

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

C.M No _____/2024

In

Appeal No.1011/2024

Sajjad Khan, Patwari Halqa, Mouza Mera Prang, District Charsadda.
(Appellant)

VERSUS

Commissioner Peshawar, Division, and others.

(Respondents)

INDEX

S.No	Description of Documents	Annexure	Page No
1.	Memo of Application		1-2
2.	Affidavit		3
3.	copy of order dated 24.07.2024	A	4-5
4.	copy of transfer order	B	6
5.	copy of order dated 06.05.2024	C	7
6.	order dated 19.07.2024	D	8
7.	copy order dated 09.07.2024	E	9
8.	Other documents		10-13

Applicant

Through

ZARTAJ ANWAR

Advocate Supreme Court
Of Pakistan

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

C.M No _____/2024

In

Appeal No.1011/2024

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 14547

Dated 26/7/24

Sajjad Khan, Patwari Halqa, Mouza Mera Prang, District Charsadda.

(Appellant)

VERSUS

Commissioner Peshawar, Division, and others.

(Respondents)

APPLICATION FOR VACATION OF STAY GRANTED
VIDE ORDER 24.07.2024, TILL THE FINAL DISPOSAL
OF THE MAIN SERVICE APPEAL,

Respectfully Submitted:

1. That the above noted Service Appeal is pending before this Honourable Tribunal, which is fixed for 09.08.2024.
2. That on the last date of hearing this learned tribunal was please to grant the stay while suspending the order dated 19.07.2024 vide order dated 24.07.2024 in favor of the appellant. (copy of order dated 24.07.2024 is attached as annexure A).
3. That the appellant malafide while cancelling the actual facts from this Hon,ble Tribunal as the appellant served on the subject post from last 2 years as he was posted on 20.01.2023 till 06.05.204, when the applicant was transferred on 06.05.2024.(copy of transfer order is attached B).
4. That the applicant was transferred to Mera Prang vide order dated 06.05.2024 Dc(chd)Estt7(25) Posting /transfer/revenue 5224-38 from Halqa agra.(copy of order dated 06.05.2024 is attached as annexure C)
5. That the applicant illegally in violation of Posting transfer policy per maturely transfer to Halqa agra being aggrieved of

the same filled appeal to court of Commissioner Peshawar and the Commissioner Peshawar was please to accept the of order dated 19.07.2024 is attached as annexure D).


- 6. That the learned tribunal failed to take note of the fact that appellant does not fulfill the prerequisite for getting stay order in his favor. appeal of the applicant and the impugned order dated 09.07.2024 was set aside.(copy order dated09.07.2024 is attached as annexure E)
- 7. That the applicant has good prima face case and there is every likelihood of his success.
- 8. That allowing the application would best serve the interest of justice as the appellant is denied his rights with no fault on his part.

It is therefore prayed that on acceptance of this application the respondents may kindly be restrained form recovery and letter dated 06.11.2023 may kindly be suspended till the final disposal of this Service Appeal.



Applicant

Through



ZARTAJ ANWAR,
Advocate, Peshawar

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

C.M No _____/2024

In

Appeal No.1011/2024

Sajjad Khan, Patwari Halqa, Mouza Mera Prang, District Charsadda.

(Appellant)

VERSUS

Commissioner Peshawar, Division, and others.

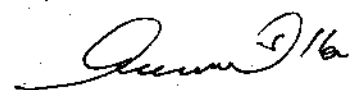
(Respondents)

AFFIDAVIT

I Muhammad Ayaz, patwari, Halqa Mouza Agra, District Charsadda, do hereby solemnly affirm and declare that the contents of the above Application are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.


Deponent

Identified by:


ZARTAJ ANWAR,
Advocate, Peshawar.






4

Advised A

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 23/07/2024	3 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>SCORVED Peshawar</p>	By the order of Chairman
	24 th July, 2024	 REGISTRAR
	 24/07/2024	Appellant Sajad Khan Patwari alongwith his learned counsel Ms. Nida Khan, Advocate present. Preliminary arguments heard and case file perused.
	 ATTESTED	<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>

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.

