

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT, D.I.KHAN.

Service appeal No. 18/2018

Date of institution ... 22.12.2017
Date of decision 26.03.2019

Gohar Zaman presently posted as Naib Tehsildar, Irrigation, Paroa Circle, D.I.Khan. ... (Appellant)

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others. ... (Respondents)

Present

Qazi Ziaur Rahman,
Advocate ... For appellant.

Mr. Farhaj Sikandar,
District Attorney ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER.

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. Instant appeal has been preferred against the order dated 06.09.2017 passed by respondent No. 2, whereby, minor penalty of withholding of one increment for a period of one year was awarded to the appellant. The appellant is also aggrieved of order dated 23.11.2017 conveyed to him by Assistant Secretary (Establishment) Government of

Khyber Pakhtunkhwa, Board of Revenue, Revenue & Estate Department
Peshawar, through which the departmental appeal of appellant was
rejected by the appellate authority.

2. The facts, as available in the memorandum of appeal, are that the appellant took over charge of the post of District Kanungo D.I.Khan on 18.08.2015. He was subsequently, transferred as Naib Tehsildar Daraban vide notification dated 22.12.2015. On 20.04.2017 the competent authority initiated departmental proceedings against the appellant on the allegations that on 01.07.2015 the Honourable Peshawar High Court, D.I.Khan Bench passed judgments in the Writ Petitions filed by the patwar candidates. Through the judgments the respondents were directed to consider the overage Patwar Candidates for appointment as Patwaris against the vacant posts. That, being District Kanungo it was the duty of appellant to have informed the competent authority for filing CPLA against the judgments of High Court which he failed to do. That due to this act of negligence on the part of the appellant, CPLA could not be filed in time and the judgments attained finality. The appellant was thus considered liable for proceedings under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. Enquiry proceedings followed, wherein, a reply was also sought from the appellant which was duly submitted on 17.05.2017. The proceedings were concluded by the enquiry officer by submission of report dated 30.06.2017. Consequently,

the competent authority imposed minor penalty upon the appellant against which a departmental appeal was preferred. Finding no favour in the departmental appeal, the appellant approached this Tribunal through the appeal in hand.

3. We have heard learned counsel for the appellant, learned District Attorney on behalf of the respondents and have also perused the available record.

The record is depictive of the fact that the appellant, on 18.08.2015, assumed the charge of District Kanungo D.I.Khan in the forenoon through charge report No. 1261-65. The said fact of assumption of charge by the appellant could not be denied by the respondents. On the other hand, the contents of show cause notice reflected that the incidence of decision of Writ Petitions by the Honourable Peshawar High Court D.I.Khan Bench pertained to 01.07.2015 and 02.07.2015. In the said manner, it is quite clear that the basis of the allegation against the appellant was much before the assumption of charge as District Kanungo D.I.Khan by him.

We have also considered the statement of one Syed Aftab Hussain Shah, a co-accused with the appellant in the episode. The said statement provided in clear terms that copies of judgments passed by the Honourable High Court were submitted alongwith a report to the Deputy



Commissioner, D.I.Khan on 10.07.2015. Needless to note that the said co-accused was posted at the relevant time as Naib Tehsildar Rod Kohi and was also performing duty as Sadar Kanungo at D.I.Khan. It was also stated in the statement that after submission of report and copies of judgments, the Deputy Commissioner D.I.Khan instructed to place the same before the D.P.C. However, no instructions/directions were given for filing of CPLA against the judgments.

4. In reply to the show cause notice submitted by the appellant on 09.08.2017 it was unequivocally noted that the appellant had assumed the charge on 18.08.2015 and before that Syed Aftab Hussain Shah had already informed the Deputy Commissioner D.I.Khan in writing regarding the judgments. In the said context it shall be useful to refer to the enquiry report submitted by the enquiry officer/Secretary to Commissioner D.I.Khan Division, D.I.Khan on 30.06.2017. The fact of submission of report pertaining to judgments by Syed Aftab Hussain Shah, on 10.07.2015, was duly noted in the report while in the recommendations part it was scribed that Syed Aftab Hussain Shah having the additional charge of District Kanungo D.I.Khan at the relevant time had not put the judgments to the competent authority with express proposal of filing of CPLA. However, he had brought the judgments into the notice of the Deputy Commissioner, D.I.Khan within a few days of announcement. In respect of the appellant, it was again reiterated in the

recommendations part that "he did not put up the judgments during his tenure to the competent authority with express proposal of filing of CPLA and relied upon the submission of report by his predecessor dated 10.07.2015."

