

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.734/2024.

Mr. Amir Shahzad, Naib Tehsildar under transfer from Dalazak District Peshawar.

(Appellant)

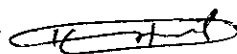
Versus

1. The Senior Member Board of Revenue Khyber Pakhtunkhwa.
2. The Commissioner Peshawar Division Peshawar.
3. Mr. Miraj Khan (Girdawar BS-11) under transfer as Naib Tehsildar (OPS) to Dalazak District Peshawar.

(Respondents)

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S.No.	Description of documents	Annex
1.	Authority letter	A
2.	Affidavit	B
3.	Reply of appeal	C
4.	Copy of service appeal of the appellant	D
5.	Board of Revenue Khyber Pakhtunkhwa Order regarding placing services of Mr. Miraj Khan (NT OPS) at the disposal of this office.	E
6.	Transfer order of the appellant	F

Depemt  


28-06-24

S. B  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.734/2024.

Mr. Amir Shahzad, Naib Tehsildar under transfer from Dalazak District Peshawar.

**(Appellant)**

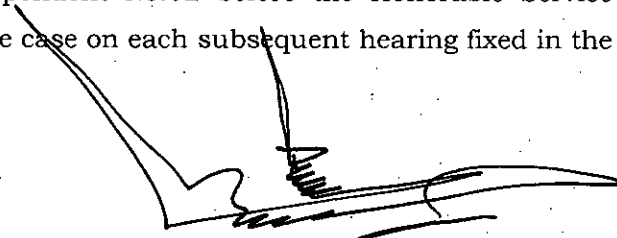
Versus

1. The Senior Member Board of Revenue Khyber Pakhtunkhwa.
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3. Mr. Miraj Khan (Girdawar BS-11) under transfer as Naib Tehsildar (OPS) to Dalazak District Peshawar.

**(Respondents)**

**AUTHORITY LETTER**

Mr. Khalid Hameed (Superintendent BPS-17) is hereby authorized to submit reply on behalf of Respondent No.01 and Respondent No.02 before the Honorable Service Tribunal Khyber Pakhtunkhwa and to pursue the case on each subsequent hearing fixed in the case till finalization of the case.

  
**(Riaz Khan Mahsud)**  
**Commissioner**  
**Peshawar Division Peshawar**  
**(Respondent No.2)**

2

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.734/2024.

Mr. Amir Shahzad, Naib Tehsildar under transfer from Dalazak District Peshawar.

**(Appellant)**

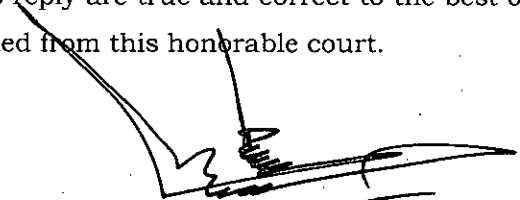
Versus

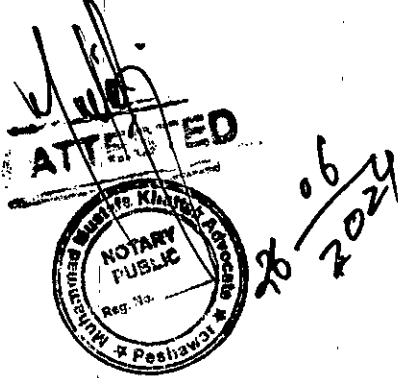
1. The Senior Member Board of Revenue Khyber Pakhtunkhwa.
2. The Commissioner Peshawar Division Peshawar.
3. Mr. Miraj Khan (Girdawar BS-11) under transfer as Naib Tehsildar (OPS) to Dalazak District Peshawar.

**(Respondents)**

**AFFIDAVIT**

I, Riaz Khan Mahsud (Commissioner Peshawar Division) do hereby solemnly affirm and declare on oath 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.

  
**(Riaz Khan Mahsud)**  
Commissioner  
Peshawar Division Peshawar  
**(Respondent No.2)**



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.734/2024.

