date of hearing till the decision.



SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
LIVESTOCK, FISHERIES & COOPERATIVE
DEPARTMENT.
(Respondent No.1)

(MUHAMMAD ISRAR)



DIRECTOR GENERAL FISHERIES,
KHYBER PAKHTUNKHWA
PESHAWAR
(Respondent No.2)

(KHISRAO KALIM)



OFFICE OF THE
DISTRICT OFFICER FISHERIES
CHARSADDA

52

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TOUR PROGRAM IN R/O MUHAMMAD NUMAN, DISTRICT OFFICER
FISHERIES, CHARSADDA FOR THE MONTH OF MAY, 2021.

No.	Dated	From	To	Purpose of Journey
1.	12/04/2021	Charsadda	Peshawar	Proceeded to Peshawar for pursuance of various cases at Directorate of Fisheries, Khyber Pakhtunkhwa.
2.	20/04/2021	Charsadda	Peshawar	-do-
3.	24/04/2021	Charsadda	Peshawar	-do-

Numan

(Muhammad Numan)
District Officer Fisheries
Charsadda

104 /DOF(CHD)/Contingencies/2020-21

Dated 25th May, 2021.

Approved and forwarded to the Director Accounts Officer, Charsadda for
confirmation and payments, please.

Numan

District Officer Fisheries
Charsadda



53

A (31) (7) (2/8)



OFFICE OF THE
DISTRICT OFFICER FISHERIES
GULBAHAR NO.2 OPP: EDUCATOR SCHOOL
MARDAN ROAD, CHARSADDA
PHONE # 091-6515158

TOUR PROGRAM IN R/O MUHAMMAD NUMAN, DISTRICT OFFICER
FISHERIES, CHARSADDA FOR THE MONTH OF JULY, 2021.

S.No.	Dated	From	To	Purpose of Journey
1.	02/07/2021	Charsadda	Peshawar & Back	Checking of Field Area, Palai Dam,
2.	05/07/2021	Charsadda	Shabqdar & Back	Private Fish Farms etc and proceeded
3.	08/07/2021	Charsadda	Tangi & Back	to Peshawar for discussion and
4.	09/07/2021	Charsadda	Peshawar & Back	pursuance of various cases with
5.	12/07/2021	Charsadda	Shabqdar & Back	Director General Fisheries, Khyber
6.	13/07/2021	Charsadda	Tangi & Back	Pakhtunkhwa, Peshawar
7.	16/07/2021	Charsadda	Peshawar & Back	-do-
8.	19/07/2021	Charsadda	Shabqdar & Back	-do-
9.	26/07/2021	Charsadda	Tangi & Back	-do-
10.	27/07/2021	Charsadda	Peshawar & Back	-do-
11.	28/07/2021	Charsadda	Shabqdar & Back	-do-
12.	30/07/2021	Charsadda	Tangi & Back	-do-

M Numan
(Muhammad Numan)
District Officer Fisheries
Charsadda

No. 21647 /DOF(CHD)/Contingencies/2020-21

Dated 12th November, 2021.

Approved and forwarded to the Director Accounts Officer, Charsadda for information and payments, please.

Approved

M Numan
District Officer Fisheries
Charsadda

No. 777 DGP/B21
dated 17/11/2021
Qasim Ullah
Director General Fisheries
Khyber Pakhtunkhwa
Peshawar





(54)

A (3/8)

OFFICE OF THE
DISTRICT OFFICER FISHERIES
GULBAHAR NO.2 OPP: EDUCATOR SCHOOL
MARDAN ROAD, CHARSADDA
PHONE # 091-6515158

TOUR PROGRAM IN R/O MUHAMMAD NUMAN, DISTRICT OFFICER
FISHERIES, CHARSADDA FOR THE MONTH OF AUGUST, 2021.

S.No.	Dated	From	To	Purpose of Journey
1.	02/08/2021	Charsadda	Peshawar & Back	Checking of Field Area, Palai Dam,
2.	04/08/2021	Charsadda	Shabqdar & Back	Private Fish Farms etc and proceeded
3.	05/08/2021	Charsadda	Tangi & Back	to Peshawar for discussion and
4.	09/08/2021	Charsadda	Peshawar & Back	pursuance of various cases with
5.	10/08/2021	Charsadda	Shabqdar & Back	Director General Fisheries, Khyber
6.	12/08/2021	Charsadda	Tangi & Back	Pakhtunkhwa, Peshawar
7.	13/08/2021	Charsadda	Peshawar & Back	-do-
8.	16/08/2021	Charsadda	Shabqdar & Back	-do-
9.	17/08/2021	Charsadda	Tangi & Back	-do-
10.	23/08/2021	Charsadda	Peshawar & Back	-do-
11.	26/08/2021	Charsadda	Shabqdar & Back	-do-
12.	30/08/2021	Charsadda	Tangi & Back	-do-

(Muhammad Numan)
District Officer Fisheries
Charsadda

No. 216-17 /DOF(CHD)/Contingencies/2020-21

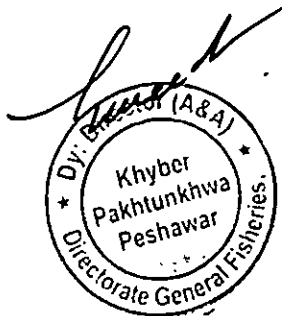
Dated 12th Novem,ber. 2021.

