

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL No. 850/2024

Muhammad Basharat

V/S

Settlement Officer, Mansehra
& others

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Jawad Hussain
Respondent No. 3

Through:-

M. Asif Yousafzad
(M. ASIF YOUSAFZAD)
Advocate Supreme Court
Of Pakistan.

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
Advocate, High Court
Peshawar.

Hilal Zubair
&
(HILAL ZUBAIR)
Advocate Peshawar.

13-08-24

Room No.FR-08, 4th Floor,
Bilour Plaza Peshawar Cantt:
Cell # 03339103240

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BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL No. 850/2024

Muhammad Basharat S/o Muhammad Munshi
Settlement Patwari Halqa,
Dhodial Malkal, District Mansehra.

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 14637

Dated 01-08-24

APPELLANT

V/S

1. Settlement Officer, Mansehra.
2. Director Land Records/Chief Settlement Officer, Khyber Pakhtunkhwa,
3. Jawad Hussain, Patwari Halqa, Mouza Jabar Kalas Richari Mansehra.

Respondents

**PARA-WISE REPLY ON BEHALF OF
RESPONDENT NO. 03**

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

1. That the august Tribunal has got no jurisdiction under Sec. 4(b)(i) of the Service Tribunals Act, 1974.
2. That the august Tribunal, with due respect, cannot interfere in administrative matter of the Deptt:
3. That the appellant cannot ask for choice posting.
4. That the appellant has concealed material facts from this august Tribunal.
5. The appeal in hand is based on malice and to pressurize the respondents.

6. That the appellant has not accomplished his tasks being a settlement patwari i.e inefficient.

RESPECTFULLY SHEWETH,

FACTS:-

- 1. Misconceived. The appellant was appointed as Settlement Patwari on contract basis in the year 2022. The appellant was transferred to Mauza Narbeer vide order dated 29.8.2022, and then to Muaza Bharka Tarla vide order dated 26.10.2022. The appellant then transferred to Mauza Dhodial Malkal vide order dated 31.05.2023. The appellant has never agitated over those orders as those were his choice postings and only agitating over order dated 04.06.2024 is nothing but pregnant with malice.
- 2. Incorrect hence denied. The appellant is liable to serve any where as per need of the Deptt: under Section 10 of the Civil Servants Act, 1973. The appellant being a Settlement Patwari, can be given any Mauza for completing Settlement Operation, which is the basic duty of the appellant. More over the appellant was transferred due to non-accomplishment of settlement work duly assigned to him, thus the order was in the public interest at large.
- 3. Incorrect as explained in Para-2 above. It is also added that the policy cannot override the spirit of Section-10 of the Civil Servant Act, 1973. It is further clarified that the basic function of the appellant is to complete Settlement Operation and he has not been posted out of Settlement work.
- 4. Incorrect and denied for want of knowledge. The replying respondent doubts about the appeal and its rejection.
- 5. Incorrect. The appeal is liable to be dismissed with costs on the following grounds amongst the others.

GROUND:

- A. Incorrect, hence denied .The appellant was transferred due to his inefficient behavior, purely in the interest of Settlement Operation and public.

- B. Incorrect, The appellant is liable to serve any where as per need of the Deptt: under Section 10 of the Civil Servants Act, 1973. The appellant being a Settlement Patwari, can be given any Mauza for completing Settlement Operation, which is the basic duty of the appellant. More over the appellant was transferred due to non-accomplishment of settlement work duly assigned to him, thus the order was in the public interest at large.
- C. Incorrect, as explained in para 1 above that the appellant never agitated on previous orders but interested in the last one which shows malice on the part of appellant. Rather the appellant has used political pressures for his choice postings.
- D. Incorrect, hence denied .the appellant being a Settlement Patwari, can be transferred to any Mauza for the said Operation. More over the august Apex Court has held that the Courts legally cannot interfere in the administrative functions of the Deptt: especially in posting and transfers. Moreover. No fundamental rights of the appellant are affected.
- E. Incorrect, as explained in para 2, D above.
- F. The replying respondent also request for the same permission.

It is, therefore, most humbly prayed that the appeal of the appellant may be dismissed with costs being neither maintainable nor entertainable .

