

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re:

Service Appeal No. 1011/2024

Sajad Khan, Patwari, Charsadda.....**APPELLANT**

Versus

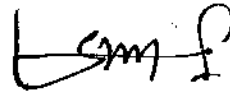
The Commissioner Peshawar Division & others.....**RESPONDENTS**

I N D E X

S.#	Description of Documents	Annex	Pages
1.	Written Reply with Affidavit		1-3
2.	Copy of the Order of the Tribunal dated 24-7-2024	A	4-5
3.	Copy of the Order of the Deputy Commissioner Charsadda dated 24-7-2024	B	6
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Respondent No.3

Through



SULTAN MUHAMMAD KHAN
Advocate High Court.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re:

Service Appeal No. 1011/2024

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 14746

Dated 06-08-24

Sajad Khan, Patwari, Charsadda. APPELLANT

Versus

The Commissioner Peshawar Division & others. RESPONDENTS

WRITTEN REPLY FOR AND ON BEHALF OF RESPONDENT NO.3

Respectfully Sheweth

Preliminary Objections:

- 1- That the appeal under reply does not fulfill the legal requirements as per the law and rules.
- 2- That the appeal under reply has not been filed in its proper statutory format hence liable to be dismissed.
- 3- That the appellant has not come to this Honorable Tribunal with clean hands.
- 4- That the present appeal is premature.
- 5- That the present appeal under reply is incompetent in law and on facts.
- 6- That the appellant has misrepresented the facts before this Honorable Tribunal.
- 7- That the appellant has got no cause of action, nor has locus standi to file the present appeal.
- 8- That the appeal under reply is frivolous, based on malafide and malicious.
- 9- That the appellant has suppressed material facts and concealed crucial information in order to misguide this Honorable Tribunal.
- 10- That the prayer in the appeal is wrong in law and facts.

11- That the contents of the earlier departmental appeal filed by the present Respondent No. 3 may be treated as an integral part of this reply.

PARAWISE REPLY ON FACTS

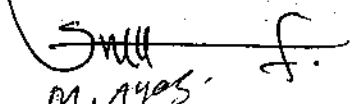
- 1- Contents of para under reply are subject to evidence hence denied.
- 2- Contents of para under reply are subject to evidence hence denied.
- 3- Contents of para under reply are subject to evidence hence denied.
- 4- **Denied.** It is pertinent to note that the present appellant and his brother who is also serving as Patwari have been serving on two choice Mozas/Halqas of District Charsadda since the year 2014. This consistent posting of two brothers including the appellant for many years to these two Halqas/Mozas in District Charsadda raise disturbing questions that need to be answered by the appellant.
- 5- **Denied** as laid. The tenure of Patwaris is regulated by the Land Record Manual and the various statutes relating to the subject of revenue as well as the law and rules present in ESTACODE. The normal tenure therein for patwari is 2 years.
- 6- **Denied** as laid. The present appellant as already enumerated above has been continuously clinging to his two choice Mozas/Halqas in District Charsadda. Therefore, whenever he is transferred out, the appellant always strives to cancel his transfer orders and hence is reluctant and resists leaving of charge as per orders of the superior officers.
- 7- **Denied** as laid. The department appeal of the answering respondent by the respondent No.1 has been accepted as per the law and after fulfilling all codal formalities.
- 8- **Denied** as laid. The present appellant does not have a genuine legal grievance and furthermore has come to this Honorable Tribunal with unclean hands. He has suppressed and concealed relevant facts and information from this Honorable Tribunal and thus does not deserve audience before this Honorable Tribunal as per law.

PARAWISE REPLY ON GROUNDS

- A- **Denied as laid.** The order dated 19.07.2024 which has been impugned by the appellant is lawful, well within the jurisdiction of respondent No.1 and has been issued as per law, the demands of justice and public interest. Therefore, the impugned order deserves to be upheld by this Honorable Tribunal.
- B- **Denied as laid.** The law and rules governing service matters give ample jurisdiction and authority to the respondent No.1 to decide departmental appeals. The respondent No.1 has decided the departmental appeal as per law and rules of natural justice.