Approved and forwarded to the Director Accounts Officer, Charsadda for information and payments, please.

District Officer Fisheries
Charsadda

No. 778 DGP/BPA

dated 17/11/2021



55

(A)

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A 4/8



- OFFICE OF THE
 DISTRICT OFFICER FISHERIES
 GULBAHAR NO.2 OPP: EDUCATOR SCHOOL
 MARDAN ROAD, CHARSADDA
 PHONE # 091-6515158

**TOUR PROGRAM IN R/O MUHAMMAD NUMAN, DISTRICT OFFICER
 FISHERIES, CHARSADDA FOR THE MONTH OF SEPTEMBER, 2021.**

S.No.	Dated	From	To	Purpose of Journey
1.	01/09/2021	Charsadda	Peshawar & Back	Checking of Field Area, Palai Dam.
2.	03/09/2021	Charsadda	Shabqdar & Back	Private Fish Farms etc and proceeded
3.	06/09/2021	Charsadda	Tangi & Back	to Peshawar for discussion and
4.	07/09/2021	Charsadda	Peshawar & Back	pursuance of various cases with
5.	10/09/2021	Charsadda	Shabqdar & Back	Director General Fisheries, Khyber
6.	13/09/2021	Charsadda	Tangi & Back	Pakhtunkhwa, Peshawar
7.	14/09/2021	Charsadda	Peshawar & Back	-do-
8.	17/09/2021	Charsadda	Shabqdar & Back	-do-
9.	20/09/2021	Charsadda	Tangi & Back	-do-
10.	23/09/2021	Charsadda	Peshawar & Back	-do-
11.	27/09/2021	Charsadda	Shabqdar & Back	-do-
12.	30/09/2021	Charsadda	Tangi & Back	-do-

M Numan
 (Muhammad Numan)
 District Officer Fisheries
 Charsadda

No. 916-17 /DOF(CHD)/Contingencies/2020-21

Dated 12th November, 2021.

Approved and forwarded to the Director Accounts Officer, Charsadda for information and payments, please.

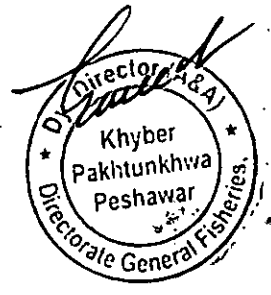
Approved

M Numan
 District Officer Fisheries
 Charsadda

*Director General Fisheries
 Khyber Pakhtunkhwa
 Peshawar*

No = 779 DGF/BYA

dated 17/11/2021



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**TOUR PROGRAM OF MR. MUHAMMAD NAUMAN, DISTRICT OFFICER FISHERIES,
CHARSADDA FOR THE MONTH OF 04/2022**

DATE	FROM	TO	MODE OF JOURNEY	PURPOSE
04-2022	Charsadda	Peshawar & Back	Govt; Vehicle	To checked and discuss Fish Seed size of the Rahu, Grass, Mori for stocking.
04-2022	Charsadda	Tangi & Back	-do-	Visit the area and checked illegal Fishing and private Fish Farms.
04-2022	Charsadda	River Kabul, Swat & Back	-do-	Visit the rivers and checked illegal fishing.
07-04-2022	Charsadda	Shabqadar & Back	-do-	To checked area for the control of illegal fishing, in River Kabul.
11-04-2022	Charsadda	Peshawar & Back	-do-	Attended the DDF Headquarter for the issue of Dam payment.
12-04-2022	Charsadda	Palay & Back	-do-	Visit to Palay Dam and Checked illegal fishing in Tangi Area.
14-04-2022	Charsadda	Rivers & Back	-do-	Checked Illegal Fishing in various rivers in Charsadda.
15-04-2022	Charsadda	Shakh 6 & Back	-do-	Visit the Area and Checked illegal Fishing and Private Fish Farms.
19-04-2022	Charsadda	Shabqadar & Back	-do-	Checked illegal Fishing in the area and river Charsadda.
20-04-2022	Charsadda	River Kabul & Back	-do-	Visit the river and checked illegal fishing.
22-04-2022	Charsadda	River Jindi & Back	-do-	To Checked Illegal fishing in the river.
25-04-2022	Charsadda	Mardan & Back	-do-	Checked Fish size for stocking of Dam and River.
27-04-2022	Charsadda	Peshawar & Back	-do-	Attend the DG Fisheries KPK about issue of stocking.
28-04-2022	Charsadda	Tangi & Back	-do-	Visit private Fish Farms in the area.
29-04-2022	Charsadda	Mohmand Agency & Back	-do-	Discussion with DOF Mohmand about Dam and River Issues.

No. 761 DOF (CHD)

Dated Charsadda the 24/05/2022

Submitted to Director General Fisheries Khyber Pakhtunkhwa Peshawar for favor of approval please.

