


FORM OF ORDER SHEET

Court of _____

Appeal No. 1063/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/07/2024	<p>The appeal of Mr. Shad Muhammad Khan presented today by Sardar Muhammad Asif Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 31.07.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

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

Service Appeal No. 1063 of 2024

Shad Muhammad Khan

..... Appellant

VERSUS

Govt of Khyber Pakhtunkhwa etc

..... Respondents

**APPLICATION FOR SERVICE APPEAL OF TITLED BEFORE THE
PRINCIPAL SEAT FOR PRELIMINARY HEARING.**

Respectfully Sheweth:

- 1) That the titled case has been submitted today before the Honourable Service Tribunal Peshawar.
- 2) That the office raised objection that the instant appeal would be fixed before the Abbottabad Bench.
- 3) That the appellant belong to Abbottabad that's why the instant appeal may also be fixed before the principal seat of Service Tribunal.
- 4) That it would be more appropriate if the instant appeal if possible may kindly be submitted before the principal seat of Service Tribunal Khyber Pakhtunkhwa Peshawar.

It is therefore most humbly prayed that on acceptance of this application the instant application may kindly be fixed before the principal seat of the Service Tribunal Peshawar.

Dated 29.07.2024

Through

Applicant

Muhammad Asjad Parvez Abbasi
Advocate High Court

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

1063
Service Appeal No. /2024

Shad Muhammad Khan

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa and others

...RESPONDENTS

**SERVICE APPEAL
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...APPELLANT

Through:

Dated: 26/7/2024

(Sardar Muhammad Asif)

(Asjad Pervaz Abbasi Advocate,
Advocates High Court Abbottabad.)

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

Service Appeal No. 1063 /2024

Shad Muhammad Khan son of Haji Malang Khan presently resident of Mohallah Rehman Abad, College Doraha Labarkot, Tehsil and District Mansehra presently Assistant Engineer/SDO (BS-17) C&WD, Torghar.

...APPELLANT

V E R S U S

1. Government of Khyber Pakhtunkhwa through Secretary Communication and Works Department, Peshawar.
2. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED ORDER
BEARING NO. SOE/C&W/4-7/2024 DATED
24.04.2024 WHEREBY THE ADJUSTMENT
ORDER DATED 23.04.2024 OF THE APPELLANT
AS SUB DIVISIONAL OFFICER, C&W, SUB
DIVISION, TORGHARA WAS CANCELLED.**

PRAYER:-

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED ORDER BEARING NO.SOE/C&W/4-7/2024 DATED 24.04.2024 PASSED/ISSUED BY THE RESPONDENTS MAY PLEASE BE SET ASIDE AND WHILE RESTORING THE ORDER DATED 23.04.2024, THE APPELLANT MAY PLEASE BE PERMITTED TO COMPLETE HIS SERVICE/PERIOD OF SUPERANNUATION AS SUB DIVISIONAL OFFICER, C&W DEPARTMENT, TORGHAR. OR ANY OTHER ORDER OR RELIEF AS THIS HONOURABLE TRIBUNAL DEEMS FIT AND APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE, MAY ALSO BE ISSUED / PASSED.

Respectfully Sheweth,

Brief facts giving rise to the instant Writ Appeal are arrayed as under:-

1. That, the appellant is a permanent resident of District .Battagram and nowadays temporarily residing in District Mansehra. (Copy of the CNIC of the appellant is annexed as annexure "A")

2. That, the appellant was duly inducted in the respondents' department as AE/SDO (BPS-17). **(Copy of the appointment order is annexed as annexure "B")**

3. That, the date of birth of the appellant is 16.04.1965 and as per law, the appellant would be going to be retired from service after attaining age of superannuation i.e. 60 years on 16.04.2025 whereas the appellant is senior most in the department. **(Copy of the seniority list is annexed as Annexure "C")**

4. That, the appellant was later on adjusted against the appellant as Sub Divisional Officer in the office of XEN, C&W Division, Torghar and thereafter, the appellant was transferred from Torghar to District Mansehra 21.09.2023. Vide order dated 21.09.2023. **(Copy of the transfer order is annexed as Annexure "D")**

5. That, on 22.09.2023, the appellant took over the charge as SDO. **(Copy of the charge assumption report is annexed as Annexure "E")**

6. That, the appellant was later on again transferred by way of notification dated 15.02.2024 and the appellant was directed to report to Secretariat. (Copy of the notification dated 15.02.2024 is annexed as annexure "F")
7. That, on the preceding day i.e. on 16.02.2024, the competent authority cancelled the transfer order of the appellant. (Copy of the cancellation order dated 16.02.2024 is annexed as Annexure "G")
8. That, on 23.02.2024 again a transfer order was passed and the appellant was directed to report to Peshawar. (Copy of the transfer order dated 23.02.2024 is annexed as Annexure "H")
9. That, in the meanwhile, the appellant applied for ex-Pakistan leave from 21.02.2024 which was extended to the appellant for two months w.e.f. 21.02.2024 by way of order dated 28.02.2024.

(Copy of the order dated 28.02.2024 is annexed as Annexure "I")

10. That, the appellant later on, relieved the charge of SDO on 28.02.2024. (Copy of the charge relieving report is annexed as Annexure "J")

11. That, the appellant later on come back from Ex-Pakistan leave and made his attendance in Peshawar and thereafter the appellant was adjusted against the vacant post of SDO in C&W Division, Torghar on 23.04.2024. (Copy of the order dated 23.04.2024 is annexed as Annexure "K")

12. That, the appellant later on took over the charge in District Torghar as a Sub Divisional Officer, C&W Sub Division, Torghar on 23.04.2024. (Copy of the Charge Assumption Report is annexed as Annexure "L")

13. That, after the lapse of only one day the adjustment order of the appellant was cancelled

by the respondents vide order dated 24.04.2024.

(Attested copy of the order dated 24.04.2024

is annexed as Annexure "M")

14. That, the appellant being aggrieved from the impugned order dated 24.04.2024 filed a Departmental appeal before the respondent No.2. **(Attested copy of the departmental appeal is annexed as annexure "N")**

15. That, the appellant being aggrieved from the impugned order later on, filed a Writ Petition before the Honourable Peshawar High Court, Bench Abbottabad which was listed before the Honourable court on 30.04.2024 and the Honourable court disposed of the Writ Petition with the direction to the respondent No.2 to decide the departmental appeal of the appellant with fifteen (15) days from the date of receipt of the departmental appeal and, thereafter, the appellant was kept at liberty to approach the proper forum by filing an appropriate remedy. **(Attested copies of the Writ Petition**

alongwith order dated 30.04.2024 are annexed as Annexure "O" & "P")

16. That, on the basis of the said order of Honourable Peshawar High Court, Bench Abbottabad, and the appellant approached the respondents for the decision of the departmental appeal who initially made lame excuses and later on straightaway refused to decide the fate of the appeal of the appellant.

17. That, the appellant being aggrieved from the impugned order seeks the gracious indulgence of this Honourable Tribunal by way of instant service appeal, inter alia, on the following grounds:-

GRUNDS:-

a) That, impugned order bearing No.SOE/C&W/4-7/2024 dated 24.04.2024 whereby the adjustment order dated 23.04.2024 of the appellant was cancelled and withholding of the

salary of the appellant by the respondents is wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, against the relevant law. Rules and regulations, based political ill-will, against the fundamental rights of the appellant hence being not maintainable, liable to be set aside:

- b) That, admittedly the Honourable Peshawar High Court, Bench Abbottabad directed the respondent No.2 to decide the fate of the departmental appeal of the appellant within 15 days but despite lapse of considerable period, the appeal filed by the appellant has not been decided till now.