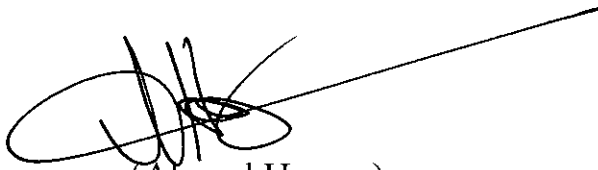
The recommendations of enquiry officer appear to have contained contradiction in the recommendations part, wherein, both the accused were tagged to have committed negligence but in the same manner. It was, however, laid in the report that the appellant was posted as District Kanungo D.I.Khan much after the submission of report by Syed Aftab Hussain Shah, the co-accused. On the other hand, while handing down the order of imposition of penalty upon the appellant, the learned Senior Member Board of Revenue/respondent No. 2 concurred with the findings and recommendations of the enquiry officer. The contents of impugned order suggest that the competent authority did not apply independent judicious mind to the record before him.

5. In the facts and circumstances of the case, we are of the considered view that the appellant could not be penalized for an incident which took place before the assumption of relevant duty by him. The suggestion by a Kanungo to the Deputy Commissioner for filing of CPLA against the orders/judgments of the high Court may also carry a question mark, more particularly, when the Deputy Commissioner required the report to be placed before the D.P.C.




Consequently, the appeal in hand is allowed and the minor penalty awarded to the appellant through order dated 06.09.2017 passed by respondent No. 2 is set aside.

Parties are left to bear their respective costs. File be consigned to the record room.

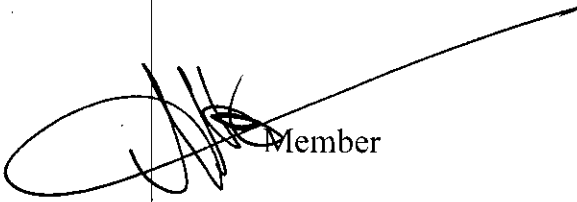



(Ahmad Hassan)
Member



(Hamid Farooq Durrani)
Chairman
Camp Court, D.I.Khan.

ANNOUNCED
26.03.2019

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	26.3.2019	<p><u>Present.</u></p> <p>Qazi Ziaur Rahman, .. For appellant Advocate</p> <p>Mr. Farhaj Sikandar, ... For respondents District Attorney</p> <p>Vide our detailed judgment of today, the appeal in hand is allowed and the minor penalty awarded to the appellant through order dated 06.09.2017 passed by respondent No. 2 is set aside.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <p> Member</p> <p> Chairman Camp Court, D.I.Khan</p> <p><u>ANNOUNCED</u> 26.3.2019</p>


18.12.2018

As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 18.12.2018 has been rescheduled and the case is re-fixed for 27.12.2018.


Resceder


27.12.2018

Appellant in person present. Mr. Muhammad Arif, Superintendent on behalf of respondents No. 1 & 2 and Mr. Rozi Khan, ADK on behalf of respondents No. 3 & 4 alongwith Mr. Farhaj Sikandar, District Attorney present. Written reply on behalf of respondents submitted. Adjourned. To come up for rejoinder and arguments on 25.02.2019 before D.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

25.02.2019

Appellant with counsel and Mr. Farhaj Sikandar learned District Attorney alongwith Muhammad Arif Superintendent present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 26.03.2019 before D. B at Camp Court D.I.Khan.