Ammeed
Out On
Director General Fisheries
Khyber Pakhtunkhwa
Peshawar

[Signature]
DISTRICT OFFICER FISHERIES
CHARSADDA

No. 1869/DGFIBDA

dated 25/05/2022

[Signature]
Dy. Director (A&A)
Khyber
Pakhtunkhwa
Peshawar
Directorate General Fisheries

(57) (38) A (6/18) 411

**TOUR PROGRAM OF MR. MUHAMMAD NAUMAN, DISTRICT OFFICER FISHERIES,
CHARSADDA FOR THE MONTH OF 05/2022**

DATE	FROM	TO	MODE OF JOURNEY	PURPOSE
02-05-2022	Charsadda	Peshawar CH&TC & Back	Govt. Vehicle	To checked and discuss Fish Seed size of the Rahu, Grass, Mori for stocking.
07-05-2022	Charsadda	Shabqadar & Back	-do-	Visit the area and checked illegal Fishing and private Fish Farms.
09-05-2022	Charsadda	Peshawar & Back	-do-	Attended the DDF Headquarter for the issue of Dam payment.
10-05-2022	Charsadda	Tangi & Back	-do-	To checked area for the control of illegal fishing, and Private Fish Farms.
11-05-2022	Charsadda	Mardan & Back	-do-	Attended the DDF Headquarter for the issue of Dam payment.
12-05-2022	Charsadda	Palay & Back	-do-	Visit to Palay Dam and Checked Illegal fishing in Tangi Area.
13-05-2022	Charsadda	River Swat, Kabul & Back	-do-	Checked Illegal Fishing in various rivers in Charsadda.
14-05-2022	Charsadda	Shabqadar & Back	-do-	Visit the Area and Checked illegal Fishing and Private Fish Farms.
16-05-2022	Charsadda	Peshawar & Back	-do-	Attend the DG Fisheries KPK about issue of stocking.
18-05-2022	Charsadda	Mardan & Back	-do-	Checked Fish size for stocking of Dam and River.
19-05-2022	Charsadda	Mardan & Back	-do-	Checked Fish size for stocking of Dam and River.
20-05-2022	Charsadda	Tangi & Back	-do-	Visit the Area and Checked illegal Fishing and Private Fish Farms.
23-05-2022	Charsadda	Peshawar & Back	-do-	Attend the DG Fisheries KPK about issue of stocking.
24-05-2022	Charsadda	Sher Abad, Peshawar & Back	-do-	Checked Fish size for stocking of Dam and River.
26-05-2022	Charsadda	Shabqadar & Back	-do-	Visit the Area and Checked illegal Fishing and Private Fish Farms.
28-05-2022	Charsadda	River Swat, Kabul & Back	-do-	To Checked Illegal fishing in the river.
30-05-2022	Charsadda	Shakh 6 & Back	-do-	Visit private Fish Farms in the area.
31-05-2022	Charsadda	Palay & Back	-do-	Observations in Palay Dam to Check Water level and Other issues.

No. 890 DOF (CHD)

Dated Charsadda the 10/6 /2022

Submitted to Director General Fisheries Khyber Pakhtunkhwa Peshawar for favor of approval please.

Approved
Qasim Khan
Director General Fisheries
Khyber Pakhtunkhwa
Peshawar.

[Signature]
DISTRICT OFFICER FISHERIES
CHARSADDA

[Signature]
Dy. Director (A&A)
Khyber
Pakhtunkhwa
Peshawar
Directorate General Fisheries

(58) (39) A 7/2 (12)

**TOUR PROGRAM OF MR. MUHAMMAD NAUMAN, DISTRICT OFFICER FISHERIES, CHARSADDA FOR THE
MONTH OF 08/2022**

DATE	FROM	TO	MODE OF JOURNEY	PURPOSE
01-08-2022	Charsadda	Peshawar & back to office	Govt. Vehicle	Discussed Dam Matters with Director General Fisheries KP
02-08-2022	Charsadda	Nisatta river Kabul bridge and back	-do-	Monitored Nisatta fisheries field group and their activities in the given area.
03-08-2022	Charsadda	Tangi, Jindi area & back	-do-	Checked field staff activities against illegal fishing in Tangi and Kaniwar area.
04-08-2022	Charsadda	Palay Dam, Abazai & back	-do-	Assessed Palay Dam situation, directed staff to control illegal fishing in Abazai area
08-08-2022	Charsadda	Peshawar & back to office	-do-	Discussed Palay Dam matters with Director (HQ), Peshawar
09-08-2022	Charsadda	Munda headworks & back	-do-	Upon complaints regarding electro-fishing visited Munda headworks area
10-08-2022	Charsadda	Peshawar & back to office	-do-	Meeting with the Director General Fisheries KP
11-08-2022	Charsadda	Nisatta, Dheri zardad area and back	-do-	Visited area and monitored staff activities
15-08-2022	Charsadda	Peshawar & back to office	-do-	Meeting with Deputy Director (HQ), Peshawar
16-08-2022	Charsadda	River Khyali and back	-do-	Visited area and monitored staff activities
18-08-2022	Charsadda	Tangi, Kaniwar and back	-do-	Monitored sites and noticed illegal fishing
19-08-2022	Charsadda	River Kabul & back	-do-	Visit River Kabul and River Swat, Checked illegal fishing with field Staff.
22-08-2022	Charsadda	Peshawar & back to office	-do-	Discussed field related issues with Director General Fisheries KP
24-08-2022	Charsadda	Palay Dam, Abazai and back to office	-do-	Visited Palay and instructed contractor to submit pending liabilities of Palay Dam.
26-08-2022	Charsadda	Peshawar & back to office	-do-	Discussed Dam Matters with Director (HQ).
30-08-2022	Charsadda	Shabqadar and back	-do-	Checked various sites alongside river Kabul and instructed staff to control illegal fishing

No. 1452 DOF (CHD)

Dated Charsadda on 08/9/2022

Submitted to Director General Fisheries Khyber Pakhtunkhwa Peshawar for favor of approval please.