Respondents No. *Jawad Hussain*
Jawad Hussain

Through:-

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
 Advocate Supreme Court
 Of Pakistan.

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
 Advocate, High Court
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 &
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 Advocate Peshawar.

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BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL No. 850/2024

Muhammad Basharat

V/S

Settlement Officer, Mansehra
& others

AFFIDAVIT

I, Jawad Hussain, Patwari Halqa, Mouza Jabar Kalas Richari Mansehra (for respondent No. **03**), do hereby affirm that the contents of this para wise comments are true and correct and nothing has been concealed from this Honorable Appellate Tribunal. It is further stated that oath that answering respondent have neither been placed ex-parte nor their defence has been struck off, also no cost is imposed.

Jawad Hussain

DEPONENT

IDENTIFIED BY:

M. Asif Yousafzai

M. ASIF YOUSAFZAI

ASC



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BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL No. 850/2024

Muhammad Basharat

V/S

Settlement Officer, Mansehra
& others

**REPLY TO STAY APPLICATION ON
BEHALF OF RESPONDENT NO. 03**

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

1. The appeal and instant application are not maintainable.
2. The application is not entertainable under section 56(d) of the Specific Relief Act.

RESPECTFULLY SHEWETH,

FACTS:-

1. No comments.
2. Incorrect. The appellant can not, legally, stopped the operation of the settlement being a Settlement Patwari. Therefore, balance of convenience is in favour of Govt.
3. Incorrect. As explained in Para-2 above. The appellant has not pointed out any irreparable loss.
4. Incorrect. There is no irreparable loss in posting transfer and in administrative functions of the Gpovt:

Therefore, the application for suspension of order dated 04.06.2024 may be dismissed with costs and the stay granted may also be vacated.

Jawad Hussain
Respondent No. 3 *Jawad Hussain*

Through:-

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
Advocate Supreme Court
Of Pakistan.

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
Advocate, High Court
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Hilal Zubair
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Advocate Peshawar.

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BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL No. 850/2024

Muhammad Basharat

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Settlement Officer, Mansehra
& others

AFFIDAVIT

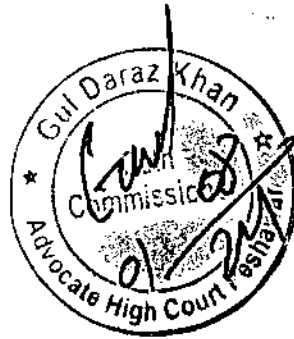
I, Jawad Hussain, Patwari Halqa, Mouza Jabar Kalas Richari Mansehra (for respondent No. **03**), do hereby affirm that the contents of this ^{reply to} application are true and correct and nothing has been concealed from this Honorable Appellate Tribunal.

Jawad Hussain

DEPONENT

IDENTIFIED BY:

M. Asif Yousafzai
M. ASIF YOUSAFZAI
ASC





OFFICE OF THE
SETTLEMENT OFFICER
MANSEHRA

NOTIFICATION

No. 114-137 So(N): In pursuance of Government of Khyber Pakhtunkhwa Revenue & Estate Department Notification No. Estt./DPC/26808-10 dated 15-10-2020 and on the recommendations of Departmental Selection Committee meeting dated 21-01-2022 held in compliance with Judgment dated 24-02-2021 of Honorable Peshawar High Court Abbottabad Bench in W.P. No 1107-A/2020, the following qualifying candidates/applicants are hereby appointed/selected as Settlement Palwari (BPS-09) Mansehra with the terms & conditions specified below:

S. No	Roll No	Name & Father Name	District
01	7554	Syed Bilal Hussain Sabir s/o Syed Sabir Hussain Shah.	Mansehra
02	7529	Khalid Qamar s/o Noor-ul-Qamar.	Peshawar
03	7521	Asif Mahmood s/o Muhammad Yousuf.	Abbottabad
04	7543	Muhammad Zubair s/o Abdul Latif Khan.	Peshawar
05	7557	Waqar Ahmad s/o Sharef Hussain.	Mansehra
06	7522	Badar Aziz Khan s/o Abdul Aziz Khan.	Haripur
07	7517	Adil Shahzad s/o Chen Zeb.	Mansehra
08	7542	Muhammad Basharat s/o Muhammad Munshi.	Mansehra
09	7534	Malik Shakir Nawaz s/o Malik Rab Nawaz.	Haripur
10	7525	Israr Hussain s/o Shams ul Haq.	Mansehra
11	7556	Tauseef Ahmad s/o Aliullah.	Peshawar
12	7550	Shadman Khan s/o Sahib Zada Ahmad Ali.	Swabi
13	7558	Zaid Imliaz s/o Muhammad Imliaz.	Mansehra
14	7530	Khuram Shabir s/o Muhammad Shabir.	Abbottabad
15	7518	Amir Khan s/o Barra Khan.	Mansehra
16	7531	Kamran Ali s/o Raja Sorab.	Mansehra
17	7535	Muhammad Tahir Khan s/o Himayat Ullah.	D.I Khan
18	7545	Muhammad Zaheer s/o Aurangzeb.	Mansehra
19	7552	Syed Adil Hussain Shah s/o Syed Chan Pir Shah.	Mansehra
20	7515	Abdul Hafeez s/o Muhammad Banaras.	Mansehra
21	7549	Rashid Ishtiaq s/o Ishtiaq Ahmed.	Mansehra
22	7544	Muhammad Rashid s/o Muhammad Farooq.	Mansehra
23	7519	Amir Shahzad s/o Siraj Muhammad.	Peshawar
24	7528	Jawad Hussain s/o Fida Hussain.	Mansehra

Terms & Conditions:

- Their appointment shall be purely temporary / contract based against the contractual posts.
- Initial appointment is for one year. Further extension of contract agreement would be based on satisfactory performance / further scope of work.
- The services of the appointees shall not be transferable to revenue side.
- The contractual appointment shall not confer any right of absorption elsewhere.
- They shall not be entitled to pension / gratuity. Their services can be terminated at any stage on their unsatisfactory performance and misconduct or abolition of post, etc. for which they would not be entitled to institute case against the department in any court of law.

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Asad Ali
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OFFICE OF THE
SETTLEMENT OFFICER
MANSEHRA

No. 1063-98 SO(M)

Dated: 29/08/2022.

OFFICE ORDER:

Pursuant to the relaxation on ban on transfer / posting in Settlement Operation Mansehra, communicated vide Letter No. LR-V/SO/Man/12632-35, dated 16-08-2022, following posting / transfer is made among Girdawars & Patwaries of Settlement Operation Mansehra with immediate effect in the best public interest:-