- c) That, it is an admitted fact that the appellant is having date of birth as 16.04.1965 and as per law, rules and regulations, the period of superannuation comes to an end at 16.04.2025 after attaining an age of 60 years and keeping in view such facts, the appellant is going to be retired after 10 months.

d) That, it is well settled by relevant transfer and posting policy, the appellant is entitled for completion of his service in his native District, whereas it is an admitted fact that the appellant hails from District Torghar and also appointed/adjusted therein by the respondents hence keeping in view the relevant policy, the appellant is entitled for completion of his service at his adjustment place i.e. Sub-Divisional Officer, C&W Torghar. This fact was duly brought into the notice of the respondents but the same has not been taken into consideration by the respondents while passing the impugned order.

e) That, the impugned order passed by the respondents is purely based on political ill-will and the respondents while making themselves pawn in the hands of the political figure of the locality have issued the impugned order which is not warranted under the law as it is well settled by now that the political figures have nothing to do with the transfer and posting policy.

- f) That, the appellant has been made as rolling stone by the respondents as the appellant was adjustment against the impugned post at District Torghar on 23.04.2024 who took over the charge on the same date and on the next day i.e. 24.04.2024, the transfer order of the appellant was again cancelled by the respondents which is also a mockery with the procedure of posting and adjustment policy and the same is not warranted under the law.
- g) That, the appellant is at the verge of the retirement and only 10 months service of the appellant is outstanding and transferring the appellant at such a time from his native District to any other District is not only sheer violation of the relevant law, rules and regulations but also height of injustice with the appellant as the appellant has given golden time of his life for the respondents' department.
- h) That, no legal, lawful and Legitimate Justification have been recorded by the respondents in support of the Impugned order rather the impugned order has been passed/issued totally

at the behest of the political figure which has no legal sanctity in the eyes of law.

- i) That, the impugned order passed by the respondents in in sheer violation of the relevant law, rules and regulations on the subject hence the impugned order comes within the ambit of void order and as per law, such vide order has no legal footings to stand upon.
- j) That despite of laps of 90 days for deciding the appeal of appellant the department has miserably failed to decide the same in either way.
- k) That, the impugned order has not been passed by the respondents in public interest rather the impugned order has been passed/issued by the respondents only the political basis which directly affects the rights of the appellant and as the impugned order has been passed in clear conflict of the relevant law, rules and regulations hence this Honourable Court has got jurisdiction to annul the same in its appellate Jurisdiction.

- l) That, it is also worthy to note that the post against which the appellant was adjusted in a vacant post hence there is no problem with the respondents regarding adjustment of the appellant whereas where the appellant has been transferred i.e. at Peshawar, no post exist there where the appellant could be adjusted.
- m) That, it is an inalienable right of the appellant to enjoy the protection of law and to be treated in accordance with relevant law, rules and regulations but such right of the appellant is being infringed by the respondents in a sheer malafide manner.
- n) That, the powers or jurisdiction are vested in an authority to exercise it justly, fairly, honestly, judiciously and in accordance with relevant law, rules and regulations but such right of the appellant is being infringed by the respondents in a sheer malafide manner.
- o) Because no other efficacious, alternate and speedy remedy is available hence this Appeal.

- p) That other points will be raised during arguments with the permission of this Honorable Court.
- q) That, addresses of the parties have correctly and detailed mentioned in the heading of the appeal.
- r) That, the instant appeal is well within time.

PRAYER:-

It is, therefore, Most humbly prayed that on acceptance of the Instant Service Appeal, the Impugned order bearing No.SOE/C&W/4-7/2024 dated 24.04.2024 passed/issued by the respondents may please be set aside and while restoring the order dated 23.04 2024, the appellant may please be permitted to complete his service/period of superannuation as Sub Divisional Officer, C&W Division, Torghar and the pay of the appellant may also be ordered to be released from Torghar or any other order or relief as this Honourable Tribunal deems fit and appropriate in the

circumstances of the case, may also be issued / passed.


...APPELLANT

Through:

Dated: 26/7/2024


(SARDAR MUHAMMAD ASIF)

&


(MUHAMMAD ASJAD PERVEZ ABBASI)
Advocates High Court, Abbottabad.

VERIFICATION:-

Verified that the contents of the instant Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

Dated: 26/7/2024


...APPELLANT

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 12024

Shad Muhammad Khan

...APPELLANT

V E R S U S

Government of Khyber Pakhtunkhwa and others

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Shad Muhammad Khan son of Haji Malang Khan presently resident of Mohallah Rehman Abad, College Doraha Labarkot, Tehsil and District Mansehra presently Assistant Engineer/SDO (BS-17) C&WD, Torghar, appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing Service Appeal are true and correct and nothing has been concealed from this Honourable Tribunal.

Dated: 26/7/2024


...DEPONENT

(16)

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

Service Appeal No. 12024

Shad Muhammad Khan

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa and others

...RESPONDENTS

SERVICE APPEAL

APPLICATION SEEKING SUSPENSION OF THE
OPERATION OF THE IMPUGNED ORDER DATED
24.04.2024 AND FOR ISSUANCE OF
TEMPORARY INJUNCTION TO THE EFFECT
THAT THE RESPONDENTS MAY PLEASE BE
RESTRAINED FROM RELIEVING THE CHARGE
OF THE APPELLANT FROM DISTRICT
TORGHAR, FORCIBLE CHARGE TAKING FROM
THE APPELLANT, FROM HANDING OVER THE
CHARGE OF THE IMPUGNED POST TO ANY
OTHER PERSON OR DOING ANY OTHER ACT(S)
WHICH DIRECTLY OR INDIRECTLY AFFECT
FROM THE RIGHTS OF THE APPELLANT TILL

(7)

THE DISPOSAL. OF THE TITLED SERVICE
APPEAL:

Respectfully Sheweth,

1. That the appellant has a prima facie case and there is every hope of his success.
2. That, the balance of convenience also tilts in favour of the appellant.
3. That, if the operation of the impugned order has not suspended and the being temporary injunction has not been issued then the appellant would suffer an irreparable loss and purpose of the titled service appeal would become infructuous.

It is, therefore, most humbly requested that on acceptance of the instant application, operation of the impugned order may please be suspended and the temporary injunction as mentioned in the heading of the instant application may please be granted/issued till the disposal of the titled Service Appeal.


...APPELLANT

Through Counsels:


(SARDAR MUHAMMAD ASIF)

&

Dated: 26/7/2024


(MUHAMMAD ASJAD PERVEZ ABBASI)

Advocates High Court, Abbottabad.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 12024

Shad Muhammad Khan

...APPELLANT

V E R S U S

Government of Khyber Pakhtunkhwa and others

...RESPONDENTS

SERVICE APPEAL


AFFIDAVIT

I Shad Muhammad Khan son of Haji Malang Khan presently resident of Mohallah Rehman Abad, College Doraha Labarkot, Tehsil and District Mansehra presently Assistant Engineer/SDO (BS-17) C&WD, Torghar, Appellant, do hereby solemnly affirm and declare on Oath that the contents of instant *Application* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

Dated:- 26/7 12024


 ...APPELLANT

19
Annexure
"A"

**PAKISTAN** National Identity Card
ISLAMIC REPUBLIC OF PAKISTAN

Name: Shad Mohammad Khan
Father's Name: Haji Waqar Khan
Gender: M
Country of Birth: Pakistan
Identity Number: 13503-0509688-1
Date of Birth: 15.04.1965
Date of Issue: 08.09.2016
Date of Expiry: 08.09.2026
Holder's Signature: *Shad*

936*

13503-0509688-1

101561041834
123-65-919091

Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں

Annex 'B' 20



GOVERNMENT OF PUNJAB
COMMUNICATIONS & WORKS DEPARTMENT

Date: 28/04/2023

NOTIFICATION:

No SOE/CSW/4-2/2023 (10/23) On the recommendation of Departmental Promotion Committee (DPC) the Competent Authority has been pleased to promote the following Diploma Holder Sub Engineers (BS-16) to the post of Assistant Engineers (BS-17) in CSW Department on regular basis with immediate effect:

- | | | |
|------|------------------------|------------------|
| 1 | Muhtaq Ali | On Regular basis |
| 2 | Saifur-Rahman | On Regular basis |
| 3 | Yaqoob Khan | On Regular basis |
| 4 | Shahzad Hassan | On Regular basis |
| 5 | Muhammad Javed | On Regular basis |
| 6 | Sameer Khan | On Regular basis |
| 7 | Abdul Wahab | On Regular basis |
| 8 | Muhammad Sajad | On Regular basis |
| 9 | Syed Nawazish Ali Shah | On Regular basis |
| 10 | Saqib Ullah | On Regular basis |
| 11 | Fazal Rehman IV | On Regular basis |
| 12 | Ahmad Ali | On Regular basis |
| ✓ 13 | Saad Muhammad Khan | On Regular basis |
| 14 | Salah-ud-Din | On Regular basis |
| 15 | Nihar Gul | On Regular basis |
| 16 | Muneer Khan | On Regular basis |
| 17 | Musna Khan | On Regular basis |

Sample

The above officers shall remain on probation for one year from the date of their promotion as per Rule 16 of Appointment, Promotion & Transfer Rules, 1974. All other officers appearing in Sr No. 2, 3, 4, 5, 9 & 15 will be on probation to their retirements.