(Signature)
DIRECTOR FISHERIES
 Khyber Pakhtoon Khwa
 Province Peshawar.

(Signature)
DISTRICT OFFICER FISHERIES
 CHARSADDA

(Signature)
 Dy. Director (A&A)
 Khyber
 Pakhtunkhwa
 Peshawar
 Directorate General Fisheries.

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TOUR PROGRAM OF MR. MUHAMMAD NAUMAN, DISTRICT OFFICER FISHERIES, CHARSADDA FOR THE MONTH OF 09/2022

DATE	FROM	TO	MODE OF JOURNEY	PURPOSE
02-09-2022	Charsadda	Peshawar & back to office	Govt. Vehicle	Discussed Official Matters with Director General Fisheries KP
05-09-2022	Charsadda	Tangl, Jindi area & back	do	Checked field staff activities against illegal fishing in Tangl and Kaniwar area
06-09-2022	Charsadda	Palay Dam, Abazai & back	do	Assessed Palay Dam situation, directed staff to control illegal fishing in Abazai area
08-09-2022	Charsadda	Peshawar & back to office	do	Discussed field matters with Director (HQ), Peshawar
12-09-2022	Charsadda	Nisatta and back	do	Visited area and monitored staff activities
13-09-2022	Charsadda	Palay Dam & back	do	Visited area and monitored staff activities
15-09-2022	Charsadda	Peshawar & back	do	Official meeting with Deputy Director (HQ)
19-09-2022	Charsadda	River Kabul & back	do	Visit River Kabul and River Swat, Checked illegal fishing with field Staff.
22-09-2022	Charsadda	Peshawar & back to office	do	Discussed Field related issues with Director General Fisheries KP.
23-09-2022	Charsadda	Nisatta and back	do	Visited area and monitored staff activities
26-09-2022	Charsadda	Shahqadar and back	do	Checked various sites alongside river Kabul and instructed staff to control illegal fishing
28-09-2022	Charsadda	Abazai and back to office	do	Visited area and monitored staff activities
30-09-2022	Charsadda	Peshawar & back to office	do	Discussed field Matters with Director (HQ)

No. 1294 DOF (CHD)

Dated Charsadda the 12/10/2022

Submitted to Director General Fisheries Khyber Pakhtunkhwa Peshawar for favor of approval please.

[Signature]
 Director Fisheries
 Khyber Pakhtunkhwa
 Peshawar

[Signature]
 DISTRICT OFFICER FISHERIES
 CHARSADDA

Enter Cash Book
 P: No.

[Signature]
 Dy. Director (A&A)
 Khyber Pakhtunkhwa
 Peshawar
 Directorate General Fisheries



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(14)

GOVERNMENT OF KHYBER PAKHTUNKHWA
LIVESTOCK, FISHERIES & COOPERATIVE
DEPARTMENT
Civil Secretariat Complex -II (Ex-FATA Sectt.), Warsak Road, Peshawar

Dated Peshawar the May 26, 2023

NOTIFICATION

NO.SO (E)LFC/2-4/2023: The posting/transfer of the following officers of Directorate General Fisheries Khyber Pakhtunkhwa are hereby ordered, in the public interest with immediate effect: -

S.No	Name & Designation of the officers	From	To
1	Muhammad Nauman, Assistant Director Fisheries, (BS-17)	Office of Assistant Director Fisheries, Mardan	Office of Assistant Director Fisheries, Nowshera
2	Mr. Tanveer Shahzad, Assistant Director Fisheries (BS-17)	Office of Assistant Director Fisheries, Swabi	Office of Assistant Director Fisheries Mardan & entrusted lookafter charge of the post of Assistant Director Fisheries, Swabi.
3	Mr. Nasir Khan Assistant Director Fisheries (BS-17)	District Officer Fisheries, Mansehra	District Officer Fisheries, Haripur
4	Mr. Mulazim Hussain Assistant Research Officer (BS-16)	O/O Assistant Director Fisheries, D.I Khan	Against the vacant post of Assistant Director Fisheries (BS-17), South Waziristan on his own pay and scale.

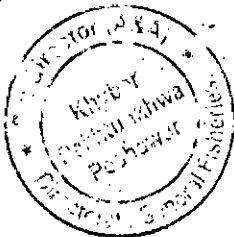
SD/-
SECRETARY
LIVESTOCK, FISHERIES & COOP:
DEPARTMENT

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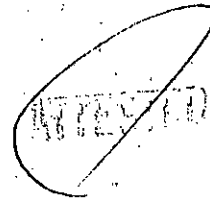
1. Accountant General, Khyber Pakhtunkhwa.
2. Director General Fisheries, Khyber Pakhtunkhwa, Peshawar.
3. District Account Officers, D.I Khan, Haripur, Mardan, Nowshera, Swabi & South Waziristan.
4. PS to Secretary Livestock, Fisheries & Cooperative Department.
5. Officers concerned.
6. Master File.