ACCEPTED

(Signature)
(Aurangzeb Khattak) 24/07
Member (Judicial) 2024

Annex B

6



THE OFFICE OF THE DEPUTY COMMISSIONER CHARSADDA

Email: dccharsadda@gmail.com Ph: # 091- 9220015, 9220025 Fax #: 091-9220021

NO. DC (CHD) Estt: 7 (25) Posting/Transfer/Revenue/ 6880-84 Dated: 08/10/2024

OFFICE ORDER

The following postings/transfers amongst the revenue staff is hereby ordered in the best public interest with immediate effect:

S.No	Name with Designation	From	To
1	Mohammad Ayaz, Patwari	Patwar Halqa Mera, Prang	Patwar Halqa Agra
2	Muhammad Sajjad, Patwari	Patwar Halqa Agra	Patwar Halqa Mera, Prang

DEPUTY COMMISSIONER,
CHARSADDA

Attest: Even No & Date

Copy forwarded to the:

1. ADC (G), Charsadda.
2. AC Charsadda.
3. Tehsildar Charsadda.
4. DK Charsadda.
5. Officials concerned for compliance.

DEPUTY COMMISSIONER
CHARSADDA

ATTESTED

7 Annex C
DC Check ESTH: 7025

Posting / Transfr / Revenue

~~ATTENTION~~

5334-38-Debt-6-5
24

M. Atyoug CPD CHD Agya

loc HD Moya Prang



IN THE COURT OF
COMMISSIONER PESHAWAR DIVISION
PESHAWAR

APPEAL NO: 256/2023
DATE OF INSTITUTION: 11.07.2024
DATE OF DECISION: 19.07.2024

8 Annex D

Muhammad Ayaz-Patwari District Charsadda..... (Appellant)

VERSUS

Deputy Commissioner Charsadda..... (Respondent)

ORDER

This order will dispose off the instant departmental appeal filed by the above named appellant against the Deputy Commissioner Charsadda order dated 09.07.2024, whereby he was transferred from Patwar halqa Mera Prang to patwar halqa Agra which the appellant termed as illegal and against the rules/regulations governing the tenure policy.

Facts of the case are that vide order 09.07.2024 the Deputy Commissioner Charsadda transferred the above named appellant from Patwar halqa Mera Prang to Patwar halqa Agra, district Charsadda. The appellant aggrieved of the same made impugned the above order before this court on the grounds that it was against the tenure policy. The appellant in his appeal has narrated that he served as Patwari at various patwar halqas in his district and performed duties to the entire satisfaction of the superiors. Vide order dated 06th May-2024 the appellant was transferred to Patwar halqa Mera Prang and took charge of the post on 16th May-2024 (after lapse of 10 days as his predecessor was unwilling to hand over charge). The appellant started his routine official duties when on 09.07.2024 the Deputy Commissioner Charsadda vide order transferred the appellant from Patwar halqa Mera Prang to Agra without any complaint or other solid reasons. The above order was termed by the appellant as illegal and against the norms of justice and tantamount of the law/rules of the tenure policy of the Provincial government and such illegal transfers causes hurdles in smooth flow of routing official works. The appellant has also stated that he has been made rolling stone and constant transfer orders were made from one halqa to another and vice versa which has caused the appellant a great mental disorder as against the present posting the appellant hardly served for 02 months i.e from 16th May to 09th July-2024.

The appellant has further submitted that his predecessor have got repeated postings on Patwar halqa Mera Prang and Charsadda which is also against the policy and rules/regulations.

Appellant present in person and heard. Para-wise comments asked from the from the Deputy Commissioner Charsadda have not yet been furnished despite verbal requests, however, during personal hearing of the appellant and track record of posting/transfer of the predecessor of the appellant, it is quite clear that the appellant has not yet completed the tenure against the said halqa (Mera Prang) while his predecessor has availed 02 postings on the said halqa (copy of track record of postings is annexed). The pray raised in the appeal is justified ~~is justified~~ and carries sufficient weight, hence the appeal is accepted and the impugned order dated 09.07.2024 is set aside.

File after necessary compilation be consigned to ORR.