Consequent upon their promotion as Assistant Engineers (BS-17) on regular basis, the Competent Authority is further pleased to order the transfer of the following officers of CSW Department with immediate effect in the following order:

Sr No	Name of Officers	Existing posting	Promoted to available Appointment	Remarks
1	Mr. Masrur Ali (BS-17)	SNO (OPS) at M.A. & S. Division (Karnal) Lower	SNO (OPS) at CSW Division (Karnal) Lower	
2	Mr. Saifur-Rahman (BS-17)	SNO (OPS) at M.A. & S. Division (Karnal) Lower	SNO (OPS) at CSW Division (Karnal) Lower	
3	Mr. Yaqoob Khan (BS-17)	SNO (OPS) at M.A. & S. Division (Karnal) Lower	SNO (OPS) at CSW Division (Karnal) Lower	
4	Mr. Shahzad Hassan (BS-17)	SNO (OPS) at M.A. & S. Division (Karnal) Lower	SNO (OPS) at CSW Division (Karnal) Lower	
5	Mr. Muhammad Javed (BS-17)	SNO (OPS) at M.A. & S. Division (Karnal) Lower	SNO (OPS) at CSW Division (Karnal) Lower	
6	Mr. Sameer Khan (BS-17)	SNO (OPS) at M.A. & S. Division (Karnal) Lower	SNO (OPS) at CSW Division (Karnal) Lower	
7	Mr. Abdul Wahab (BS-17)	SNO (OPS) at M.A. & S. Division (Karnal) Lower	SNO (OPS) at CSW Division (Karnal) Lower	
8	Mr. Muhammad Sajad (BS-17)	SNO (OPS) at M.A. & S. Division (Karnal) Lower	SNO (OPS) at CSW Division (Karnal) Lower	
9	Syed Nawazish Ali Shah (BS-17)	Assistant Research Officer (OPS) at M.A. & S. Division (Karnal) Lower	Assistant Research Officer (OPS) at CSW Division (Karnal) Lower	

P.T.O

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20 A/1

GOVERNMENT OF KHYBER PAKHTUNKHWA
Communication & Works Department
Dated Peshawar the Jan 20 2022

NOTIFICATION:

No SOE/C5W/4/2/2022/2 On the recommendation of Departmental Promotion Committee (DPC) the Competent Authority has been pleased to promote the following Diploma Holder Sub Engineers (BS-16) to the post of Assistant Engineers SDOS (BS-17) C&W Department on regular basis with immediate effect:-

1 Mushtaq Ali	....	On Regular basis
2. Sa-ur-Rehman-I	....	On Regular basis
3 Yaqoob Khan	....	On Regular basis
4 Shahzad Hassen	....	On Regular basis
5. Mohammad Javed-1	....	On Regan basis
6 Sameullah	....	On Regular basis
7. Abdul Waheed	....	On Regular basis
8 Muhammad Sajjad	....	On Regular basis
9 Syed Nawashish Ali Shah	....	On Regular basis
10. Sadiq Ullah	....	On Regular basis
11 Fazal Rehman IV	....	On Regular basis
12 Ahmad Ali	....	On Regular basis
13 Shad Muhammad Khan	....	On Regular basis
14. Salah-ud-Din-i	....	On Regular basis
15. Nihar Gul	....	On Regular basis
16. Muneeb Khan	....	On Regular basis
17. Mashal Khan	....	On Regular basis

2. The above officers shall remain on probation for a period of the one year in terms of Rule 15 of (Appointment, Promotion & Transfer) Rules 1989 while the officers appearing Sr No. 2, 3, 4, 5, 9 & 15 will be on probation till their retirements.

3. Consequent upon their promotion as assistant engineer SDO (BPS-17) on regular basis that competent authority is further placed to order the transferring of the following officers on C&W Department, with immediate effect in the public interest.

S#	Name of officer	Existing Post	Purpose to auto authorize adjustment	Remarks
1	Mushtaq Ali (BPS17)	SDO (OPS) -O/O Xen C&W Division Kurram Lower	SDO-O/O Xen C&W Division Kurram Lower	---
2	Saif ur Rehman-I (BPS17)	SDO (OPS) -O/O Xen C&W Division No.II Buner	SDO-O/O Xen C&W Division No.II Buner	---
3.	Mr. Yaqoob Khan (BPS-17)	SDO (OPS) -O/O Xen C&W Division Kurram Lower	SDO-O/O Xen C&W Division Kurram Lower	---
4.	Mr. Shehzad Hassan (BPS-17)	SDO (OPS) -O/O Xen Mega Projects South-I Kohat	SDO-O/O(OPS) Xen Mega Projects South-I Kohat	---
5.	Mr. Muhammad Javed-I (BPS-17)	SDO (OPS) Highway Sub Division Tribal Sub Division Jandola South Waziristan	SDO OPS Highway Sub Division Tribal Sub Division Jandola South Waziristan	---
6.	Mr. Sami Ullah (BPS-17)	SDO (OPS) O/O Xen C&W Division Hangu.	SDO O/O Xen Sub Division Hangu.	---
7.	Mr. Abdul Waheed (BPS-17)	Sub Engineer O/O Xen Building Division D.I.Khan	Assistant Engr. O/O CE South-II D.I.Khan	Against Vacant Post.
8.	Mr. Muhammad Sajjad-(BPS-17)	SDO O/O Xen Maintenance-II Peshawar.	SDO O/O Xen Maintenance-II Peshawar.	---
9.	Mr. Syed Nawazish Ali Shah (BPS-17)	Assistant Research Officer (OPS), RRMT LAB O/O SE C&W Circle Mansehra	Assistant Officer, RRMT LAB O/O SE C&W Circle Mansehra	---

20 A

10	Mr. Sadique Ullah (BS-17)	SDO (OPS) O/O XEN Highway Division Khyber	SDO O/O XEN Highway Division Khyber
11	Mr. Fazal Rehman IV (BS-17)	SDO (OPS) Tribal Sub Divn Darazinda O/O XEN	SDO Tribal Sub Division Darazinda O/O XEN Highway
12	Mr. Ahmad Ali (BS-17)	Highway Division Dikhan SDO (OPS) O/O XEN	Division Dikhan SDO O/O XEN Highway
13	Mr. Shah Muhammad Khan (BS-17)	Highway Division Orakzai SDO (OPS) C&W Division	Division Orakzai SDO C&W Division TOR
14	Mr. Sultan-UD-Din (BS-17)	TOR GHAR SDO (OPS) O/O XEN	GHAR SDO O/O XEN Building
15	Mr. Nisar Gul (BS-17)	Building Division Mansera SDO (OPS) O/O XEN C&W	Division Mansera SDO O/O XEN C&W Division
16	Mr. Muneeb Khan (BS-17)	Division Dir Upper SDO (OPS) O/O XEN C&W	Dir Upper SDO O/O XEN C&W Division
17	Mr. Mashaf Khan (BS-17)	Division Malykand SDO (OPS) O/O XEN C&W	Malykand SDO O/O XEN C&W Division