Waqar Khan
(Waqar Khan) 26.05.23
Section Officer (Estt:)

Sueed





ATTESTED
to be true Copy



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	<p>www.fisheries.kp.gov.pk OFFICE OF THE DISTRICT OFFICER FISHERIES MARDAN Carp Hatchery Charbanda, Mardan ☎ 0937-560040 No. 273-78 /DOF/M</p>	
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Dated: 14/06/2023

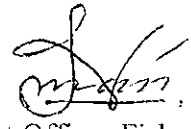
RELINQUISH OF CHARGE

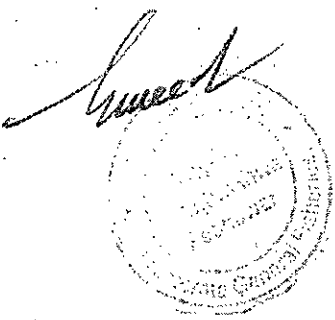
In pursuance of the secretary to the Government of Khyber Pakhtunkhwa Livestock, Fisheries and Cooperative department Notification No. SO (E) LFC/2-4/2023 dated 26-05-2023; I Muhammad Nauman, relinquish the charge of the office of the District Officer Fisheries Mardan on 14/06/2023 (AN).

District Officer Fisheries
Mardan

Copy forwarded for information to:

1. PS to Secretary Livestock, Fisheries & Cooperative Department
2. The Director General Fisheries Khyber Pakhtunkhwa, Peshawar
3. The Deputy Commissioner Mardan
4. The District Comptroller of Accounts, Mardan
5. District Officer Fisheries Mardan (With Charge note and Pending bills detailed note attached please).


District Officer Fisheries
Mardan



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www.fisheries.kp.gov.pk
**OFFICE OF THE DISTRICT OFFICER FISHERIES
NOWSHERA**



No. 2943-48 /DOF/

Dated: 15/06/2023

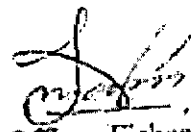
ASSUMPTION OF CHARGE

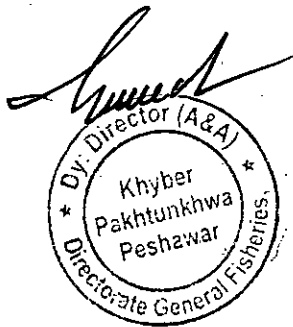
In pursuance of the secretary to the Government of Khyber Pakhtunkhwa Livestock, Fisheries and Cooperative department Notification No. SO (E) LFC/2-4/2023 dated 26-05-2023; I Muhammad Nauman, assumed the charge of the office of the District Officer Fisheries Nowshera on 15-06-2023 (FN).

District Officer Fisheries
Nowshera

Copy forwarded for information to:

1. PS to Secretary Livestock, Fisheries & Cooperative Department
2. The Director General Fisheries Khyber Pakhtunkhwa, Peshawar
3. The Deputy Commissioner Nowshera
4. The District Account officer Nowshera


District Officer Fisheries
Nowshera





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GOVERNMENT OF KHYBER PAKHTUNKHWA
LIVESTOCK, FISHERIES & COOPERATIVE DEPARTMENT
Civil Secretariat Complex-II (Ex-FATA Sectt:), Warsak Road, Peshawar
Ph No: 091-9222752

1960
20/6/23

No.SO (E) LFC/2-4/2023/844
Dated Peshawar June 19th, 2023

To

The Director General,
Fisheries, Khyber Pakhtunkhwa.

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED NOTIFICATION DATED 26.11.2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM THE POST OF ASSISTANT DIRECTOR FISHERIES (BS-17) DISTRICT MARDAN TO THE OFFICE OF ASSISTANT DIRECTOR NOWSHERA PRE-MATURELY AND IN VIOLATION OF THE TRANSFER/POSTING POLICY OF THE PROVINCIAL GOVT.

I am directed to refer to the subject noted above and to enclose herewith a copy of Departmental appeal dated 01.06.2023 addressed to Worthy Chief Secretary, Khyber Pakhtunkhwa by Muhammad Nauman, Assistant Director Fisheries (BS-17), District Mardan which is self-explanatory with the direction to submit comments to proceed further in the matter, please.

Encls: as above

Waqar Khan
(Waqar Khan) 19/6/23
Section Officer (Estt:)

Luice
Dy. Director (A&A)
Khyber Pakhtunkhwa
Peshawar
Directorate General Fisheries

To,

The Worthy Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.

(64)

(18)
2411-P
02-6-23
(8) (2/3)

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED NOTIFICATION DATED 26.11.2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM THE POST OF ASSISTANT DIRECTOR FISHERIES (BPS-17), DISTRICT MARDAN TO THE OFFICE OF ASSISTANT DIRECTOR FISHERIES, NOWSHERA PRE-MATURELY AND IN VIOLATION OF THE TRANSFER/POSTING POLICY OF THE PROVINCIAL GOVERNMENT

Secy, Livestock

Private Secretary
of the Chief Secretary

Respected Sir,

With great reverence it is stated that the appellant is the employee of Livestock, Fisheries & Cooperative Department and is serving as Assistant Director Fisheries, (BPS-17) at Mardan quite efficiently and upto the entire satisfaction of his superiors.

