BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No 734/2024

AMIR SHAHZAD

V/S

GOVT. OF KP & OTHERS

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Respondent No. 3

Through

NOOR MOHAMMAD KHATTAK ADVOCATES SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No 734/2024

AMIR SHAHZAD

V/S GOVT. OF KP & OTHERS

REPLY ON BEHALF OF THE PRIVATE RESPONDENT NO. 3.

R/SHEWETH:

Khyber Pakhtukhwa Service Tribunal

mared 64-07-24

ON FACTS:

The respondent No. 3 submits as under:-

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. That as per section -10 of the Civil servant Act, 1973 the appellant is bound to serve the Department where posted by the authority.
- ix. The appellant has not come to this Honourable Tribunal with clean hands.

ON FACTS:

- **1-** Para No. 1 of the appeal pertains to record, hence needs no comments.
- **2-** Para No. 2 is incorrect. That in response to the transfer order the private respondent took over the charge of the ibid post and

- - 3- Para No. 3 of the appeal is incorrect, hence denied. As per posting transfer policy of the Provincial Government Tehsildar shall not be posted in the District of his domicile while a Naib Tehsildar shall not be posted in his home tehsil. That as per record the appellant is the bonafide resident of District Peshawar, therefore in light of the ibid policy the appellant cannot claim his posting at Peshawar. Copy of Policy dated 09/01/2020 is attached as annexure.
 - **4-** Para No. 4 of the appeal pertains to official respondents, hence they will be in better position to address it. Moreover under section-10 of the Civil Servant Act, 1973 the appellant cannot claim his choice posting rather the appellant is bound to serve the Department where posted by the authority.
 - **5-** Para No. 5 of the appeal being factual, needs no comments.

ON GROUNDS:

- A In reply to Para A of ground, it is submitted that posting/transfer is the domain of the Government, hence no comments.
- **B.** In reply to Para B of ground, it is submitted that there is a well-defined specific posting transfer policy pertains to revenue staff and deviation from the standing instructions of the Govt: is strictly restricted.
- C. In reply to Para C of ground, it is submitted that the Govt: has vested and exclusive authority to post a suitable person at a right place. In this respect Section 10 of the Civil Servant Act, 1973 is very much clear on the subject.
- **D-E.** In reply to Paras D & E of ground, it is submitted that posting transfer of a civil servant from one station to another is part and parcel of the Civil Service, hence no discrimination has been meted out.
- F In reply to Para F it is submitted that as per job description both the officials deal with revenue matters, hence can be posted against each other in the field.

- In reply to Para G it is submitted that as per general posting policy a civil servant can be posted even in OPS to be in the Public Interest.
 - **H** Para H of grounds, as explained in the preceding Para.
 - In reply to Para I of the ground it is submitted that from bare reading of the text of the transfer order there seems no political motivation, rather the posting/transfer was made by the Government merely in the public interest.

It is therefore most humbly prayed that on acceptance of the Instant para wise written reply on behalf of private respondent, the appeal of the appellant may kindly be dismissed with cost.

Respondent No.3

MIRAJ KHAN

Through:

NOOR MOHAMMAD/KHATTAK

Advocate Supreme Court

Waleed Adnan Advocates High Court

AFFIDAVIT

I, Miraj Khan, (private respondent No 3, 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 Hoperable Court.

DEPONENT

"R" -4-

CHARGE ASSUMPTION REPORT

In pursuance of the order of winthy Commissioner Peshawar Division Peshawar issued order No. 6/7/EA/2024/15) 70-89, Dated 21° April, 2024, I Mirai Khan hereby autimitted Arrival Report us Naib Tehsildar (Dalazak), Peshawar today on 23/05/2024 (A.N).

Miraj Khan Naih Tehsildar (Dalazak), Peshawar

Endst No. <u>284--8----</u>/ NTD Copy to:

Dated: 23/05/2024

- 1. Senior Member Board of Revenue Khyber Pakhumkhwa.
- 2. Accountant General, Khyber Pakhtunkhwa.
- 3. Deputy Commissioner, Peshawar,
- 4. Assistant Commissioner Shah Alom, Peshawur,
- 5. PS to Commissioner, Peshawar Division.
- 6. Accounts Officer, Deputy Commissioner Office, Peshawar,

Miraj Khan

Naft Tehsildar (Dalazalt), Peshawar

ATTESTED

CHARGE ASSUMPTION REPORT

In pursuance of the order of worthy Commissioner Peshawar Division issued order No.6/7/EA/2024/5170.89/Dated 21 April, 2024 I Miraj Khan hereby submitted Arrival Report as Naib Tehsildar (Dalazak), Peshawar today on 23/05/2024 (A.N).

Miraj Khan Naib Tehsildar (Dalazak), Peshawar

Endst: No. 794-800/NTD

Dated 23/05/2024

Copy to:

- 1. Senior Member Board of Revenue Khyber Pakhtunkhwa
- 2. Accounts General, Khyber Pakhtunkhwa.
- * 3. Deputy Commissioner, Peshawar.
- 4. Assistant Commissioner Shah Alam, Peshawar.
- 5. PS to Commissioner, Peshawar Division.
 - 6. Accounts Officer, Deputy Commissioner Office, Peshawar.

Miraj Khan Naib Tehsildar (Dalazak), Peshawar ATTACTED

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Сатрезпрет

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GOVERNMENT OF KHYBER PAKHTUNKHWA. BOARD OF REVENUE.

REVENUE & ESTATE DEPARTMENT.

Fax No: 091.9213989.

No. Estal/posting / transfer/policy/_10.13-55
Peshawar dated the 09.01/2020.

To

- All the Commissioners, In Khyber Pakhtunkhwa.
- 2. All the Deputy Commissioners In Khyber Pakhtunkhwa.

SUIMECT:

POSTING / TRANSFER OF REVENUE STAFF IN THEIR DISTRICT OF DOMICILE.

Dear Sir.

I am directed to refer to the subject and to state that the Competent Authority in consultation with Chief Secretary Khyber Pakhtunkhwa has been pleased to direct that posting I transfer of the Revenue Staff in the Province shall be made in the following manner:-

- a. Tehsildar shall not be posted in the District of his domicile.
- b. Naib Tehsildar shall not be posted in his home Tehsil.
- e. Patwari shall not be posted in Patwar Halqa to which he belongs.

I am further directed to request you to submit details of those revenue staff who were posted in their district of domicile, their home tehsil and Patwar Halqas to which they belongs for further necessary action within 15 days positively please.

Assistant Sucretary (Estr.)

No. Estt://posting/transfer/policy/____

Copy forwarded to the:-

1. PSO to Chief Secretary Khyber Pakhtunkhwa.

2. PS to Chief Secretary Khyber Pakhtunkhwa.

3. PS to Secretary Establishment Khyber Pakhtunkhwa.

4. PS to Senior Member Board of Revenue.

5. PS to Member - III Board of Revenue.

6. PA to Secretary - I Board of Revenue.

Assistant Secretary (Esti:)

محاشاتهم

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