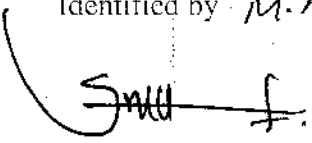
- C- **Denied as laid.** As already averred above, the respondent No.1 while deciding the departmental appeal has acted as per law, rules and the dictates of natural justice. The impugned order is a speaking order which is well reasoned.
- D- **Denied as laid.** The departmental appeal of the answering respondent was accepted by the respondent No.1 after following the law and the rules related to service matters. The order is well reasoned and the rules and codes applicable to service matters have been duly deliberated upon. The law and the rules thus followed in deciding the departmental appeal by the respondent No.1 have the force and basis of the Constitution of the Islamic Republic of Pakistan behind them.
- E- **Denied as laid.** The present appellant has no legal ground to appear before this Honorable Tribunal.

It is therefore, humbly prayed that on acceptance of this written reply, the appeal under reply may very graciously be dismissed and the impugned order dated 19.07.2024 may be upheld. Any other relief deemed appropriate in the circumstances of the case may also be granted to the present applicant by this Honorable Tribunal.

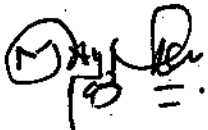
Through **Respondent No.3**

 M. Ayaz
SULTAN MUHAMMAD KHAN
 Advocate High Court.

AFFIDAVIT

I, **Muhammad Ayaz** Patwari, District Charsadda, do here by affirm and declare on Oath that the contents of this present Written Reply as above are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honorable Tribunal.

Identified by **M. Ayaz**

SULTAN MUHAMMAD KHAN
 Advocate High Court.




DEPONENT
 17102-1154977-9

FORM OF ORDER SHEET

Court of _____

Appeal No. 1011/2024



S.No. Date of order proceedings

Order or other proceedings with signature of Judge

1 23/07/2024

3

Scanned
Peshawar

The appeal of Mr. Sajjad Khan resubmitted today by Ms. Nadia Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 24.07.2024. Parcha Peshi given to counsel for the appellant.

By the order of Chairman

[Signature]
REGISTRAR

24th July, 2024

Appellant Sajad Khan Patwari alongwith his learned counsel Ms. Nida Khan, Advocate present. Preliminary arguments heard and case file perused.

Learned counsel for the appellant contended that vide office order dated 09.07.2024 of the Deputy Commissioner, Charsadda (Respondent No. 2), the appellant was transferred from Patwar Halqa Agra to Patwar Halqa Mera, Prang and private respondent No. 3 namely Muhammad Ayaz Patwari was transferred at the place of the appellant. She next contended that private respondent No. 3 filed departmental appeal before the Respondent No. 1/ Commissioner Peshawar Division, Peshawar, against the order dated 09.07.2024, which was accepted vide impugned order dated 19.07.2024 without providing the chance of hearing to the appellant. She further contended that the

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

[Signature]
REGISTRAR

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impugned order dated 19.07.2024 was passed mala-fidely in a hasty manner, which is against the gist of Article 10-A of the Constitution of Islamic Republic of Pakistan. She also argued that the impugned order dated 19.07.2024 is against the Transfer/Posting Policy of the Provincial Government, which is liable to be set-aside.

Points raised need consideration, hence the appeal in hand is admitted to regular hearing subject to all legal and valid objections by the opposite side. The appellant is directed to deposit security fee within 02 days. Respondents be summoned through TCS, the expenses of which shall also be deposited by the appellant within 02 days, where-after notices be issued to the respondents. To come up for written reply/comments on 09.08.2024 before the S.B.

Alongwith memorandum of appeal, the appellant has also filed an application for suspension of impugned order dated 19.07.2024 passed by respondent No. 1. In this regard preliminary arguments of the learned counsel for the appellant heard. Notice of the application for suspension of impugned order dated 19.07.2024 be also issued to the respondents for the date fixed. In the meanwhile, operation of impugned order dated 19.07.2024 shall remain suspended till the date fixed, if not already acted upon. Parcha Peshi given to the appellant.