That the appellant while performing his duty as Assistant Director Fisheries (BPS-17) at Charsadda was transferred and posted at the Office of Assistant Director, Mardan vide Notification dated 30.11.2022. That in compliance of Notification dated 30.11.2022 the appellant took over the charge against his respective post at District Mardan and started performing his duty with devotion and with all zeal and zest.

That astonishingly the Worthy Secretary, Agriculture, Livestock, Fisheries & Cooperative Department, Khyber Pakhtunkhwa, Peshawar just after the lapse of hardly six months issued the impugned Notification dated 26.05.2023 whereby the appellant has been transferred from the Office of Assistant Director Livestock, Mardan to the Office of Assistant Director, Nowshera and posted his blue eyed person Mr. Tanveer Shehzad, Assistant Director Fisheries (BPS-17) in place of appellant.

That it is pertinent to mention that Mr. Tanveer Shehzad already completed his normal tenure at the Office of Assistant Director, Mardan with effect from 05.04.2021 to 30.11.2022. That vide Notification dated 30.11.2022 Mr. Tanveer Shehzad, Assistant Director Fisheries was transferred from Mardan to District Swabi and after the lapse of 6 months without completion of his normal tenure at District Swabi once again transferred and posted in District Mardan vide Notification dated 26.05.2023 in violation of law and rules ibid.

That the impugned Notification dated 26.05.2023 is based on malafide intention of the authority concerned which has been just to accommodate his

DS-I
A.A.

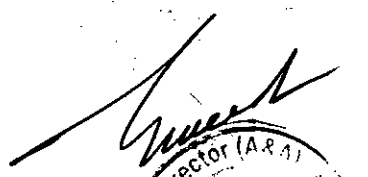
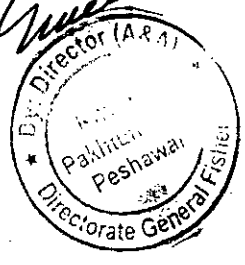
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J.R.

7/6/2023

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Quarantine
24/11/23

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That the impugned Notification dated 26.05.2023 has been in clear violation of Clause-I, IV and XIII of the transfer/posting policy of the Provincial Government which is not tenable and liable to be set aside to the extent of appellant and Mr. Tanveer Shehzad.

That the impugned Notification dated 26.05.2023 is also violative of Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

That the appellant feeling aggrieved from the impugned Notification dated 26.05.2023 preferred the instant departmental appeal before your good self for redressal of the grievances of appellant.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal the impugned Notification dated 26.05.2023 may very kindly be set aside to the extent of appellant and Mr. Tanveer Shehzad and the authority concerned be directed not to transfer the appellant from the Office of Assistant Director Fisheries (BPS-17), District Mardan till completion of his normal tenure. Any other relief which your good self deems fit that may also be awarded in favor of the appellant.

Dated: 01.06.2023.

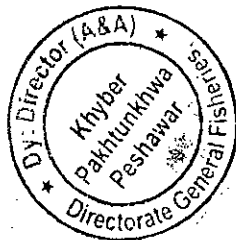
Your sincerely

MUHAMMAD NAUMAN,
Assistant Director Fisheries (BPS-17),
District Mardan

Secretary FC

D. No. 1243

Dated 06-06-23



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SCANNED
KPST
Peshawar

14/2/24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No 1961-P/2023

MUHAMMAD NAUMAN V/S
OTHERS

GOVT. OF KP &

INDEX

S. NO	DOCUMENTS	ANNEXURE	PAGE
1	Reply with affidavit	-----	1-3
2	Notifications & charge report	R, R1 & R2	4-8
3	Vakalatnamah	-----	9

Respondent No.4

Through

NOOR MOHAMMAD KHATTAK
ADVOCATES SUPREME COURT

15-02-2024

(67)

-/-

SCANNED
KPST
Peshawar

14/2/24

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

Appeal No 1961-P/2023

MUHAMMAD NAUMAN V/S GOVT. OF KP & OTHERS

REPLY ON BEHALF OF THE RESPONDENT NO.4

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11131

Dated 14-02-24

R/SHEWETH:

Preliminary Objections:

- i. The appellant has got no cause of action to file the instant service appeal.
- ii. The appellant has no locus standi to file the instant service appeal.
- iii. The instant appeal is baseless, frivolous and concocted, based on malafide intentions for ulterior motives, hence not tenable at all.
- iv. The appellant is estopped by his own conduct to file the instant service appeal.
- v. The appellant has concealed material facts from this Honorable Tribunal while filing the instant service appeal.
- vi. The instant service appeal is not maintainable in its present form.
- vii. The appeal in hand is also time-barred, hence cannot proceed further.
- viii. The appellant has not come to this Honourable Tribunal with clean hands.