Member


Member
Camp Court D.I.Khan

18/2018

22.06.2018

Counsel for the appellant Mr. Ziaur Rahman, Advocate present and heard on preliminary.

Contends that two dates mentioned in the show cause notice i.e 01.07.2015 and 02.07.2015 which falls prior to his posting dated 13.08.2015 as District Kanungo, D.I.Khan.

Points raised need consideration. The appeal is admitted subject to all legal objections, if raised by the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 30.08.2018 before S.B at camp court, D.I.Khan.

Appellant Deposited
Security & Process Fee



Chairman

Camp Court, D.I.Khan

30-8-18

*Appellant present, Mr. Razi Khan D.K
for respondent present. Taw is hereby cancelled
therefore the case is adjourned for the second time
22.10.18 at camp court D.I.Khan*


22-10-2018

Tawing B. hereby cancelled.

*Therefore the case is adjourned
To come up on 18.12.2018 at camp
court D.I.Khan*


22.02.2018

None present on behalf of the appellant. Notice be issued to appellant and his counsel for attendance and preliminary hearing for 15.03.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan


15.03.2018

None for the appellant present. Notices be issued to the appellant and his counsel. To come up for preliminary hearing on 26.04.2018 before S.B.


(AHMAD HASSAN)
MEMBER
Camp Court D.I.Khan

25.05.2018




Due to retirement of the Worth Chairman, the Tribunal become non-functional. To come up for the same 22.06.2018. Notice be issued to the parties accordingly.


Member
Camp Court D.I.Khan

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 18/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	4/1/2018	<p>The appeal of Mr. Gohar Zaman resubmitted today by Mr. Zia-ur-Rehman Kazi Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 4/1/18</p>
2-		<p>This case is entrusted to Touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>25-1-18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
25.01.2018		<p>None present on behalf of the appellant. Notice be issued to appellant and his counsel for attendance and preliminary hearing for 22.02.2018 before S.B at Camp Court D.I.Khan.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court D.I. Khan</p>

The appeal of Mr. Gohar Zaman Naib Tehsildar Irrigation Paroa D.I.Khan received today i.e. on 22.12.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be flagged.
- 2- Annexures of the appeal may be attested.
- 3- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2734 /S.T,

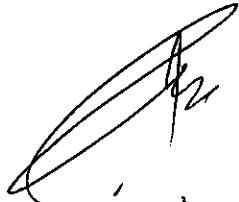
Dt. 26/12 /2017


REGISTRAR 26/12/17
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zia-ur-Rehman Qazi Adv. D.I.Khan.

SIX

Dismissed after completion


4.1.18

BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No ^{18/} of 2017

Gohar Zaman

Versus

Government of K.P.K etc

SERVICE APPEAL

INDEX

S. No.	Particulars	Annexure	Page
1.	Memo of Service Appeal along with affidavit and Certificate	-	1 - 11
2.	Copies of the Notification No18671-86 Dated 13.08.2015, charge assumption report Dated 18.08.2015 and transfer Order Dated 22.12.2015 of the Petitioner	A, B & C	12,13,14
3.	Copies of the Letter No 8338-39 Dated 20.04.2017 and Show Cause Notice (SCN) Dated 31.07.2017 along with reply Dated 09.08.2017	D & E	15, 16
4.	Copies of the Charge sheet, statement of allegations, reply Dated 17.05.2017 of the Appellant before the inquiry officer and inquiry report Dated 30.06.2017	F	19-25
5.	Copy of the impugned Notification Dated 06.09.2017	G	26
6.	Copies of Departmental Appeal Dated 03.10.2017 and rejection Order Dated 23.11.2017 Wakalatnama	H & I	27-31

20th December, 2017

Appellant
Through Counsel,


Zia-ur-Rahman Kazi ^{Adv} 20/12/17

Advocate High Court
Dera Ismail Khan

①

BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No ¹⁸⁷ of 2017

Gohar Zaman (Presently posted as) Naib Tehsildar (Irrigation) Paroa

Circle Dera Ismail Khan

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1447

Petitioner Dated 22/12/2017

Versus

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. **Senior Member Board of Revenue** Khyber Pakhtunkhwa Peshawar.
3. **Commissioner** Dera Ismail Khan Division.
4. **Deputy Commissioner** District Dera Ismail Khan

Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AIMED AGAINST THE IMPUGNED NO.ESTT:I/PF/AFTAB HUSSAIN SHAH/18835 AND NO.ESTT:I/PF/AFTAB HUSSAIN SHAH/18836-40 DATED 06.09.2017 AND ALSO AIMED AGAINST IMPUGNED REJECTION OF DEPARTMENTAL APPEAL ORDER NO EST:1/AFTAB HUSSAIN/27012 PESHAWAR Dated 23.11.2017 PASSED BY RESPONDENTS BEING ILLEGAL, ABRITRARY, PERVERSE, TAINTED WITH MALAFIDE AND OF NO LEGAL EFFECTS.

Filed to-day
Registrar

22/12/17

Re-submitted to -day
and filed.

Registrar

4/1/18

20.12.2017

Lawyer Q. Ismail Khan

2

PRAYER IN APPEAL

To set aside the impugned No.Estt:I/PF/Aftab Hussain Shah/18835 and No.Estt:I/PF/Aftab Hussain Shah/18836-40 Dated 06.09.2017 and also impugned rejection of departmental appeal order No Est:1/Aftab Hussain/27012 Peshawar Dated 23.11.2017 being illegal not sustainable in the eyes of law, arbitrary, perverse, tainted with malafide and of no legal effects and to allow the withheld one increment to the Appellant.

Note:- Addresses given above shall suffice the object of service

Respectfully Sheweth,

1. **That** the Petitioner is a government servant and took over the charge of the post of District Kanungo D.I.Khan on 18.08.2015 in pursuance of Notification No 18671-86 Dated 13.08.2015. Later on, through transfer Notification/Order No 28654-60 Dated 22.12.2015 was transferred from the said post as Naib Tehsildar Draban. Copies of the Notification No18671-86 Dated 13.08.2015, charge assumption report Dated 18.08.2015 and transfer Order Dated 22.12.2015 of the Petitioner are enclosed as **Annexure A, B & C** respectively.

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Mr. Aftab Hussain Shah
Kanungo
Dist. Peshawar
20.12.2017

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2. **That** vide Letter No 8338-39 Dated 20.04.2017, the competent authority was pleased to initiate the departmental proceedings against the Appellants on the allegations that :-

- a. That on 01.07.2015 and 02.07.2015 the Honorable Peshawar High Court D.I.Khan Bench passed Judgment in the writ Petitions filed by the patwari candidate where the Honorable Court directed the Respondents to consider the overage Patwari Candidates for appointment as Patwari against the vacant posts. Being District Kanungo, it was your duty to inform the competent authorities for filing CPLA against the Judgments of Honorable Peshawar High Court Bench but you failed to do so.
- b. That due to your this act of negligence, CPLA could not be filed in time and the Judgment got finality. Consequently the Petitioners have filed contempt Petitions against the District Collector D.I.Khan. This acts on your part liable you to be proceeded under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011.

Copies of the Letter No 8338-39 Dated 20.04.2017 and Show Cause Notice (SCN) Dated 31.07.2017 along with reply Dated 09.08.2017 are enclosed as **Annexure D & E** respectively.

3. **That** in pursuance of Letter Dated 20.04.2017 and entailing Show Cause Notice Dated 31.07.2017, charge sheet and statement of allegations, the Worthy enquiry officer conducted enquiry against the Petitioner/Appellant in a patently illegal manner. During the course of inquiry proceedings the reply was also sought from the Appellant, however in support of baseless allegations neither any witness was produced what to say about the cross examination on any witness. Copies of the Charge sheet, statement of allegations, reply Dated 17.05.2017 of the

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Mansur R. Khan
Adv.
Khan

20.12.2017

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Appellant before the inquiry officer and inquiry report Dated 30.06.2017 are enclosed as **Annexure F.**