SECRETARY TO
Govt of Khyber Pakhtunkhwa
Communication & Works Department

End of even number and date

Copy is forwarded to the -

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. All Chief Engineers in C&W Department
3. Managing Director PKHA Peshawar
4. All Superintending Engineers in C&W Department
5. All Executive Engineers C&W Divisions concerned
6. All Executive Engineers Building Divisions concerned
7. All Executive Engineers Highway Divisions concerned
8. Executive Engineer Maintenance- II Peshawar
9. All District Accounts Officers concerned
10. Accounts Officers Tribal Districts concerned
11. PS to Advisor to Chief Minister Khyber Pakhtunkhwa for C&W Department
12. PS to Secretary C&W Department Peshawar
13. PA to Additional Secretary C&W Department Peshawar
14. PA to Deputy Secretary (Admin) C&W Department, Peshawar
15. Officers concerned
16. Office order File
17. The Manager Govt Printing Press, Khyber Pakhtunkhwa Peshawar

Zahoor
20/01/2022
(ZAHOOR SHAH)
SECTION OFFICER (Estb)

20 B

Better Copy

10.	Mr. Sadiq Ullah (BPS-17)	SDO (OPS) O/O Xen Highway Division Khyber	SDO O/O Xen Highway Division Khyber	---
11	Fazal Rehamn-IV (BPS-17)	SDO (OPS) O/O Xen Tribal Sub Division Darazinda Highway Division D.I.Khan	O/O Xen Tribal Sub Division Darazinda Highway Division D.I.Khan	---
12	Mr. Ahmad Ali (BPS-17)	SDO (OPS) Xen High Way Division Orakzai.	SDO O/O Xen High Way Division Orakzai.	---
13	Mr. Shad Muhammad Khan (BPS-17)	SDO OPS C&W Division Torghar	SDO C&W Division Torghar	---
14	Mr. Salah Ud Din-I (BPS-17)	SDO OPS O/O Xen Building Mansehra	SDO O/O Xen Building Mansehra	---
15	Nihar Gul (BPS-17)	SDO OPS O/O Xen C&W Division Dir Upper	SDO O/O Xen C&W Division Dir Upper	---
16	Mr. Muneeb Khan (BPS-17)	SDO OPS O/O Xen C&W Division Malakand	SDO O/O Xen C&W Division Malakand.	---
17	Mr. Mashal Khan (BPS-17)	SDO OPS O/O Xen C&W Division Hangu	SDO O/O Xen C&W Division Hangu	---

SECRETARY TO
Govt of Khyber Pakhtunkhwa
Communication & Works Department

~~ATTESTED~~

NOTIFICATION

SOE/C&W/8-15/2022 (seniority):

In pursuance of Sub-Section (1) of the Section-8, of the Khyber Pakhtunkhwa Civil Servant Act 1973, the Final seniority list of Assistant Engineers/SDOs/Junior Engineers/Assistant Research Officers (BPS-17) of Communication & Works Department as approved by the competent authority, as it stood on 01/04/2022 is notified as under:

St. No.	Name of Officer	Academic Qualification	Date of Birth	Domicile	Date of 1st Entry in Govt. Service	Date of Appointment/Promotion in Present Grade	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
01	Nadia Bashir	B.Sc (Civil)/MS (Transportation)	29/01/1986	Abbottabad	24/12/2010	24/12/2010	---
02	Muhammad Imran	B.Sc/M.Sc (Civil)	20/08/1985	Swat	24/12/2010	24/12/2010	---
03	Muhammad Asad	B.Sc (Civil)	24/12/1963	Kohat	07/12/1990	24/01/2012	---
04	M.Ikramullah Khan	B.Sc (Mech)	14/02/1989	S.W.Agency	06/03/2013	06/03/2013	---
05	Salih Dar	B.Sc (Civil)	15/02/1980	Dir	22/04/2013	22/04/2013	---
06	Fawad Bilal	B.Sc (Civil)	18/04/1988	Dir Upper	22/04/2013	22/04/2013	---
07	Muhammad Ayaz	B.Sc (Civil)/MS (Constn/Management)	10/04/1989	Malakand	22/04/2013	22/04/2013	---
08	Ahmad Ali	B.Sc (Civil)	09/05/1989	Mansehra	22/04/2013	22/04/2013	---
09	Umer Hayat	B.Sc (Civil)	02/03/1975	Karak	22/04/2013	22/04/2013	---
10	Khalid Usman	B.Sc (Civil)	02/02/1978	F.R.Kohat	30/04/2013	30/04/2013	---
11	Hayatullah Noor	B.Sc (Civil)	19/04/1979	N.W.Agency	30/04/2013	30/04/2013	---
12	Hayatullah Jan	B.Sc (Civil)	03/03/1965	Lakki Marwat	12/12/1990	03/07/2013	---
13	Zahoor Ellahi Baig	B.Sc (Civil)	07/01/1964	Haripur	6/03/1988	03/07/2013	---
14	Shahid Nawaz	B.Sc (Civil)	01/08/1964	Peshawar	19/02/1990	19/05/2014	---



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the February 28, 2024

Annexure "1" 29

NOTIFICATION:

No.SOE/C&WD/1-7/2022: Sanction is hereby accorded, in terms of provision of Khyber Pakhtunkhwa Civil Servants Revised Leave Rules 1981 to the grant of 60 days Ex-Pakistan leave w.e.f. **21.02.2024** or from the date of availing in respect of Mr. Shad Muhammad Khan Assistant Engineer/SDO (BS-17) C&W Department, presently waiting for posting to visit abroad for domestic affairs.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

Endst: Even Number & Date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (East) C&W Abbottabad.
3. Mr. Shad Muhammad Khan Assistant Engineer/SDO (BS-17) C&W Department presently waiting for posting.
4. PS to Secretary C&W Department Peshawar.
5. PA to Additional Secretary (Admn/Tech) C&W Department Peshawar.
6. PS to Deputy Secretary (Admn/Tech) C&W Department Peshawar.
7. Office order File/Personal File.


Zaam
28.02.2024
(ZAHOOOR SHAH)
SECTION OFFICER (Estb)

Section Officer (Estab)
C&W Department
Peshawar

Annexure
"P"
30

CHARGE RELINQUISHMENT.

In pursuance to the Secretary to Government of Khyber Pakhtunkhwa C&W Department Peshawar Notification No.SOE/C&WD/1-7/2022, dated.28/02/2024. I **Shad Muhammad Khan Assistant Engineer / SDO (BS-17)** hereby relinquished the charge of post Sub Divisional Officer (Road-I) C&W Highway Sub Division Mansehra today February 28th 2024 (A.N).



Shad Muhammad Khan
Sub Divisional Officer (Road-I)
C&W Highway Sub Division Mansehra

No. 437 /1-E

Dated Mansehra the 28/02/2024

Copy is forwarded for information to the:-

- 1:- Chief Engineer (East) C&W Department, Abbottabad.
- 2:- Superintending Engineer C&W Circle Mansehra
- 3:- Executive Engineer C&W Highway Division Mansehra.
- 4:- Section Officer (Establishment) C&W Department KPK Peshawar.
- 5:- District Accounts Officer Mansehra.
- 6:- P.S to Secretary to Govt. of Khyber Pakhtunkhwa C&W Department Peshawar.
- 7:- In charge Computer Cell C&W Department Peshawar.
- 8:- Office Order File.


Shad Muhammad Khan
Sub Divisional Officer (Road-I)
C&W Highway Sub Division Mansehra



Annexure - k "

31

**GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT**

Dated Peshawar the April 23, 2024

NOTIFICATION:

No.SOE/C&WD/4-7/2024: The Competent Authority is pleased to authorize Mr. Shad Muhammad Khan Assistant Engineer/SDO (BS-17) C&WD, presently waiting for posting to hold the charge of the vacant post of SDO in O/O Executive Engineer C&W Division Tor Ghar, purely as internal stop gap arrangement, by relieving Engr. Hilal Hussain Shah SDO from additional charge, with immediate effect, in the best public interest.