Alleged Copy

Amb

Reader to Commissioner
Peshawar Division Peshawar

COMMISSIONER
PESHAWAR DIVISION PESHAWAR

ANNOUNCED.
19.07.2024

Amir E.
9

Subject: Departmental appeal against the order dated 09.07.2024

Respected Sir

With profound respect, the appellant submit as under:-

- i. That the appellate is serving as Patwari in the Revenue department Charsadda and served in the Settlement department and transferred to the district Charsadda on 20.03.20218 and since serving in Charsadda as Patwari (BPS-09).
- ii. That during service against the post of Patwari at various halqas, the undersigned performed duties to the entire satisfaction of the superiors and never let a chance of complaint of any sort to the public.
- iii. That the appellant is bonafide resident of district Charsadda.
- iv. That the appellant was serving at Patwar halqa Agra and from there transferred to Patwar Halqa MERA PRANG vide order dated 06th May-2024 and took charge of the halqa on 16th May-2024 after a lapse of 10 days as my predecessor namely Mr. Sajjad Ahmed who was unwilling to hand over charge of the post and after 10 days gap, Mr. Akbar Hussain Girdawar Cricle Charsadda handed over the charge of the post by breaking the lock of the office. To my utter surprise the Deputy Commissioner Charsadda vide order dated 09th July 2024 the undersigned was transferred from the said halqa after hardly serving for one month and transferred again to Patwar halqa Agra.
- v. That the above order is illegal and against the principles of natural justice and transfer rules/regulations.
- vi. That the appellant has been made a rolling stone and constant transfer orders are made of the undersigned from one Patwar halqa to another and from another to another which has caused the appellant in a great mental disorder.
- vii. That the same Patwari from whom I took charge namely Mr. Sajjad Ahmed was re-transferred to Mera Prang. It is pertinent to mention here that my predecessor Sajjad Ahmed and his brother Mr. Kafeel Patwaris are serving in the same halqa since long and manage mutual posting/transfer amongst themselves. This practice needs to be discouraged in the best public interest.
- viii. That any other ground not specifically taken will be argued with the permission at the time of arguments.
- ix. That keeping the above submissions in view, it is humbly prayed that on acceptance of the appeal the impugned order dated 09.07.2024 may kindly be set aside and the appellant may be allowed to serve on Patwar halqa Mera Prang till completion of tenure.

I shall be very obliged for your kind self, sir.

Your's Obediently
(MUHAMMAD AYAZ)
PATWARI/APPELLANT

Azhar
Pat. Secy
Comments

J. M.

Q

15

ATTESTED

Secy:
ACSO:
ACSO:
ACSO:

Dated: 11/07/2024

[Signature]

[Signature]

10-



OFFICE OF THE
DEPUTY COMMISSIONER
CHARSADDA

No. DC/CHD/Estt. 7251/Possing/Transfer/Revenue/7183-88 Dated 21/07/2024

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/CHD/Estt. 7251/Possing/Transfer/Revenue/6880-84 dated 09-07-2024 is hereby withdrawn/ cancelled with immediate effect in the public interest.

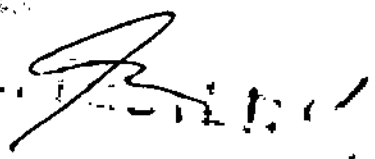

DEPUTY COMMISSIONER
CHARSADDA

Enlist: Ltrn 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 Kanungo Charsadda.
- 6 Officials concerned for compliance.


DEPUTY COMMISSIONER
CHARSADDA





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

یہ درجہ کی کتابیں اور سیریلز وغیرہ (دارالافتاء)

دارالافتاء

دینار ایچ آر ڈی - الیکٹرونک پبلسیشنز چارٹرڈ ایجوکیشنل ٹریڈنگ کمپنی
No-DC (END) ESTT: 7 (25) Trans 988 / Posting / 811-13 Date 20/07/2023