S. No	Name	From	To	Remarks
01	Muhammad Sheeraz (Settlement Girdawar)	Settlement Office	Baffa-II Circle	Against the vacant Circle
02	Liaqat Khan (Revenue Patwari)	PH Maswal	DC Office Mansehra	In reference to DC Mansehra letter dated 21-07-2022
03	Zahid Khan (Revenue Patwari)	Settlement Office	DC Office Mansehra	In reference to DC Mansehra letter dated 21-07-2022.
04	Saif Ali (Revenue Patwari)	PH Balimang	DC Office Mansehra	In reference to DC Mansehra letter dated 21-07-2022.
05	S. Bilal Sabir (Settlement Patwari)	Takmeel Ghar	Mouza Bai Terli	Against Vacant Mouza
06	Khalid Qamer (Settlement Patwari)	Takmeel Ghar	Mouza Hilkot	Against Vacant Mouza
07	Asif Mehmood (Settlement Patwari)	Takmeel Ghar	Mouza Kareer and Basund	Against Vacant Mouza
08	Muhammad Zubair (Settlement Patwari)	Takmeel Ghar	Mouza Mohalan	Against Vacant Mouza.
09	Waqar Ahmed (Settlement Patwari)	Takmeel Ghar	Mouza Mangloor	Against Vacant Mouza
10	Badar Aziz Khan (Settlement Patwari)	Takmeel Ghar	Mouza Hathi Maira	Against Vacant Mouza
11	Adil Shahzad (Settlement Patwari)	Takmeel Ghar	Mouza Geerwal	Against Vacant Mouzas
12	Muhammad Basharat (Settlement Patwari)	Takmeel Ghar	Mouza Narbeer	Against Vacant Mouza.
13	Malik Shakir Nawaz (Settlement Patwari)	Takmeel Ghar	Mouza Bakki	Against Vacant Mouza
14	Israr Hussain (Settlement Patwari)	Takmeel Ghar	Mouza Pareean	Against Vacant Mouza
15	Zaid Imliaz (Settlement Patwari)	Takmeel Ghar	Mouza Brull/ Kharwa	Against Vacant Mouza
16	Khurram Shabir (Settlement Patwari)	Takmeel Ghar	Mouza Ballmang and Kund Ulla	Against Vacant Mouza.
17	Amir Khan (Settlement Patwari)	Takmeel Ghar	Mouza Nasardi and Chharkot	Against Vacant Mouza
18	Kamran Ali (Settlement Patwari)	Takmeel Ghar	Mouza Attershesha	Against Vacant Mouza
19	Muhammad Tahir Khan (Settlement Patwari)	Takmeel Ghar	Mouza Maira Anjad Ali	Against Vacant Mouza
20	Muhammad Zaheer (Settlement Patwari)	Takmeel Ghar	Mouza Sum Elahi Mang	Against Vacant Mouza
21	Syed Adil Shah (Settlement Patwari)	Takmeel Ghar	Mouza Hair	Against Vacant Mouza
22	Abdul Hafeez (Settlement Patwari)	Takmeel Ghar	Mouza Guli Bagh	Against Vacant Mouza
23	Rashid Ishiaq (Settlement Patwari)	Takmeel Ghar	Mouza Sachan Kalan	Against Vacant Mouza
24	Muhammad Rashid (Settlement Patwari)	Takmeel Ghar	Mouza Panjool.	Against Vacant Mouza

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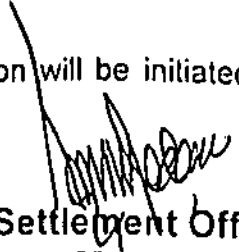
Settlement Officer
Mansehra

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25	Amir Shahzad (Settlement Patwari)	Takmeel Ghar	Mouza Karmang Tarla	Against Vacant Mouza
26	Jawad Hussain (Settlement Patwari)	Takmeel Ghar	Mouza Sachan Khurd	Against Vacant Mouza
27	Muhammad Nabeel (Settlement Patwari)	Settlement Office	Mouza Gharala	Against Vacant Mouza
28	Muhammad Ejaz (Revenue Patwari)	Settlement Office	Mouza Balagh Tarli	Against Vacant Mouza
29	Zahid Ali (Settlement Internee Patwari)	Settlement Office	Mouza Chela Bagh	Against Vacant Mouza

Note:-

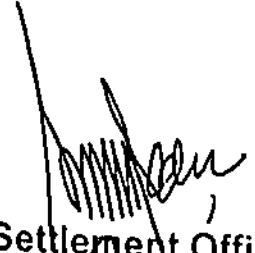
In case of non-compliance, strict disciplinary action will be initiated against the concerned official under E&D Rules.


Settlement Officer,
Mansehra.

Endst: No & Date of Even.

Copy to

01. The Director Land Records / Chief Settlement Officer Khyber Pakhtunkhwa with reference to letter quoted above.
02. The Deputy Commissioner Mansehra with reference to letter quoted above.
03. PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
04. PS to Commissioner, Hazara Division.
05. The concerned Tehsildar / Naib Tehsildar with the direction to submit compliance report before 01-09-2022 and relieve the concerned patwari from additional charge.
06. Peshi Kanoongo, Settlement Operation Mansehra.
07. The concerned Field Kanungo.
08. The concerned official for compliance.


Settlement Officer,
Mansehra.


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OFFICE OF THE
SETTLEMENT OFFICER
MANSEHRA

No. 1460-64/801M1
Dated: 26/10/2022.

To The Director Land Records
Chief Settlement Officer Khyber Pakhtunkhwa
Peshawar

Subject RELAXATION OF BAN ON TRANSFER POSTING IN SETTLEMENT
OPERATION MANSEHRA.