2. No TADA/Transfer grant will be allowed/paid to the aforesaid officers.

**SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department**

Copy is forwarded to the:-


1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Chief Engineer (East) C&W Abbottabad.
3. Superintending Engineer C&W Circle Mansehra.
4. Executive Engineer Highway Division Mansehra.
5. Executive Engineer C&W Division Tor Ghar.
6. District Accounts Officer Mansehra/Tor Ghar.
7. PS to Minister for C&W Department Khyber Pakhtunkhwa.
8. PS to Secretary C&W Department Peshawar.
9. PA to Additional Secretary (Admn/Tech), C&W Department Peshawar.
10. PA to Deputy Secretary (Admn/Tech), C&W Department Peshawar.
11. Officers concerned.
12. Office order File/Personal File.

Manam
23.04.2024
SECTION OFFICER (Estb)

Annexure
"1" 32
-

Assumption of Charge

In compliance with the Secretary to Govt: of Khyber Pakhtunkhwa C&W Department Peshawar Notification No: SOE/C&WD/4-7/2024, dated 23/04/2024. I Shad Muhammad Khan Assistant Engineer/SDO BS-17 have assumed the charge against the vacant post of Sub Divisional Officer C&W Sub Division Torghar today on 23/04/2024 (F.N).

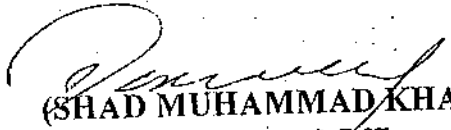

(SHAD MUHAMMAD KHAN)
Sub-Divisional Officer
C&W Sub Division; Torghar

Dated Torghar the 23 / 04 /2024

No: 2238 /1-E

Copy for information to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (EAST) C&W Department, Abbottabad.
3. Superintending Engineer, C&W Circle Mansehra.
4. Director (P&M), C&W Department, Peshawar.
5. Executive Engineer C&W Division Torghar.
6. District Accounts Officer, Torghar.
7. PS to Secretary, C&W Department, Peshawar.
8. Section Officer (Establishment) C&W Department, Peshawar.
9. Personal File.


(SHAD MUHAMMAD KHAN)
Sub-Divisional Officer
C&W Sub Division, Torghar

To

The Honorable Secretary
Communication & Works Department
Khyber Pakhtunkhwa Peshawar.

33

SUBJECT; Request for Posting as a Sub Divisional Officer

I Shad Mohammad Khan AE / SDO (BS-17) Presently posted in C&W Department Peshawar,


I Start my Service in C&W Department Since 14/03/1988 and Completed my Service more then 36. Years mostly in hard area of Khyber Pakhtoonkhwa.

I belong to District to Mansehra ,and my Remaining Service in this Department less then one year..

It is Requested that kindly Transfer and Posted me as a Sub Divisional Officer C&W Division Torghar , So that it will be easier for me to take Pension in last year..

I shal be very thankful for this kindness ,

Yours Obediently


Shad Mohammad Khan
AE / SDO (BS-17)
C&W Department

23/4/2019

Annexure "M" 35
DB



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the April 24, 2024

NOTIFICATION:

No. SOE/C&WD/4-7/2024: The Competent Authority is pleased to cancel/withdraw this department notification of even number dated 23.04.2024, with regard to authorization of Mr. Shad Muhammad Khan AE/SDO (BS-17) C&WD, Presently waiting for posting to hold the charge of the post of SDO in O/O Executive Engineer C&W Division Tor Ghar, with immediate effect, in the best public interest.

2. No TA/DA/Transfer grant will be allowed/paid to the concerned officers.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Chief Engineer (East) C&W Abbottabad.
3. Superintending Engineer C&W Circle Mansehra.
4. Executive Engineer Highway Division Mansehra.
5. Executive Engineer C&W Division Tor Ghar.
6. District Accounts Officer Mansehra/Tor Ghar.
7. PS to Minister for C&W Department Khyber Pakhtunkhwa.
8. PS to Secretary C&W Department Peshawar.
9. PA to Additional Secretary (Admn/Tech), C&W Department Peshawar.
10. PA to Deputy Secretary (Admn/Tech), C&W Department Peshawar.
11. Officers concerned.
12. Office order File/Personal File.

24.04.2024
SECTION OFFICER (Estb)

Amr N

36

To,

THE CHIEF SECRETARY,
Khyber Pakhtunkhwa, Peshawar.

Subject:

APPEAL AGAINST THE IMPUGNED
ORDER BEARING NO. SOE/C&W/4-
7/2024 DATED 24.04.2024 WHEREBY
THE ADJUSTMENT ORDER DATED
23.04.2024 OF THE APPELLANT WAS
CANCELLED.

PRAYER: -

On acceptance of the instant departmental appeal, the impugned order bearing No. SOE/C&W/4-7/2024 dated 24.04.2024 whereby the adjustment order dated 23.04.2024 of the appellant was cancelled may please be set aside and while restoring the order dated 23.04.2024, the appellant may please be permitted to complete his service/ period of superannuation as Sub Divisional Officer, C&W Department, Torghar.

Respectfully Sheweth!

1. That, the appellant is a permanent resident of District Battagram and nowadays temporarily residing in District Mansehra.

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2. That, the appellant was duly inducted in the department's department as AE/SDO (BPS-17).
3. That, the date of birth of the appellant is 16.04.1965 and as per law, the appellant would be going to be retired from service after attaining age of superannuation i.e. 60 years on 16.04.2025 whereas the appellant is senior most in the department.
4. That, the appellant was later on adjusted against the appellant as Sub Divisional Officer in the office of XEN, C&W Division, Torghar and thereafter, the appellant was transferred from Torghar to District Mansehra vide order dated 21.09.2023.
5. That, on 22.09.2023, the appellant took over the charge as SDO/AE.
6. That, the appellant was later on again transferred by way of notification dated 15.02.2024 and the appellant was directed to report to Secretariat.
7. That, on the preceding day i.e. on 16.02.2024, the competent authority cancelled the transfer order of the appellant.

8. That, on 23.02.2024 again a transfer order was passed and the appellant was directed to report to Peshawar.
9. That, in the meanwhile, the appellant applied for ex-Pakistan leave on 21.02.2024 which was extended to the appellant for two months w.e.f. 21.02.2024 by way of order dated 28.02.2024.
10. That, the appellant later on, relieved the charge of SDO on 28.02.2024.
11. That, the appellant later on come back from Ex-Pakistan leave and made his attendance in Peshawar and thereafter the appellant was adjusted against the vacant post of C&W Department, Torghar on 23.04.2024.
12. That, the appellant later on took over the charge as District Torghar as Sub Divisional Officer, C&W Sub Division, Torghar on 23.04.2024.
13. That, after the lapse of only one day, the adjustment order of the appellant was cancelled by the department vide order dated 24.04.2024.
14. That, it is an admitted fact that the appellant is having date of birth as

16.04.1965 and as per law, rules and regulations, the period of superannuation comes to an end at 16.04.2025 after attaining an age of 60 years and keeping in view such facts, the appellant is going to be retired after one year.

15. That, it is well settled by relevant transfer and posting policy, the appellant is entitled for completion of his service in his native District whereas it is an admitted fact that the appellant hails from District Torghar and also appointed/adjusted therein by the department hence keeping in view the relevant policy, the appellant is entitled for completion of his service at his adjustment place i.e. Sub-Divisional Officer, C&W Torghar. This fact was duly brought into the notice of the department but the same has not been taken into consideration by the department while passing the impugned order.

16. That, the impugned order passed by the department is purely bases on political ill-will and the department while making themselves pawn in

the hands of the political figure of the locality have issued the impugned order which is not warranted under the law as it is well settled by now that the political figures have nothing to do with the transfer and posting policy.

17. That, the appellant has been made as rolling stone by the department as the appellant was adjustment against the impugned post at District Torghar on 23.04.2024 who took over the charge on the same date and on the very next day i.e. 24.04.2024, the transfer order of the appellant was again cancelled by the department which is also a mockery with the procedure of posting and adjustment policy and the same is not warranted under the law.