4. **That** as stated earlier the Worthy enquiry officer conducted the enquiry proceedings in a patently illegal manner and prepared unfounded report and also made illegal recommendations of imposing minor penalties as envisaged under rule 4 (1) (a) Efficiency and Discipline Rules 2011 to the competent authority. In the light of illegal enquiry and uncalled for recommendations of the enquiry Officer, the competent Authority was pleased to impose minor penalty of withholding of one increment for a period of one year through impugned Notification/Order No Estt:I/PF/Aftab Hussain Shah/18836-40 Dated 06.09.2017. Copy of the impugned Notification Dated 06.09.2017 is enclosed as **Annexure G.**

5. **That** feeling aggrieved from the impugned Notification/Order No Estt:I/PF/Aftab Hussain Shah/18836-40 Dated 06.09.2017 and having left with no other option, the Appellant/Petitioner preferred a with in time departmental appeal before the competent Authority on 04.10.2017, which was rejected by the competent Authority through Order No Estt:1/Aftab Hussain/27012 Peshawar Dated 23.11.2017. Copies of, Departmental Appeal Dated 03.10.2017 and rejection Order Dated 23.11.2017 are enclosed as **Annexure H & I** respectively.

6. **Not** contented with the impugned Notifications and having left with no other remedy , the Appellant/Petitioner humbly approaches this Honorable Court on the following among other grounds

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Munir Ahmad
Adv.
23.12.2017

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G R O U N D S

- a. **That** impugned Notifications/Orders Dated 06.09.2017 and 23.11.2017 which were never communicated to the Petitioner in time are against law, facts of the case and material available on the record, hence not tenable in the eyes of law and liable to be struck down by this Honorable Tribunal.
- b. **That** as evident from the record of the case that on the crucial dates i.e 01.07.2015 and 02.07.2015, the dates on which the Honorable Peshawar High Court Bench D.I.Khan delivered its judgments, the Petitioner was serving as District Revenue Accountant D.I.Khan and was not having any concern with the DK office and Learned enquiry officer over looked this important aspect of the case by treating the Petitioner with the same yard stick, thus the recommendation of the learned enquiry officer are patently illegal and against the record of the case and liable to be struck down.
- c. **That** vide office Order No 18671-86 Dated 13.08.2015 issued by Worthy Senior Member Board of Revenue, the Petitioner was posted as District Kanungo (DK) D.I.Khan and later on, through officer Order No 28654-60 Dated 22.12.2015 issued by Worthy Senior Member Board of Revenue, the Petitioner was posted as Naib Tehsildar Tehsil Draban. So the total tenure of the Petitioner as District Kanungo was hardly 04 months and 09 days and

Mansoor Khan
Khan

20.12.2017

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as the Petitioner never remained posted as DK on the crucial dates i.e. 01.07.2015 and 02.07.2015, so as natural corollary, he was unaware from the developments which were happening prior to his postings. The learned enquiry officer and the Worthy Competent Authority never attended this important aspect of the case, there by illegally indicting to the charges

- d. **That** impugned actions taken against the Petitioner are against the settled principles of Law and he has been made an escape goat, thus the impugned actions are liable to be set aside by this Honorable Tribunal.
- e. **That** the very initiation of the departmental proceedings against the Petitioner is patently illegal and charges are also groundless, thus the impugned action is liable to be rectified by this Honorable Tribunal.
- f. **That** the legal and factual aspects of the controversy have not been appreciated in its true perspective neither by the enquiry officer nor by the Learned Competent Authority, thus the impugned Order Dated 06.09.2017 imposing minor penalty of withholding one increment for a period of one year and impugned rejection Departmental Order Dated 30.11.2017 are totally unjustified and have no legal backing, thus liable to be struck down.

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M. S. Ramesh
K. S. R.

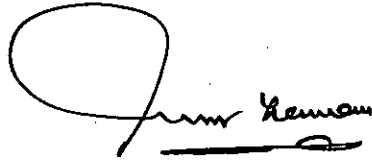
25.12.2017

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g. Counsel of the Petitioner may please be allowed to raise additional grounds at the time of arguments.