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Versus

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3. Mr. Miraj Khan (Girdawar BS-11) under transfer as Naib Tehsildar (OPS) to Dalazak District Peshawar.

**(Respondents)**

**COMMENTS ON BEHALF OF RESPONDENT NO.1 (SENIOR MEMBER BOARD OF REVENUE KHYBER PAKHTUNKHWA) AND RESPONDENT NO.2 (COMMISSIONER PESHAWAR DIVISION PESHAWAR).**

Preliminary objection:

1. That the appellant has got no cause of action to file instant appeal.
2. That the appeal is bad for misjoinder and non joinder of necessary parties.
3. That the appeal of the appellant is premature.
4. That the appeal is barred by law.

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 13805

Dated 26-06-2024

Joint Para wise comments in the subject appeal are as under:

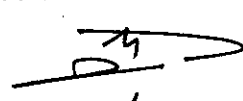
1. Para 1 of the appeal pertains to record.
2. Incorrect. The appellant was posted as Tehsildar (OPS) Shah Alam.
3. Incorrect. The appellant was found in committing acts in gross violation of laws and policies of the Government during his posting as Tehsildar (OPS) Shah Alam which are under inquiry and the Senior Member Board of Revenue Khyber Pakhtunkhwa has been requested for initiating disciplinary proceedings against him under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. The appellant has been treated as per law and no violation of posting / transfer policy has been made.
4. Incorrect. The appellant has been treated as per law.
5. The appellant has got no cause of action to file instant appeal.

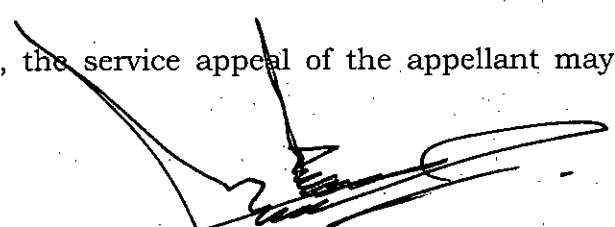
**Grounds:**

- A. Incorrect. The order has been issued according to law on merit.
- B. Incorrect. Posting / transfer of revenue officials is part and parcel of the job and is made at any time in public interest. There is no provision in the rules that the incumbent officer / official shall remain posted for 02 years.
- C. Incorrect. No violation of any law / rules has been made.
- D. Incorrect. The appellant has been treated as per law and no violation of posting / transfer policy has been made.

- 4
- E. Incorrect. No violation of any law / rules has been made. The services of Mr. Miraj Khan was placed at the disposal of this office by the competent authority in Board of Revenue Khyber Pakhtunkhwa i.e. Senior Member Board of Revenue Khyber Pakhtunkhwa for further posting as Naib Tehsildar in Peshawar Division.
- F. Incorrect. No violation of any law / rules has been made. The appellant just wants to gain sympathies of the Honorable Tribunal.
- G. Pertains to record.
- H. In correct. The posting / transfer of the appellant is made according to rules and no law / rules have been violated. The appellant in the instant case is under inquiry for violation of rules / policies of the Provincial Government.
- I. Incorrect. The order has been issued according to law on merit. There is no political motives involved in the instant case. The appellant may be asked to come up with proof and shall not waste the precious time of this Honorable Tribunal by mere assumptions.

Keeping in light the above facts, the service appeal of the appellant may very graciously be dismissed on merit.

  
**(Ikram Ullah Khan)**  
**Senior Member**  
**Board of Revenue**  
**Khyber Pakhtunkhwa**  
**(Respondent No.1)**

  
**(Riaz Khan Mahsud)**  
**Commissioner**  
**Peshawar Division Peshawar**  
**(Respondent No.2)**

L

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.734/2024.

Mr. Amir Shahzad, Naib Tehsildar under transfer from Dalazak District Peshawar.