18. That, the appellant is at the verge of the retirement and less than one year service of the appellant is outstanding and transferring the appellant at such a time from his native District to any other District is not in sheer violation of the relevant law, rules and regulations but also height of injustice with the appellant

as the appellant has given golden time of his life for the department's department.

19. That, no legal, lawful and legitimate justification have been recorded by the department in support of the impugned order rather the impugned order has been passed/issued totally at the behest of the political figure which has no legal sanctity in the eyes of law.
20. That, the impugned order passed by the department is in sheer violation of the relevant law, rules and regulations on the subject hence the impugned order comes within the ambit of void order and as per law, such void order has no legal footings to stand upon.
21. That, the department have also stopped the salary of the appellant which is also height of injustice of the appellant and also a mockery with the helplessness of the appellant.
22. That, it is also worthy to note that the post against which the appellant was adjusted is a vacant post hence there is no problem with the


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department regarding adjustment of the appellant whereas where the appellant has been transferred i.e. at Peshawar, no post exist there where the appellant could be adjusted.

.....PRAYER.....

It is, therefore, most humbly prayed that on acceptance of the instant departmental appeal, the impugned order bearing No.SOE/C&W/4-7/2024 dated 24.04.2024 whereby the adjustment order dated 23.04.2024 of the appellant was cancelled may please be set aside and while restoring the order dated 23.04.2024, the appellant may please be permitted to complete his service/ period of superannuation as Sub Divisional Officer, C&W Department, Torghar.

Dated 26.04.2024


SHAD MUHAMMAD KHAN
son of Haji Malang Khan
presently resident of Mohallah
Rehman Abad, College Doraha
Labarkot, Tehsil and District
Mansehra.....APPELLANT

Origin NTN P2832053-7
Destination NTN K2832053-7



CN: 2368132328

Product	Service Type
G	0
Payment Mode	Date-Time
CASH	2024-04-26 16:20
ORG-DEST	Pieces(s) | WEIGHT
MNA-PEW	1Pcs - .5
Staff: 60843	Route: X29406

Shipper Details
 Name : SHAD MUHAMMAD KHAN
 Phone : 03009118480
 Address : C AND W DIVISION TORGHAR

Consignee Details
 Name : CHIEF SECRETARY SAHIB
 Phone : 03009118480
 Address : GOVT OF KPK PESHAWAR CIVIL SECTERA
 TE

Insured Value
 Rs. 0

Payment Details	
Service CHG	276.0
Fuel Surcharge	26.0
Other Amount	0.0
VAS	8
Insurance CHG	0
Origin Tax PST	50
Destination Tax KPST	0
Premium	0

TOTAL 360.0

Remarks

Instructions
 CN Print Charges
 Customer Signature

For Terms & Conditions Visit
www.tcsexpress.com/tnc
 TCS Headquarters, 101-104, Civil Av
 Club Road Karachi - 75202, Pakis
 UAN : +92 21 111 123 456 Web : tcs.
 (Shipper Copy) V-1.83

Origin NTN P2832053-7
Destination NTN K2832053-7



CN: 2368132328

Product	Service Type
G	0
Payment Mode	Date-Time
CASH	2024-04-26 16:17
ORG-DEST	Pieces(s) | WEIGHT
MNA-PEW	1Pcs - .5
Staff: 60843	Route: X29406

Shipper Details
 Name : SHAD MUHAMMAD KHAN
 Phone : 03009118480
 Address : C AND W DIVISION TORGHAR

Consignee Details
 Name : CHIEF MINISTER SAHIB
 Phone : 03009118480
 Address : GOVERNMENT OF KPK PESHAWAR.

Insured Value
 Rs. 0

Payment Details	
Service CHG	276.0
Fuel Surcharge	26.0
Other Amount	0.0
VAS	8
Insurance CHG	0
Origin Tax PST	50
Destination Tax KPST	0
Premium	0

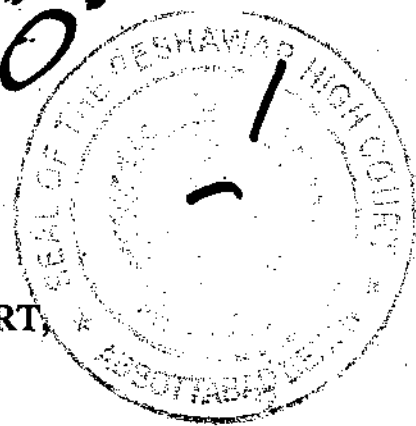
TOTAL 360.0

Remarks

Instructions
 CN Print Charges
 Customer Signature

For Terms & Conditions Visit
www.tcsexpress.com/tnc
 TCS Headquarters, 101-104, Civil Av
 Club Road Karachi - 75202, Pakis
 UAN : +92 21 111 123 456 Web : tcs.
 (Shipper Copy) V-1.83

Amir "O"
(44)



**BEFORE THE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD**

W.P No. 455-A of 2024

Shad Muhammad Khan son of Haji Malang Khan presently resident of Mohallah Rehman Abad, College Doraha Labarkot, Tehsil and District MansehraPETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Communication and Works Department, Peshawar.
2. Chief Engineer (East), C&W Abbottabad.
3. Executive Engineer, C&W, Torghar.
4. District Accounts Officer, Mansehra/Torghar.
.....RESPONDENTS.

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 FOR A DECLARATION TO THE EFFECT THAT THE PETITIONER BEING AT THE VERGE OF THE APPOINTMENT IS ENTITLED TO COMPLETE HIS PERIOD OF SERVICE AS WELL AS PERIOD OF SUPERANNUATION IN HIS NATIVE VILLAGE I.E. DISTRICT TORGHAR AS SUB DIVISIONAL OFFICER, C&W

Certified to be True Copy
EXAMINER
25/07/2024
Peshawar High Court Bench
Abbottabad Bench

FILED TODAY
ADD: REGISTRAR
PHC ABBOTTABAD BENCH

27/4/24

45

2

SUB DIVISION, TORGHAR.
IMPUGNED ORDER BEARING NO.
SOE/C&W/4-7/2024 DATED 24.04.2024
WHEREBY THE ADJUSTMENT
ORDER DATED 23.04.2024 OF THE
PETITIONER WAS CANCELLED IS
WRONG, ILLEGAL, AGAINST THE
LAW AND FACTS, ARBITRARY,
FANCIFUL, PERVERSE, AGAINST
THE RELEVANT LAW, RULES AND
REGULATIONS, BASED ON POLITICAL
ILL-WILL, AGAINST THE FUNDAMENTAL
RIGHTS OF THE PETITIONER HENCE
BEING UNCONSTITUTIONAL, LIABLE
TO BE STRUCK DOWN.

PRAYER: -

On acceptance of the instant Writ Petition, the impugned order bearing No.SOE/C&W/4-7/2024 dated 24.04.2024 whereby the adjustment order dated 23.04.2024 of the petitioner was cancelled as wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, against the relevant law, rules and regulations, based on political ill-will as well as malafide, against the fundamental rights of the petitioner hence being unconstitutional, be struck down and while restoring

Verified to be True Copy
 EXAMINER
 25/04/2024
 Registrar, Court of Writs
 Islamabad

FILED TODAY
 [Signature]
 ADD: REGISTRAR
 PH: ABBOTABAD BENCH

27/4/24

46

1-38

the order dated 15.02.2024, the petitioner may please be permitted to complete his service/period of superannuation as Sub Divisional Officer, C&W Department, Torghar or any other writ, order or relief as this Honourable Court deems fit and appropriate in the circumstances of the case, may also be issued/passed.

Respectfully Sheweth!

1. That, the petitioner is a permanent resident of District Battagram and nowadays temporarily residing in District Mansehra.

(Copy of the CNIC of the petitioner is annexed as annexure "A").

2. That, the petitioner was duly inducted in the respondents' department as AE/SDO (BPS-17).

(Copy of the appointment order is annexed as annexure "B").