Dated:-20.12.2017

It is therefore, most humbly prayed that Service Appeal may please be allowed as prayed in the prayer clause of the instant Appeal.



Gohar Zaman (Presently posted as)

Naib Tehsildar (Irrigation) Paroa D.I.Khan

Mobile No: 03459874988

Through Counsel



Zia-ur-Rahman Kazi 20/12/17

Advocate High Court

Dera Ismail Khan

8

BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No of 2017

Gohar ZamanPetitioner

Versus

Government of K.P.K etc.....Respondents

SERVICE APPEAL

CERTIFICATE

Certified that this is first writ petition involving the instant subject matter and that the Petitioner has not filed any other petition earlier in this Honorable tribunal regarding the above stated controversy.


Petitioner

Through Counsel


Zia-ur-Rahman Kazi

Advocate High Court

Dera Ismail Khan

9

BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No of 2017

Gohar ZamanPetitioner

Versus

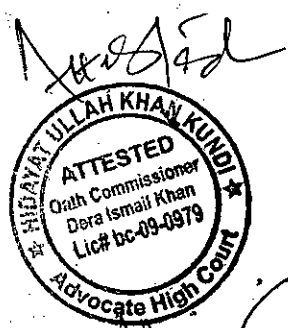
Government of K.P.K etc.....Respondents

SERVICE APPEAL

AFFIDAVIT

I, Gohar Zaman, the Petitioner, do hereby solemnly affirm and declare on oath:-

- 1. **That** accompanying service appeal has been drafted by my Counsel following my instructions
- 2. **That** all para wise contents of the service appeal are true and correct to the best of my knowledge, belief and information;
- 3. **That** nothing has been deliberately concealed from this August Tribunal nor anything contained therein is based on exaggeration or distortion of facts.



Dated:- 20.12.2017

Gohar Zaman

Deponent

[Handwritten signature]
20/12/17

10

**BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No of 2017

Gohar ZamanPetitioner

Versus

Government of K.P.K etc.....Respondents

SERVICE APPEAL

List of Books refereed:

1. Code of Civil Procedure, 1908.
2. The Constitution of Islamic Republic of Pakistan, 1973.
3. The K.P.K Civil Servant Act, 1973.
4. The Khyber Pakhtunkhwa Government Servant Efficiency and Discipline Rules 2011.
5. K.P.K Appointment, Promotion, Transfer Rules 1989.
6. K.P.K Service Tribunal Act, 1974.
7. Judicial Precedents, favouring the case of the Petitioners.


Counsel for Petitioner

Note:-

Service Appeal with annexures along with three sets thereof are being presented in three separate enclosed covers.


Counsel for Petitioner

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BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No of 2017

Gohar ZamanPetitioner

Versus

Government of K.P.K etc.....Respondents

SERVICE APPEAL

MEMO OF ADDRESSES OF THE PARTIES

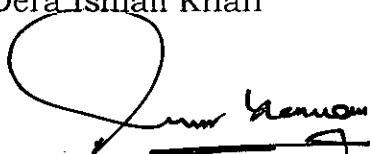
PETITIONER

Gohar Zaman (Presently posted as) Naib Tehsildar (Irrigation) Paroa
Circle Dera Ismail Khan

RESPONDENTS

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. **Senior Member Board of Revenue** Khyber Pakhtunkhwa Peshawar.
3. **Commissioner** Dera Ismail Khan Division.
4. **Deputy Commissioner** District Dera Ismail Khan

Dated:- 20.12.2017


Your Humble Petitioner

Annexure 4 A b

20/08/2015

12

FROM: HOME DEPTT PESH KAN FKA

FKA NO. 10092 91 9210201

13 Aug. 2015 6:11PM P1

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 13/08/2015

NOTIFICATION

No.Estt:V/DPC/_____ On the recommendation of Departmental Promotion Committee, the Competent Authority is pleased to order the promotion of the following Tehsil Accountants of DIKhan and Charsadda Districts to the post of District Revenue Accountant (BPS-14) on regular basis with immediate effect :-

S. No.	Name of Official
1.	Mr. Haider Abbas Shahani
2.	Mr. Ghafar Ali

On promotion, the above officials will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servant Act, 1973, read with Rule 15 of Khyber Pakhtunkhwa, Civil Servant (Appointment, Promotion and Transfer) Rules - 1989.