(Appellant)

Versus

- 1. The Senior Member Board of Revenue Khyber Pakhtunkhwa.
- 2. The Commissioner Peshawar Division Peshawar.
- 3. Mr. Miraj Khan (Girdawar BS-11) under transfer as Naib Tehsildar (OPS) Dalazak District Peshawar.

(Respondent)

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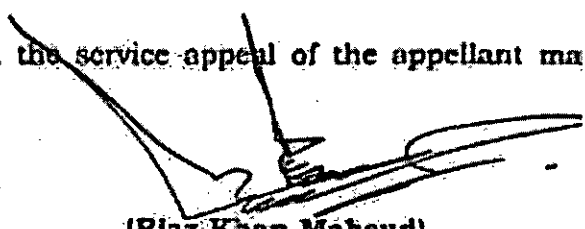
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- 4. Incorrect. The appellant has been treated as per law.
- 5. The appellant has got no cause of action to file instant appeal.

Grounds:

- A. Incorrect. The order has been issued according to law on merit.
- B. Incorrect. Posting / transfer of revenue officials is part and parcel of the and is made at any time in public interest. There is no provision in rules that the incumbent officer / official shall remain posted for 02 year.
- C. Incorrect. No violation of any law / rules has been made.
- D. Incorrect. The appellant has been treated as per law and no violation of posting / transfer policy has been made.

- E. Incorrect. No violation of any law / rules has been made. The services of Mr. Miraj Khan were placed at the disposal of this office by the competent authority in Board of Revenue Khyber Pakhtunkhwa i.e. Senior Member Board of Revenue Khyber Pakhtunkhwa for further posting as Na Tehsildar in Peshawar Division.
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- H. Incorrect. The posting / transfer of the appellant is made according to rules and no law / rules have been violated. The appellant in the instant case is under inquiry for violation of rules / policies of the Provincial Government.
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Keeping in light the above facts, the service appeal of the appellant may be graciously be dismissed on merit.



(Ikram Ullah Khan)  
 Senior Member  
 Board of Revenue  
 Khyber Pakhtunkhwa  
 (Respondent No.1)

(Riaz Khan Mahsud)  
 Commissioner  
 Peshawar Division Peshawar  
 (Respondent No.2)

*Verified  
 subject to the  
 attachments of all the  
 documents, notes, Affidavits  
 and corrections*

*[Signature]*  
 Additional Advocate General  
 Khyber Pakhtunkhwa  
 Peshawar Tribunal Peshawar

A  
D  
Feb  
8. 2024

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.



APPEAL NO...734...../2024

Mr. Amir Shahzad Naib Tehsildar under Transfer from Dalazak  
District Peshawar

(Appellant)

VERSUS

Khyber Pakhtunkhwa  
Service Tribunal

File No. 13085

Date 30/5/24

1. The Senior Member Board of Revenue Khyber Pakhtunkhwa at Peshawar.
2. The Commissioner Peshawar Division Peshawar.
3. Mr. Mairaj Khan (Girdawar BS-11) under transfer as Naib Tehsildar (OPS) to Dalzak District Peshawar.

(Respondents)

SERVICE APPEAL UNDER SECTION 04 OF  
THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT 1974 AGAINST THE  
IMPUGNED TRANSFER ORDER DATED  
21/05/2024 WHEREBY THE APPELLANT HAS  
BEEN PREMATURELY TRANSFERRED FROM  
THE POST OF NAIB TEHSILDAR DALAZAK  
DISTRICT PESHAWAR AND PRIVATE  
RESPONDENT NO 03 MR.MAIRAJ KHAN  
(GIRDAWAR BS-11) WAS POSTED AGAINST  
THE POST OF NAIB TEHSILDAR DALAZAK  
DISTRICT PESHAWAR ON THE BASIS OF  
OWN PAY SCALE(OPS) FROM ANOTHER  
BY THE COMMISSIONER