3. That, the date of birth of the petitioner is 16.04.1965 and as per law, the petitioner would be going to be retired from service after attaining

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EXAMINER
25/08/2024
Peshawar High Court (M Bench
Abulhasan Umar S. J. P. Bench

FILED TODAY

ADD: REGISTRAR
PHC, ABULHASAN UMAR S. J. P. BENCH

27/4/24

47

6

age of superannuation i.e. 60 years on 16.04.2025 whereas the petitioner is senior most in the department.

(Copy of the seniority list is annexed as annexure "C").

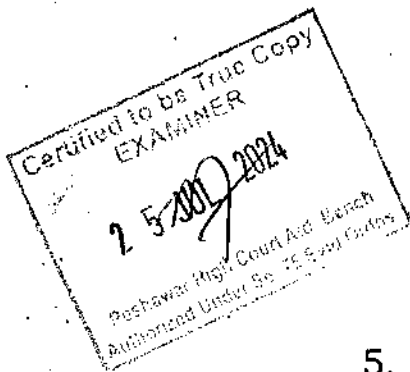
4. That, the petitioner was later on adjusted against the *vacant post* as Sub Divisional Officer in the office of XEN, C&W Division, Torghar and thereafter, the petitioner was transferred from Torghar to District Mansehra vide order dated 21.09.2023.

(Copy of the transfer order is annexed as annexure "D").

5. That, on 22.09.2023, the petitioner took over the charge as SDO/AE.

(Copy of the charge assumption report is annexed as annexure "E").

6. That, the petitioner was later on again transferred by way of notification dated 15.02.2024 and the petitioner was directed to report to Secretariat.



FILED TODAY

ADD: REGISTRAR
PHC, AMMOTABAD BENCH

27/3/24

48

(Copy of the notification dated 15.02.2024 is annexed as annexure "F").

7. That, on the preceding day i.e. on 16.02.2024, the competent authority cancelled the transfer order of the petitioner.

(Copy of the cancellation order dated 16.02.2024 is annexed as annexure "G").

8. That, on 23.02.2024 again a transfer order was passed and the petitioner was directed to report to Peshawar.

(Copy of the transfer order dated 23.02.2024 is annexed as annexure "H").

Certified to be True Copy
EXAMINER
25/02/2024
Registrar, Peshawar and District
Abdullah Khan

9. That, in the meanwhile, the petitioner applied for ex-Pakistan leave on 21.02.2024 which was extended to the petitioner for two months w.e.f. 21.02.2024 by way of order dated 28.02.2024.

(Copy of the order dated 28.02.2024 is annexed as annexure "I").

FILED TODAY

REGISTRAR
PESHAWAR DISTRICT

10. That, the petitioner later on, relieved the charge of SDO on 28.02.2024.

27/2/24

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1

(Copy of the charge relieving report is annexed as annexure "J").

- 11. That, the petitioner later on come back from Ex-Pakistan leave and made his attendance in Peshawar and thereafter the petitioner was adjusted against the vacant post of C&W Department, Torghar on 23.04.2024.

(Copy of the order dated 23.04.2024 is annexed as annexure "K").

- 12. That, the petitioner later on took over the charge as District Torghar as Sub Divisional Officer, C&W Sub Division, Torghar on 23.04.2024.

(Copy of the charge assumption report is annexed as annexure "L").

- 13. That, after the lapse of only one day, the adjustment order of the petitioner was cancelled by the respondents vide order dated 24.04.2024.

(Attested copy of the order dated 24.04.2024 is annexed as annexure "M").

Certified to be True Copy
EXAMINER
25/04/2024
Peshawar Head Office
Authorized Under Section 4, Peshawar

FILED TODAY
25/4/24

50

4
1

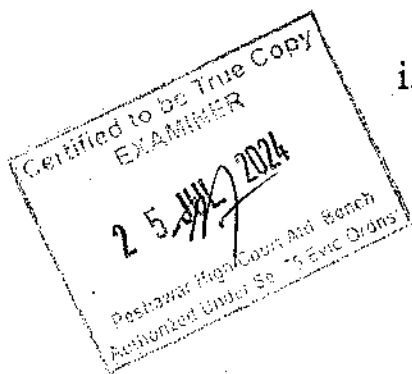
14. That, the petitioner being aggrieved from the impugned order dated 24.04.2024 ran from pillar to post for redressal of his genuine grievances but in vain, hence, the petitioner being aggrieved having no other adequate, alternate, efficacious or speedy remedy except to invoke the constitutional jurisdiction of this Honourable court by way of instant Writ Petition, inter alia, on the following grounds: -

GROUNDS

- i. That, impugned order bearing No.SOE/C&W/4-7/2024 dated 24.04.2024 whereby the adjustment order dated 23.04.2024 of the petitioner was cancelled is wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, against the relevant law, rules and regulations, based on political ill-will, against the fundamental rights of the petitioner hence being unconstitutional, liable to be struck down. FILED TODAY

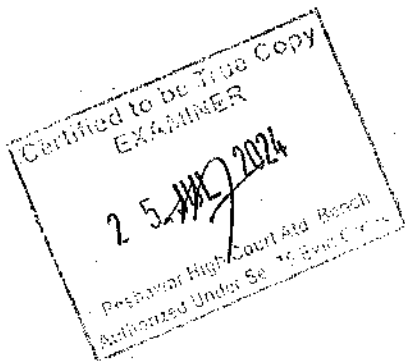
ADJ. REGISTRAR
P.C. ABBOTTABAD BENCH

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- ii. That, it is an admitted fact that the petitioner is having date of birth as 16.04.1965 and as per law, rules and regulations, the period of superannuation comes to an end at 16.04.2025 after attaining an age of 60 years and keeping in view such facts, the petitioner is going to be retired after less than one year.
- iii. That, it is well settled by relevant transfer and posting policy, the petitioner is entitled for completion of his service in his native District whereas it is an admitted fact that the petitioner hails from District Torghar and also appointed/adjusted therein by the respondents hence keeping in view the relevant policy, the petitioner is entitled for completion of his service at his adjustment place i.e. Sub-Divisional Officer, C&W Torghar. This fact was duly brought into the notice of the respondents but the same has not been taken into consideration by the respondents while passing the impugned order.



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iv. That, the impugned order passed by the respondents is purely based on political ill-will and the respondents while making themselves pawn in the hands of the political figure of the locality have issued the impugned order which is not warranted under the law as it is well settled by now that the political figures have nothing to do with the transfer and posting policy.

v. That, the petitioner has been made as rolling stone by the respondents as the petitioner was adjustment against the impugned post at District Torghar on 23.04.2024 who took over the charge on the same date and on the very next day i.e. 24.04.2024, the transfer order of the petitioner was again cancelled by the respondents which is also a mockery with the procedure of posting and adjustment policy and the same is not warranted under the law.

vi. That, the petitioner is at the verge of the retirement and less than one year service of the petitioner is outstanding and transferring the

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petitioner at such a time from his native District to any other District is not in sheer violation of the relevant law, rules and regulations but also height of injustice with the petitioner as the petitioner has given golden time of his life for the respondents' department.

vii. That, no legal, lawful and legitimate justification have been recorded by the respondents in support of the impugned order rather the impugned order has been passed/issued totally at the behest of the political figure which has no legal sanctity in the eyes of law.

viii. That, the impugned order passed by the respondents is in sheer violation of the relevant law, rules and regulations on the subject hence the impugned order comes within the ambit of void order and as per law, such void order has no legal footings to stand upon.

ix. That; the impugned order has not been passed by the respondents in public interest rather the impugned order has been passed/issued by the

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respondents only the political basis which directly affects the rights of the petitioner and as the impugned order has been passed in clear conflict of the relevant law, rules and regulations hence this Honourable Court has got jurisdiction to annul the same in its Writ Jurisdiction.

