

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C M No. _____/2024

In

Service Appeal No. 1011/2024

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

Versus

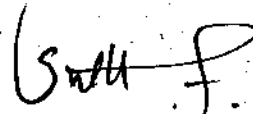
The Commissioner Peshawar Division & others.....**RESPONDENTS**

I N D E X

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

Through



SULTAN MUHAMMAD KHAN
Advocate High Court.

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C M No. _____/2024
In
Service Appeal No. 1011/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14747

Dated 06-08-2024

Sajad Khan, Patwari, Charsadda. APPELLANT

Versus

The Commissioner Peshawar Division & others. RESPONDENTS

**APPLICATION FOR VACATION OF STAY GRANTED VIDE ORDER DATED
24.07.2024**

Respectfully Sheweth:

- 1- That the above titled Service Appeal has been filed and is pending before this Honourable Tribunal, which is fixed for 9-8-2024.
- 2- That the present applicant is arrayed as Respondent No.3 in the main appeal under adjudication.
- 3- That on the last date of hearing i.e. 24-7-2024, this Honorable Tribunal was pleased to admit the appeal for "regular hearing subject to all legal and valid objections by the opposite side."
- 4- That furthermore, this Honorable Tribunal on the last date of hearing was pleased to pass an order on application for interim relief of the appellant in the following terms; "in the meanwhile operation of impugned order dated 19-7-2024 shall remain suspended till the date fixed, if not already acted upon". **(Copy of the Order of the Tribunal dated 24-7-2024 is annexed herewith marked as "A")**
- 5- That it is pertinent to appreciate the conditional nature of the order of this Honorable Tribunal. Whereas, the order impugned in the main appeal dated 19-7-2024 had already been "acted upon" when the appellant approached this Honorable Tribunal. The Respondent No. 2 in the main appeal had already in light of the order dated 19-7-2024 made an order dated 24-7-2024 in the morning office hours, implementing the said order of 19-7-2024. Whereas the charge of the posting under challenge was already with the present applicant and he had not relinquished it at that stage. **(Copy of the Order of the Deputy Commissioner Charsadda dated 24-7-2024 is annexed herewith marked as "B")**
- 6- That the appellant did not come to this Honorable Tribunal with "clean hands".
- 7- That despite the clear "conditional" relief granted by this Honorable Tribunal vide its order dated 24-7-2024, the appellant and elements within the office of respondent No. 2 misrepresented, misused, conspired to defraud this Honorable Tribunal and committed contempt of court by managing to get issued an order from the office of the Deputy

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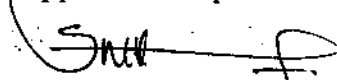
Commissioner Charsadda dated 25-7-2024 wherein the earlier order of the same office dated 24-7-2024 was suspended. (Copy of the Order of the Deputy Commissioner Charsadda dated 25-7-2024 is annexed herewith marked as "C")

- 8- That the order of the Deputy commissioner Charsadda dated 24.7.2024 in light of implementation of the impugned order dated 19.7.2024 of the Commissioner Peshawar Division and in light of the subsequent order of this Honorable Tribunal dated 24-7-2024 holds the field.
- 9- That the contents of the reply to the main appeal by present applicant as respondent No. 3 and the contents of the earlier departmental appeal by the present Respondent No.3 may be treated as an integral part of this present application.
- 10- That it is in the interests of justice and the majesty of this Honorable Tribunal that the misrepresentation and concealment of facts and the issuance of orders on the back of misusing of the order of this Honorable Tribunal may be set aside and the record is corrected.
- 11- That the applicant has a good prima facie case and has every likelihood of his success. The balance of convenience also lies in favor of the present applicant. Furthermore, irreparable loss would be caused to the present applicant and to the interests of justice if the stay already granted is not vacated by this Honorable Tribunal.

It is, therefore, humbly prayed that on acceptance of this application, the order dated 24.07.2024 of this honorable tribunal, to the extent of granting interim relief/stay to the appellant may be recalled and vacated in the best interests of justice. Any other relief deemed appropriate in the circumstances of the case may also be granted to the present applicant by this Honorable Tribunal.

Through

(Applicant/Respondent No.3)

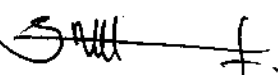


SULTAN MUHAMMAD KHAN
Advocate High Court.

AFFIDAVIT

I, **Muhammad Ayaz** Patwari, District Charsadda, do here by affirm and declare on Oath that the contents of this present Application for Vacation of Stay 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



SULTAN MUHAMMAD KHAN
Advocate High Court.



DEPONENT

17102-1154977-9

Annexure "A" (3)

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	2	3
1-	23/07/2024	<p>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.</p> <p style="text-align: right;">By the order of Chairman <i>[Signature]</i> REGISTRAR</p> <p>Appellant Sajad Khan Patwari alongwith his learned counsel Ms. Nida Khan, Advocate present. Preliminary arguments heard and case file perused.</p> <p>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</p>

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T. Peshawar

24th July, 2024

[Handwritten signature]
24/07/2024

ATTESTED
[Signature]
EXAMINER
Kyber Pakhtunkhwa
Service Tribunal
Peshawar

[Handwritten signature]
ATTESTED



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 38
 Copying Fee 15/-
 Urgent 5/-
 Total 20/-
 Name of Copyist 24-7-24
 Date of Completion of Case 24-7-24
 Date of Delivery of 24-7-24

Nasim Amin

ATTESTED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

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

ATTESTED

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Annexure "B"

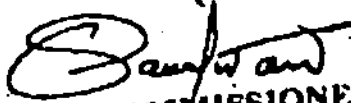


OFFICE OF THE
DEPUTY COMMISSIONER
CHARSADDA

No DC(CHD)Estt. 7(25)Posting/Transfer/Revenue/ 7183-22 Dated 2/1/2024

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(CHD)Estt. 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: Encl 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 (G) Charsadda.
3. Assistant Commissioner Charsadda.
4. Tehsildar Charsadda.
5. District Kamungo Charsadda.
6. Officials concerned for compliance.


DEPUTY COMMISSIONER
CHARSADDA


ATTESTED

Anneau 'e'

(6)



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 (G) Charsadda.
4. Assistant Commissioner Charsadda.
5. Tehsildar Charsadda.
6. District Kanungo Charsadda.
7. Officials concerned for compliance.

DEPUTY COMMISSIONER
CHARSADDA

ATTESTED