Filed today

Registrar  
30/5/24

M

TESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



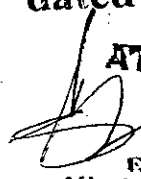
D

**AUTHORITY IN UTTER VIOLATION OF LAW,  
RULES AND AGAINST THE TRANSFER  
POSTING POLICY OF THE PROVINCIAL  
GOVERNMENT.**

**Respectfully Sheweth:**

The appellant submits as under;

1. That the appellant is serving as Naib Tehsildar (BS-14) and since his appointment the appellant performed his duty with great zeal, zest, honesty and to the entire satisfaction of his high ups.
2. That the appellant was previously posted at the Commissioner office Peshawar and vide order dated 28/03/2024 the Commissioner Peshawar posted the appellant as Naib Tehsildar Dalazak District Peshawar therefore the appellant in implementation of the order submitted arrival report and started performing his duties in accordance with law and rules. (Copy of the transfer/posting order dated 28/03/2024 is annexed A)
3. That The appellant was shocked to see that the appellant has been prematurely transferred and an out cadre official Mr Mr. Mairaj Khan (Girdawar BS-11) was posted against the post of Naib Tehsildar Dalazak District Peshawar on the basis of OWN PAY SCALE (OPS) from another Circle by the Commissioner Peshawar without any lawful authority in utter violation of law, rules and Transfer Posting Policy of the Provincial Government vide Order dated 21/05/2024. (Copy of the impugned order dated 21/05/2024 is annexed as annexure B)

**ATTESTED**  
  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

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4. That the appellant feeling aggrieved from the impugned order dated 21/05/2024 has filed departmental appeal before respondent No 01 however the same was rejected in a cursory manner through a non-speaking order dated: 30-05-2024. (Copies of the Departmental Appeal & impugned order dated 30-5-2024 are annexure C & D)

5. That the appellant has no other adequate remedy against the impugned orders dated 21/05/2024 and 30-5-2024, hence filing the instant Service Appeal on the following grounds:

**GROUND:**

- A. That the impugned orders dated 21/05/2024 and 30-05-2024 are against the law, rules Principles of Natural justice, hence void ab initio, is not sustainable under the law.
- B. That as per Transfer Posting Policy of Provincial Government normal tenure on a post of a civil servant is 2 years however the appellant has been made a rolling stone and after service of one and a Half moth was transferred prematurely in utter violation of the Ibid policy.
- C. That as per judgment of superior courts the authority given to any official shall be exercised as a public trust and in accordance with law and rules however the impugned orders dated 21/05/2024 and 30-05-2024 are an example of colourful exercise of powers in violation of law and Rules.
- D. That the appellant is entitled to be treated equally in accordance with transfer posting policy however the appellant has been discriminated by transferring him prematurely which

ATTESTED

EXAMINER

Khyber Pakhtukhwa

10

D

is violation of Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- E. That the private respondent who is a non cadre employees and not even a regular Naib Tehsildar has been posted on OPS which has no legal backing therefore in violation of law and rules the impugned order has been issued.
- F. That the Honourable Tribunal various appeals filed by Tehsildar /Naib Tehsildar( OPS) directed for posting regular Tehsildar/Naib Tehsildar respectively against their posts instead of posting on OPS however the impugned orders has been issued in violation and disregards of the direction of the Tribunal.
- G. That the Apex Court in a reported judgment 2018 SCMR 1411 declared transfer posting on the basis of OPS as Illegal.
- H. As per reported judgment of Supreme Court of Pakistan 2018 SCMR 1411(b) , Section 10 of the Baluchistan Civil Servant 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.
- I. That the impugned orders are political motivated hence liable to be set-aside on the sole ground.

ST

Prayers:

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL THE IMPUGNED PREMATURE, ILLEGAL TRANSFER POSTING ORDERS DATED 21/05/2024 & 30-05-2024, MAY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE POSTED AND THE APPELLANT MAY KINDLY BE ALLOWED TO CONTINUE HIS SERVICES ON THE POST OF NAIB TEHSILDAR DALAZAK DISTRICT PESHAWAR.