- x. That, the respondents have also stopped the salary of the petitioner which is also height of injustice of the petitioner and also a mockery with the helplessness of the petitioner.
- xi. That, it is also worthy to note that the post against which the petitioner was adjusted is a vacant post hence there is no problem with the respondents regarding adjustment of the petitioner whereas where the petitioner has been transferred i.e. at Peshawar, no post exist there where the petitioner could be adjusted.
- xi. That, it is an inalienable right of the petitioner to enjoy the protection of law and to be treated in accordance with relevant law, rules and regulations but such right of the

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Peshawar High Court and Bench
Authorised under Sec 75 Evid Ordns

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petitioner is being infringed by the respondents in a sheer malafide manner.

- xii. That, the powers or jurisdiction are vested in an authority to exercise it justly, fairly, honestly, judiciously and in accordance with relevant law, rules and regulations but such right of the petitioner is being infringed by the respondents in a sheer malafide manner.

.....PRAYER.....

It is, therefore, most humbly prayed that on acceptance of the instant Writ Petition, the impugned order bearing No.SOE/C&W/4-7/2024 dated 24.04.2024 regarding cancellation of the order of adjustment order of the petitioner may please be declared as wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, against the relevant law, rules and regulations, based on political ill-will as well as malafide, against the fundamental rights of the petitioner hence being unconstitutional, be struck down and while restoring the order dated 15.02.2024, the petitioner may please be permitted to complete his

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Peshawar High Court and Bench
Bahawalpur Bench

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service/period of superannuation as Sub Divisional Officer, C&W Department, Torghar or any other writ, order or relief as this Honourable Court deems fit and appropriate in the circumstances of the case, may also be issued/passed


INTERIM RELIEF.

It is further prayed that the operation of the impugned order dated 24.04.2024 may please be suspended and the respondents may please be restrained from relieving the charge of the petitioner from District Torghar, taking forcible charge from the petitioner, from handing over the charge of the impugned post to any other person or doing any other act(s) which directly or indirectly affect from the rights of the petitioner till the disposal of the titled Writ Petition.

Dated 26.04.2024


Shad Muhammad Khan
.....Petitioner

Through


JUNAID ANWAR KHAN,
Advocate Supreme Court,
Of Pakistan.

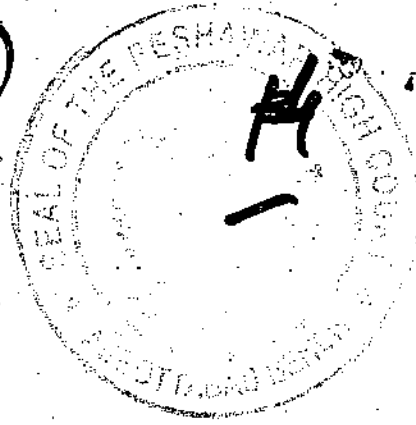
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Peshawar High Court 1st Bench
Amirul Mulk Road, Peshawar

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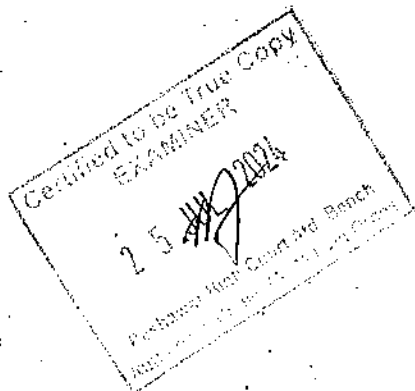
AFFIDAVIT.

I, Shad Muhammad Khan son of Haji Malang Khan presently resident of Mohallah Rehman Abad, College Doraha Labarkot, Tehsil and District Mansehra, Petitioner, do hereby solemnly affirm and declare on oath that the contents of the foregoing Writ Petition are true and correct and nothing has been concealed from this Honourable Court.

Dated 26.04.2024

Shad Muhammad Khan
Shad Muhammad Khan
(DEPONENT)

13503.0509688-1



No. # 2519/477 **AFFIDAVIT**

Receipt # 527

Certified that the above was verified before me on this 27 day solemn affirmation

by *Shad M. Khan* No. *2519/477* by *Shad M. Khan*

R/o *Mohallah Rehman Abad, College Doraha* who was identified by *Shad M. Khan* who is personally known to me.

Shad M. Khan
ADDITIONAL REGISTRAR
Peshawar High Court, Abbottabad Bench

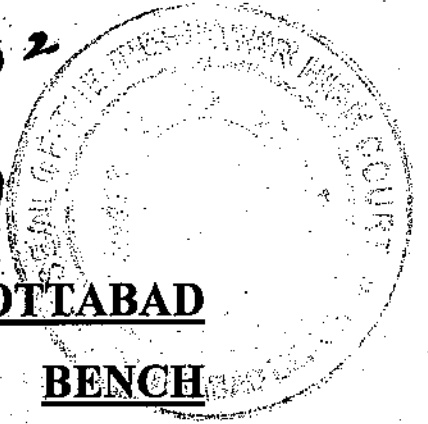
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Shad M. Khan
ADDITIONAL REGISTRAR
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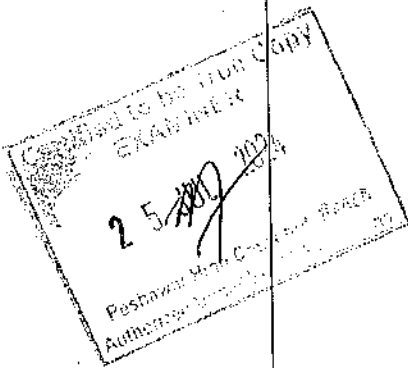


PESHAWAR HIGH COURT, ABBOTTABAD

BENCH

ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with the Signature of the Judge.
1	2
30.04.2024	<p><u>WP No. 455-A/2024</u></p> <p>Present: Mr. Junaid Anwar Khan, Advocate, for petitioner.</p> <p>***</p> <p><u>MUHAMMAD IJAZ KHAN, J.-</u> At the very outset, learned counsel for the petitioner was confronted that since the petitioner is a civil servant and the controversy which he has agitated in the instant petition pertains to one of the terms and conditions of his service i.e. Transfer and thus in view of the bar contained in The Article 212 of The Constitution of Islamic Republic of Pakistan this Court lacks jurisdiction to entertain the instant writ petition, he fairly, candidly and honestly conceded, however, he stated that the respondents are invariably violating their own policy i.e. Posting/Transfer Policy notified vide letter No. SOR-VI/E&AD/1-4/2003 dated 26.06.2003 which requires that in case of the transfer of a civil servant, the aggrieved civil servant would require to file a department appeal within seven days of the impugned transfer order</p>



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and the appellate authority is bound to decide the same within 15 days, therefore, he requested that the appellate authority may be directed to decide the department appeal already filed before the Chief Secretary, Khyber Pakhtunkhwa, Peshawar within the aforesaid prescribed period.

2. Accordingly, this petition is disposed of with the direction to the Chief Secretary, Khyber Pakhtunkhwa, Peshawar to decide the departmental appeal of the petitioner within fifteen (15) days from the date of receipt of the departmental appeal and, thereafter, the petitioner shall be at liberty to approach the proper forum by filing an appropriate remedy.

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25/10/2024
Peshawar High Court and Bench
Authorised Signatory

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JUDGE

[Handwritten Signature]
JUDGE

B.C 12. 3863

Mob. 0346-9225049

E-mail: mahammodas@phsugda@
کوریٹیشن

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وکالت نامہ

بعدالت صبا۔ سروس ٹرانسپوزل KPK مشہور

عنوان: سار محمد خان بیام ساجد وغیرہ

منجانب: سروس ایس ایل ایل

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دی کل کاروائی متعلقہ آں مقام
لحمیاد۔ سردار محمد احمد محمد کبیر دین سنگھ لادروہیل
کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل
صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری
کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت
ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی
بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا
ساختہ پرداختہ مجھ کو منظور قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے
مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا
حد سے باہر ہو تو وکیل صاحب موصوف با بند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں
کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے با بند ہوں گے۔ نیز درخواست بمراد
استجارت ناش بیضہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تا کہ سند ہے۔

المرقوم: 26 جولائی 2024

بمقام: امین اللہ