ON FACTS:

- 1- Para No. 1 of the appeal is admitted as correct.
- 2- Para No. 2 of the appeal is incorrect, hence denied. The appellant was transferred by the official respondents after completion of his normal tenure at District Shangla because vide Notification dated 15.7.2022 the private respondent No.4 was transferred by the competent authority from the Post of Assistant Director Malakand to District Shangla and in compliance of the ibid notification the private respondent No.4 took over the charge of the said post. That upon completion of the normal tenure at District Shangla the replying respondent was transferred to the post of Assistant Director Fisheries, Mardan vide Notification dated 5.12.2023, in compliance of the ibid notification the replying respondent submitted his charge report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copies of the Notifications and charge report are attached as annexure **R, R1 and R2.**
- 3- Incorrect and misconceived. That the replying respondent after completion of his tenure at hard area of District Shangla was rightly transferred to District Mardan. Beside this as per section-10 of the Civil Servant Act, 1973 every civil servant is liable to serve the Department where posted by the competent authority, therefore the instant appeal of the appellant is not maintainable on this score alone.
- 4- Para No. 4 of the appeal is incorrect, hence denied. The rules and the judgments are not attracted to the instant case.
- 5- Para No. 5 of the appeal is incorrect, hence denied.

ON GROUNDS:

- A Para A of ground is incorrect. The detail reply has already been given in the preceding Paras No 1, 3 & 5 above.
- B. Para B of ground is incorrect. The FIR dated 10/05/2023 mentioned in the instant para, which was lodged against the MNA'S/MPA'S has no concerned with the appointment process of the Fisheries Department, District Mardan, as no

interference/ involvement of any such MNA'S/MPA's in the recruitment process was found in the record of the Fisheries Department, District Mardan, therefore the nomination of Respondent No 04 in the said FIR is not understandable. However, the scenario behind the posting/transfer of the appellant has been explained above in Para-01, Para-03 & Para-05 of the reply on the facts.

- C. Para C of ground is incorrect. The detail reply has already been given in the preceding Paras No 1, 3 & 5 above of the facts.
- D. Para D of ground is incorrect. The detail reply has already been given in the preceding Paras No 1, 3 & 5 above of the facts.
- E The answering respondents will also raise additional grounds at the time of arguments.

It is therefore requested that on acceptance of the Instant para wise comments, the appeal of the appellant may kindly be dismissed.


Respondent No. 4

Through


NOOR MOHAMMAD KHATTAK

Advocate Supreme Court

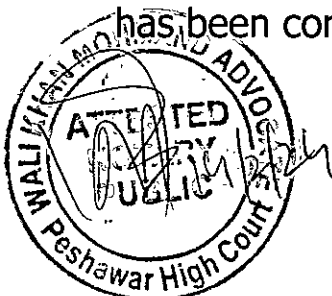
&


Mahmood Jan

Advocate High Court

AFFIDAVIT

I, Muhammad Israil, Respondents No.4, do hereby solemnly affirm that the contents of this **REPLY** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.




RESPONDENT

70

"R" - 4-



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK, FISHERIES & COOPERATIVE
DEPARTMENT

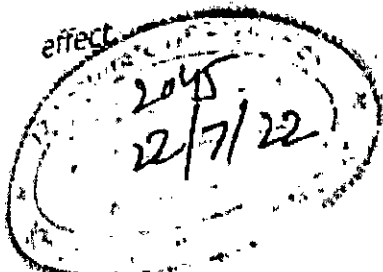
Dated Poshawar the 15th July, 2022

NOTIFICATION:

NO. SO (LFC) AD-DF-3(12)/2020:-

Fisheries (BS-17 a.c.b), Malakand is hereby transferred and posted as Assistant Director Fisheries (BS-17 a.c.b) Shangla, Fisheries Department in the Public Interest with immediate effect.

Mr. Muhammad Israil, Assistant Director Fisheries (BS-17 a.c.b) Shangla, Fisheries Department in the Public Interest with immediate effect.



SD/-
**SECRETARY AGRICULTURE,
LIVESTOCK, FISHERIES & COOP:
DEPARTMENT**

**Ends. No. & date of Even.
Copy forwarded to the:-**

1. The Director General, Fisheries Khyber Pakhtunkhwa for information
2. District Account Officer Malakand & Shangla.
3. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperatives Department.
4. Officer Concerned.
5. Master file.

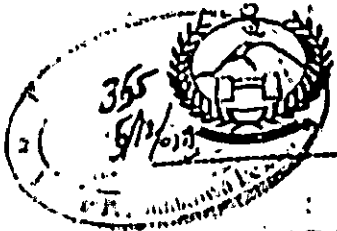
**(AHMAD HUSSAIN)
SECTION OFFICER (LFC)**

ATTEST

71

R/1

5-



GOVERNMENT OF KHYBER PAKHTUNKHWA
LIVESTOCK, FISHERIES & COOPERATIVE
DEPARTMENT

Civil Secretariat Complex -II (Ex-FATA SectL), Warsak Road, Peshawar

Dated Peshawar the December 05, 2023/648

NOTIFICATION

NO.SO (E)LFC/2-4/2023;

The posting/transfer of the following officers of Directorate General Fisheries Khyber Pakhtunkhwa are hereby ordered, in the public interest with immediate effect: -

S.No	Name & Designation of the officers	From	To
1	Mr. Tanveer Shehzad, Assistant Director Fisheries (BS-17).	Assistant Director Fisheries Mardan & lookafter charge of the post of Assistant Director Fisheries, Swabi.	Assistant Director Fisheries, Swabi.
2	Muhammad Israil, Assistant Director Fisheries (BPS-17) on acting charge basis.	Assistant Director Fisheries, Shangla.	Assistant Director Fisheries, Mardan.
3	Muhammad Miraj, Assistant Research Officer (BPS-16).	Assistant Research Officer office of Assistant Director Fisheries, Shangla.	Assistant Director Fisheries, Shangla (OPS).