ANY OTHER REMEDY WHICH THIS HON'BLE TRIBUNAL DEEMS FIT IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE AWARDED IN FAVOR OF THE APPELLANT.

Dated:30/05/2024

Appellant

Through

Naila Jan

Advocate Supreme Court Of Pakistan

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Appeal No. 734/2024  
Amir Shahzad vs Govt

31.05.2024 1.

Learned counsel for the appellant present and argued that appellant was prematurely transferred vide impugned order 21.05.2024. Earlier he was transferred and posted as Naib Tehsildar Dalazak vide order dated 28.03.2024. He further argued that in accordance with posting/transfer policy of Provincial Government normal tenure to hold a post is two years and there was no urgency of service or public interest involved in the impugned transfer order as appellant was working on the post without any complaint from any corner. He further argued appellant was transferred just after one and half month of his posting due to outside political interference. Appellant filed departmental on 22.05.2024 which was filed on 30.05.2024. Points raised need consideration. Instant appeal is admitted for full hearing subject to all just and legal objections. Appellant is directed to deposit security fee within seven days, thereafter, notice be issued to the respondents for submission of written reply/comments. Respondents be summoned through TCS, the expenses of which be deposited by the appellant within a three days. To come up for written reply/comments on 12.06.2024 before S.B. P.P given to learned counsel for appellant.



RECORDED  
INDEXED  
PESHAWAR

2. Alongwith the appeal there is an application for suspension of operation of impugned order dated 21.05.2024. Notice of this application be issued to the respondents. In the meanwhile, the operation of impugned order is suspended, if not acted upon earlier.

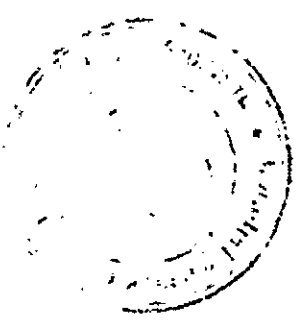
**ATTESTED**


EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(Rashida Bano)  
Member (J)

~~Date of Presentation of Application \_\_\_\_\_  
 Number of Words \_\_\_\_\_  
 Copying Fee \_\_\_\_\_  
 Urgent \_\_\_\_\_  
 Total \_\_\_\_\_  
 Name \_\_\_\_\_  
 Date of Completion of Copy \_\_\_\_\_  
 Date of Delivery of Copy \_\_\_\_\_~~

Date of Presentation of Application 31-5-24  
 Number of Words 67  
 Copying Fee 50/-  
 Urgent 50/-  
 Total 100/-  
 Name of Copyholder \_\_\_\_\_  
 Date of Completion of Copy 31-5-24  
 Date of Delivery of Copy 31-5-24



	<b>GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE &amp; ESTATE DEPARTMENT. (Establishment Section)</b>	
	091-9213989	Peshawar Dated the <u>10</u> /05/2024

**ORDER**

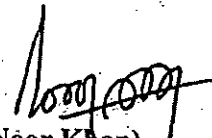
No. Estt:V/PF/Miraj Khan/NT (OPS)\_\_\_\_\_ The services of Mr. Miraj Khan Naib Tehsildar (OPS) waiting for posting in Board of Revenue is hereby placed at the disposal of Commissioner Peshawar Division with the immediate effect in best public interest.

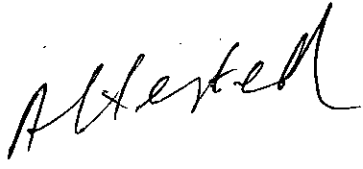

By order of  
Senior Member

No. Estt:V/PF/Miraj Khan/NT (OPS) 10959-63

Copy forwarded to the :-

1. Commissioner Peshawar Division.
2. Accountant General Peshawar .
3. SPS to Senior Member Board of Revenue.
4. PS to Member-III, Board of Revenue.
5. Bill Assistant Board of Revenue.