Dear Sir,

Kindly refer to the subject noted above and to state that ban was imposed on posting / transfers in Settlement Operation Mansehra was imposed vide DLR Office order No. LR-V/SO/Mansohra/1380-87, dated 28-02-2022. During progress review meeting held on 25-10-2022 target of completion of 58 Mouzajats was given to undersigned and target date of this target was fixed as 31-12-2022. In order to achieve the target in given time some transfers among Girdawars and Patwaries are necessary. The proposed proposal of transfers / posting is as under:-

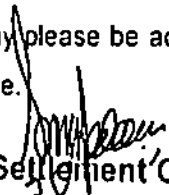
S. No	Name	From	To	Remarks
01	Irshad Abbasi Girdawar (OPS)	Laberkot Circle	Mansehra II Circle	He will assume charge after consignment of Mouza Mundihar, Kohotar and Shakulgarl
02	Muhammad Shakeel Girdawar (OPS)	Mansehra II Circle	Laberkot Circle	He will assume charge after consignment of Mouza Narwan and Jinkihari
03	Muhammad Saqib Revenue Patwari	Mouza Photha / Pakwal	Mouza Hareyala	
04	Muhammad Javed Revenue Patwari	Mouza Hareyala / Datta	Mouza Potha	
05	Farukh Mehmood Revenue Patwari	Mouza Ghazikot	Mouza Datta	He will complete the Miste-e-Haqail of mouza Jhinkehari
06	Muhammad Javed Revenue Patwari	Mouza Mansehra- IV	Mouza Ghazikot	He will complete the Signatures on Jamabandi of Mansehra -IV
07	Qasir Ahmed Revenue Patwari	Mouza Chakia	Mouza Mansehra IV	He will complete the Settlement Work of Mouza Khushala which is near completion
08	Qasir Khurshid Settlement Patwari	Mouza Kolkey	Mouza Mansehra III	He will consign the Mouza Shekhal Gari
09	Ubad Ur Rehman Tahir Revenue Patwari	Mouza Bhelija	Mouza Kolkey	He will consign the Mouza Bhelija.
10	Muhammad Aamir Settlement Patwari	Mouza Nasardl	Mouza Battal	He will complete the settlement work of Chinarkot
11	Zaheer Ahmed Revenue Patwari	Mouza Battal	Mouza Jallu	
12	Wajid Naseem Revenue Patwari	Mouza Jallu	Mouza Phagla Jabba	
13	Muhammad Azeem Revenue Patwari	Mouza Phagla / Jabba	Mouza Pakhwal	
14	Baberzeb Settlement Patwari	Mouza Kalas Richari	Mouza Sum Elahimang	
15	Muhammad Zaheer Settlement Patwari	Mouza Sum Elahimang	Mouza Tarangri Sabarshah	
16	Basharat Settlement Patwari	Mouza Narbeer, Janglan	Mouza Bherkud Tarla	
17	Azhar Mehmood Revenue Patwari	Mouza Bherkud Tarla	Mouza Narbeer, Janglan	

ATTEST

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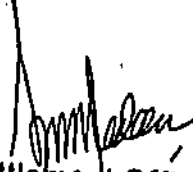
18	Ghulam Raza Revenue Patwari	Mouza Mansehra III	Mouza Chakia	He will complete the Signatures on Jamabandi of Mansehra -III
19	Muhammad Hanif Settlement Patwari	Settlement Office	Mouza Nasardi	
20	Umer Imran Revenue Patwari	PH Shelia	Mouza Safida	
21	Bakhtiar Ahmed Revenue Patwari	Moza Mongan	PH Shelia	

It is therefore, requested that one time ban relaxation may please be accorded to make above mentioned transfers in order to achieve target within deadline.


Settlement Officer,
Mansehra.

Endst: No & Date even
Copy to

01. PS to Special Assistant to Chief Minister Revenue & Estate Department.
02. PS to Senior Member Board of Revenue, Khyber Pakhtunkhwa.
03. PS to Commissioner Hazara Division, Abbottabad.
04. PS to Deputy Commissioner, Mansehra.


Settlement Officer,
Mansehra.


ATTESTED