162

معلقہ سیریلز کے بعد از دوپہر سجاد خان ڈیوٹی کو دیا گیا۔

ذیل موضوع سیریلز کے بارے میں: رجسٹرڈ فنل حقیقت بنو دینی میں جلد - شعبہ نسب مالکان کی جلد
 فیملی بک میں جلد - شعبہ کشتور ایک کنکڑا - رجسٹرڈ حقداران زمین بعد زہیر کار 25 جلد
 رجسٹرڈ انتقال بعد زہیر کار 63 جلد - رجسٹرڈ غمہ گرد ادوی بعد زہیر کار 25 جلد - کیوٹ مالکان
 لال کتاب 2 جلد - فرد باجو 2 جلد - فرد دروات 2 جلد - لالیٹ 25 جلد - لالیٹ 25 جلد
 فنل گینے: بز 2 موضوع پہلی ٹاپو - رجسٹرڈ فنل حقیقت بنو دینی میں جلد - شعبہ نسب مالکان کی جلد
 فیملی بک میں جلد - رجسٹرڈ حقداران زمین بعد زہیر کار 25 جلد - کیوٹ مالکان کی جلد - رجسٹرڈ انتقال
 بعد زہیر کار 2 جلد - شعبہ کشتور ایک کنکڑا - لعل کتاب 3 جلد - رجسٹرڈ غمہ گرد ادوی بعد زہیر کار
 24 جلد - فرد باجو 2 جلد - فرد دروات 2 لالیٹ 24 جلد

بزرگ موضوع سیریلز کا نمبر 25: رجسٹرڈ فنل حقیقت بنو دینی میں جلد - رجسٹرڈ حقداران زمین
 بعد زہیر کار 25 جلد - رجسٹرڈ انتقال بعد زہیر کار 63 جلد - رجسٹرڈ غمہ گرد ادوی بعد

زہیر کار 14 جلد - فیملی بک بنو دینی میں جلد - شعبہ نسب مالکان ایک جلد - شعبہ کشتور
 ایک کنکڑا - لعل کتاب 2 جلد - فرد باجو 2 جلد - لالیٹ 2 جلد - انتقال جلد 9 جلد - انوائس
 ریشمی کریشن کے پاس ہے۔ فرد دروات 2 لالیٹ 28 عدد۔

بزرگ موضوع خیم آباد: رجسٹرڈ فنل حقیقت بنو دینی میں جلد - شعبہ نسب مالکان ایک جلد
 فیملی بک ایک جلد - رجسٹرڈ انتقال بعد زہیر کار 2 لالیٹ 2 جلد - لالیٹ 22 جلد
 لالیٹ 2 جلد - انتقال جلد 7 جلد - غمہ گرد ادوی بعد زہیر کار 2 جلد
 رجسٹرڈ حقداران زمین بعد زہیر کار 25 جلد - لعل کتاب 2 جلد - فرد باجو ایک جلد - کشتور ایک کنکڑا
 سفر ق کاغذات روزنامہ واقعات بعد زہیر کار 55 جلد - روزنامہ پاکوٹری بعد زہیر کار 51 جلد
 امدادی ایک جلد - رجسٹرڈ کاغذات مال حفاظت ایک جلد - رجسٹرڈ حقداران زمین بعد زہیر کار 2 جلد
 فرد دروات 2 لالیٹ 30 جلد - کیمپوٹری بعد زہیر کار 2 جلد - لالیٹ 2 جلد - رجسٹرڈ حقداران زمین بعد

دارالافتاء
 چارٹرڈ ایجوکیشنل ٹریڈنگ کمپنی

25 جولائی سال 2023 بروز بدھ
 ایچ آر ڈی سے نوٹیفکیشن دہ احمد شاہ قیسر دینہ پور خان صاحب سے کیا گیا کہ

دارالافتاء

POSTING TENURE OF MR. SAJJAD PATWARI

S.No	Date of Posting	Patwar Halqa
1	29-12-2017	Punjpaoo
2	07-05-2018	Charsadda
3	07-09-2020	Maira Prang
4	26-06-2022	Charsadda
5	20-01-2023	Maira Prang
6	06-05-2024	Agra
7	09-07-2024	Maira Prang

Received from DC office
Charsadda.

A. Anb
19-07-2024

ATTESTED

POWER OF ATTORNEY

In the Court of

Khyber Pakhtunkhwa Sindh Federal
Peshawar

Sajjad Khan

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Commissioner Peshawar

} Defendant
} Respondent
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. 1011 of 2024.
Fixed for 09-08-2024.

I/W, the undersigned, do hereby nominate and appoint

ZARTAJ ANWAR & IMRAN KHAN ADVOCATES, my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at Peshawar
the _____ day to _____ the year _____
Executant/Executants _____

Accepted subject to the terms regarding fee _____

Imran Khan
IMRAN KHAN
Advocate High Court
Mob: 0345-9090648

Zartaj Anwar
ZARTAJ ANWAR
Advocate Supreme Court Of Pakistan
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Mobile-0331-9399185 BC-10-9851
CNIC: 17301-1610454-5