Date of Presentation of Application 24-7-24
 Number of Words 27
 Copying Fee 15/-
 Urgent 5/-
 Total 25/-
 Name of Copyist ---
 Date of Completion of Copy 24-7-24
 Date of Delivery of Copy 24-7-24

Nasem Amin

ATTESTED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

(Aurangzeb Khattak) 24-07-2024
 Member (Judicial)

ATTESTED

Annexure "B" (6)

OFFICE OF THE
DEPUTY COMMISSIONER
CHARSADDA

No. DC(CIID)Est. 7(25)Posting/Transfer/Revenue/ 7183-88 Date: 10/07/2024

OFFICE ORDER

In pursuance of the Commissioner Peshawar Division Peshawar letter No D.Appeal Ayaz/AR/7584 dated 19-07-2024, this office order bearing No. DC(CIID)Est. 7(25)Posting/Transfer/Revenue/6880-84 dated 09-07-2024 is hereby withdrawn/ cancelled with immediate effect in the public interest.


DEPUTY COMMISSIONER
CHARSADDA

Encl: Even No. & Date

Copy forwarded to the -

1. Assistant to Commissioner (Rev/GA) Peshawar Division Peshawar with reference to his letter quoted above.
2. Additional Deputy Commissioner (C) Charsadda.
3. Assistant Commissioner Charsadda.
4. Tehsildar Charsadda.
5. District Kamungo Charsadda.
6. Officials concerned for compliance.


DEPUTY COMMISSIONER
CHARSADDA


ATTESTED.



Annexure "C" (7)

OFFICE OF THE
DEPUTY COMMISSIONER
CHARSADDA

No. DC(CHD)Estt: 7(25)Posting/Transfer/Revenue/ 7250-57 Dated: 25/07/2024

OFFICE ORDER

In pursuance of the Order of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 24-07-2024, issued in the service appeal No. 1011/2024, this office order bearing No. DC(CHD)Estt: 7(25)Posting/Transfer/Revenue/7183-88 dated 24-07-2024 is hereby suspended till further orders.

DEPUTY COMMISSIONER
CHARSADDA

Endst: Even No. & Date

Copy forwarded to the:-

1. Sub Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Assistant to Commissioner (Rev/GA) Peshawar Division Peshawar with reference to his letter No.D.Appeal/Ayaz/AR/7584 dated 19-07-2024.
3. Additional Deputy Commissioner (C) Charsadda.
4. Assistant Commissioner Charsadda.
5. Tehsildar Charsadda.
6. District Kanungo Charsadda.
7. Officials concerned for compliance.

DEPUTY COMMISSIONER
CHARSADDA

ATTESTED

(8)

VAKALATNAMA

(POWER OF ATTORNEY)

IN THE Honible Service Tribunal, Peshawar.

Case. Appeal No. 1011 /2024

Sajad Khan Patwari Charsadda

.....Petitioner

Versus

The Commissioner Peshawar and Others

.....Respondents

I, Muhammad Ayaz Respondent No: 3 the

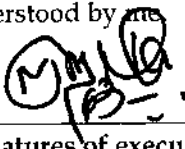
do hereby appoint and constitute BABAR KHAN YOUSAFZAI ADVOCATE SUPREME COURT AND SULTAN MUHAMMAD KHAN ADVOCATE HIGH COURT of Legal Oracles, in the above-mentioned cause, to do all or any of the following acts, deeds and things:-

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

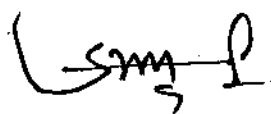
AND I, hereby also agree:-

- (a) To ratify whatever the Advocate(s) or their substitutes may do in the proceedings;
- (b) not to hold the Advocate(s) or their substitutes responsible if the said cause be proceeded ex parte or dismissed in default in consequence of their absence from the court when it is called for hearing unless such absence is due to the gross negligence of the Advocate(s) or their substitutes; and
- (c) That the Advocate(s) shall be entitled to withdraw from the prosecution of the said cause if the whole or any part of the agreed fees remain unpaid.

IN WITNESS WHEREOF I have signed this Power of Attorney hereunder on this 5 day of August 2024 at Peshawar and the contents of this Power of Attorney have been read, fully explained and understood by me



Signatures of executants:



ACCEPTED
LEGAL ORACLES

Suite No. 1, Opposite Cantt Railway Station,
Saddar Road, Peshawar Cantt.

T: 92 91 5284140 - E: mianfazalmanan80@gmail.com

www.legaloracles.com