SD/-
SECRETARY
LIVESTOCK, FISHERIES & COOP:
DEPARTMENT

Copy forwarded to the:-

1. Director General Fisheries, Khyber Pakhtunkhwa, Peshawar.
2. District Account Officers, Mardan, Shangla and Swabi.
3. PS to Secretary Livestock, Fisheries & Cooperative Department.
4. Officers concerned.
5. Master File.

Waqar Khan
(Waqar Khan)
05/12/23
Section Officer (Estt:)

Endst: No. Estt: 0643-48 /DGF/Estt:

Dated Peshawar the 05 /12/2023.

Copy of the above is forwarded for information and necessary action to:-

- 1- The District Accounts Officer, Mardan, Swabi & Shangla.
- 2- The Director Fisheries Shangla.
- 3- The Assistant Director Fisheries, Mardan.
- 4- The Assistant Director Fisheries, Swabi.
- 5- The Assistant Director Fisheries, Shangla.
- 6- Officers concerned.

ATTESTE

DIRECTOR GENERAL FISHERIES
KHYBER PAKHTUNKHWA
PESHAWAR

72

"R/2" - 6-



OFFICE OF THE DISTRICT OFFICER FISHERIES MARDAN

Phone No: 0937-560040 Email: dofisheriesmrd6198@gmail.com

No. 498-502-A
DOF/M Dated Mardan the 07/12/2023

CHARGE ASSUMPTION

In compliance with the office order no. SO(E) LFC/2-4/2023, Dated 05/12/2023-648 of the Secretary to the Government of Khyber Pakhtunkhwa, Livestock, Fisheries and Cooperative Department.

I, Mr. Muhammad Israil, hereby assume the charge of the post of Assistant Director Fisheries/ District Officer Fisheries District Mardan today on 06/12/2023 (FN).

Sd/-
MUHAMMAD ISRAIL
DISTRICT OFFICER FISHERIES
MARDAN

Copy to;



- Director General Fisheries Khyber Pakhtunkhwa Peshawar
- Deputy Commissioner Mardan
- District Comptroller of Accounts Mardan
- National Bank Mardan
- Personal File


DISTRICT OFFICER FISHERIES
MARDAN


ATTESTE!

73

-7-

	<p>www.fisheries.kp.gov.pk OFFICE OF THE DISTRICT OFFICER FISHERIES MARDAN Carp Hatchery Charbanda, Mardan ☎ 0937-560040 No. 273-78/DOF/M</p>	
	Dated: 14/06/2023	

RELINQUISH OF CHARGE

In pursuance of the secretary to the Government of Khyber Pakhtunkhwa Livestock, Fisheries and Cooperative department Notification No. SO (E) LFC/2-4/2023 dated 26-05-2023; I Muhammad Nauman, relinquish the charge of the office of the District Officer Fisheries Mardan on 14-06-2023 (AN).

District Officer Fisheries
Mardan

Copy forwarded for information to:

1. PS to Secretary Livestock, Fisheries & Cooperative Department
2. The Director General Fisheries Khyber Pakhtunkhwa, Peshawar
3. The Deputy Commissioner Mardan
4. The District Comptroller of Accounts, Mardan
5. District Officer Fisheries Mardan (With Charge note and Pending bills detailed note attached please).

ATTEST


District Officer Fisheries
Mardan

74

-8-

RELINQUISH OF CHARGE.

In compliance with the Government of Khyber Pakhtunkhwa, Livestock, Fisheries and Cooperative Department Notification No. SO (E) LFC/2-4/2023, Dated 05/12/2023. -648-

I Mr. Muhammad Israil hereby relinquished the charge of the post of Assistant Director Fisheries/District Officer Fisheries District Shangla today on 05/12/2023 (AN).

SD/-
MUHAMMAD ISRAIL
DISTRICT OFFICER FISHERIES
SHANGLA.

No. 1075-79 /DOF/SH:

Dated: 05 /12/2023.

Copy forwarded for information and necessary action to:

- The Director General Fisheries Khyber Pakhtunkhwa Peshawar Please.
- The Deputy Commissioner District Shangla Please.
- The Director Fisheries Shangla.
- The District Accounts Officer Shangla Please.
- Personal file.

ATTESTE


DISTRICT OFFICER FISHERIES
SHANGLA.

75

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No 1961/2023

M. Nouman

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt of KPK

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Israel (Private Respondent)

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ___/___/202

CLIENT Mr. Israel

ACCEPTED

Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

Waleed Adnan
WALEED ADNAN

Umar Farooq Mohmand
UMAR FAROOQ MOHMAND

Muhammad Ayub
MUHAMMAD AYUB

&

Mahmood Jan
MAHMOOD JAN
ADVOCATES

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)

76
WAKALAT NAMA

IN THE COURT OF KP Service Tribunal Peshawar

Muhammed Nauman

Appellant(s)/Petitioner(s)

SCANNED
KPST
Peshawar

VERSUS

The Govt and others

Respondent(s)

I/We Applicant do hereby appoint
Mr. Khaled Rehman, Advocate, Supreme Court & **Mr. Muhammad Ghazanfar Ali**, Advocates in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

Signature of Executants

&

Muhammad Ghazanfar Ali
Advocate, High Court

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458