  
 (Noor Khan)  
 Assistant Secretary (Estt)



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**OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR**

**OFFICE ORDER**

The following postings / transfers of Tehsildar / Naib Tehsildars in Peshawar Division are hereby ordered with immediate effect in the best public interest:-

S.#	Name of Officials	From	To
1.	Mr. Saëed Ullah Tehsildar	Tehsildar Jehangira	Tehsildar Reconciliation Peshawar
2.	Mr. Zardad Khan Tehsildar (OPS)	Tehsildar Pabbi (OPS)	Tehsildar City (OPS)
3.	Mr. Abdul Karim Tehsildar	Tehsildar Tangi	Report to this office
4.	Mr. Bilal Khattak Tehsildar	Tehsildar Saddar	Tehsildar Jehangira
5.	Syed Fazal e Dayan Naib Tehsildar	Naib Tehsildar Prang Ghar	Tehsildar Pabbi (OPS)
6.	Mr. Miraj Khan Naib Tehsildar (OPS)	Waiting for posting	Naib Tehsildar Dalazak
7.	Mr. Amir Shahzad Naib Tehsildar	Naib Tehsildar Dalazak	Report to this office
8.	Mr. Khalid Khan Naib Tehsildar	Naib Tehsildar Mathra	Tehsildar Tangi (OPS)
9.	Mr. Roshan Lal Naib Tehsildar	Tehsildar Reconciliation (OPS)	Tehsildar Saddar (OPS)
10.	Syed Tajamul Shah Kanungo	Deputy Commissioner Office Peshawar	Naib Tehsildar Mathra (OPS)
11.	Mr. Siyar Ahmad Naib Tehsildar (OPS)	Naib Tehsildar Ambar (OPS)	Naib Tehsildar Halimzai (OPS)
12.	Mr. Tehseen Ullah Naib Tehsildar	Naib Tehsildar Halimzai	Report to this office
13.	Mr. Mohammad Asad Hussain Naib Tehsildar	Waiting for posting	Naib Tehsildar Prang Ghar. He shall also hold the additional charge of Tehsildar Mohmand Dam.

-sd-  
**COMMISSIONER  
PESHAWAR DIVISION PESHAWAR**

No: 6/7/EA/2024/1/5179-89

Dated 21.05.2024

Copy forwarded to:

1. Senior Member Board of Revenue Khyber Pakhtunkhwa.
2. Accountant General Khyber Pakhtunkhwa.
3. All Deputy Commissioners in Peshawar Division.
4. PS to Commissioner Peshawar Division.
5. Officials concerned for compliance.

**ASSISTANT TO COMMISSIONER (REV/GA)  
PESHAWAR DIVISION PESHAWAR**





**OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR**

**OFFICE ORDER**

The following postings / transfers of Tehsildar / Naib Tehsildar in Peshawar Division are hereby ordered with immediate effect in the best public interest:-

S.#	Name of Officials	From	To
1.	Mr. Muhammad Jamil Naib Tehsildar	Naib Tehsildar Dalazak	Report to this office
2.	Mr. Amir Shahzad Naib Tehsildar	Waiting for posting	Naib Tehsildar Dalazak
3.	Mr. Shahid Shah Naib Tehsildar	Naib Tehsildar CI.CP, Khyber	He is authorized to hold the additional charge of the post of Additional Tehsildar Bagh/Tirah

-sd-  
**COMMISSIONER  
PESHAWAR DIVISION PESHAWAR**

No: 6/7/EA/2024/1/2828-33

Dated 28.03.2024

Copy forwarded to:

1. Senior Member Board of Revenue Khyber Pakhtunkhwa.
2. Accountant General Khyber Pakhtunkhwa.
3. The Deputy Commissioners Peshawar and Khyber Districts.
4. PS to Commissioner Peshawar Division.
5. Officials concerned for compliance.

**SECRETARY TO COMMISSIONER  
PESHAWAR DIVISION PESHAWAR**

*Attested*