Consequent upon their promotion, the following posting is ordered with immediate effect: -

S.NO.	NAME OF OFFICER	FROM	TO
1.	Mr. Haider Abbas Shahani	Tehsil Accountant (BS-7)	District Revenue Accountant (BS-14) DIKhan
2.	Mr. Gohar Zaman Naib Tehsildar	District Revenue Accountant DIKhan	District Kanungo DIKhan against the vacant post
3.	Mr. Ghafar Ali	Tehsil Accountant (BS-7)	District Revenue Accountant (BS-14) Charsadda
4.	Syed Asim Shah Kanungo	District Revenue Accountant Charsadda (CCB)	Repatriated to his parent office.

Sd.
Senior Member

No.Estt:V/DPC/ 18671-86

- Copy forwarded to the:-
1. Commissioners of the respective Divisions.
 2. Deputy Commissioners, of the respective Districts.
 3. District Accounts Officers, of the respective Districts.
 4. Officials concerned.
 5. Personal Files.

Secretary-I

ATTACHED

18/8/15 G.D.K.

Annexure B-3



OFFICE OF THE
DEPUTY COMMISSIONER
DERA ISMAIL KHAN

13

Phone #: 0966-9280116 Fax #: 0966-9280110 Email: dcderaa@gmail.com

No: 1261/SK

Dated: 18/08/2015

CHARGE REPORT

In compliance with the Government of Khyber Pakhtunkhwa, Revenue & Estates Department Notification bearing Endst: No. Estt:V/DPC/18671-86 dated 13/08/2015, I assumed the charge of the post of District Kanungo D.I.Khan, today the 18th August 2015 (Fore-Noon)

GOHAR ZAMAN
DISTRICT KANUNGO
D.I.KHAN

1262-65
No: _____/SK

Dated: 18/08/2015

Copy forwarded to the:-

1. Commissioner, D.I.Khan Division D.I.Khan
2. Secretary Board of Revenue, KPK, Peshawar
3. Deputy Commissioner, D.I.Khan
4. Assistant Commissioner, D.I.Khan
5. Additional Assistant Commissioner Revenue, D.I.Khan
6. District Accounts Officer, D.I.Khan
7. Bill Clerk Main Office, D.I.Khan

DISTRICT KANUNGO
D.I.KHAN

13
the

ATTESTED

مستند رقم 28654-60

FROM MEMBER OFFICE

FAX NO. 18918213888

23 Dec. 2015 11:42AM P1

0966-730005

Annex all 3 b
14

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 22/12/2015

NOTIFICATION

No. Es/1/PP/Himayatullah/_____ The Competent Authority is pleased to order the following posting /transfer amongst Tehsildar and Naib Tehsildars with immediate effect and in public interest: -


S.No	Name of Tehsildar / Naib Tehsildar	From	To
1	Mr. Himayatullah Qureshi	Tehsildar Bannu	Services placed at the disposal of FATA Secretariat.
2	Mr. Kiramatullah Kundi	Awaiting posting in Board of Revenue	Tehsildar Bannu
3	Mr. Abdul Jalil	Naib Tehsildar Daraban	District Kanungo DIKhan
4	Mr. Gohar Zaman	District Kanungo DIKhan	Naib Tehsildar Daraban

By order of
Senior Member

No. Es/1/PP/Himayatullah/ 28654-60

Copy forwarded to :-

1. Commissioners of the respective Divisions.
2. Additional Chief Secretary FATA. He is requested to place the services of Mr. Naimatullah Tehsildar North Waziristan Agency at the disposal of this department for further posting in Settled Area.
3. Deputy Commissioners of the respective Districts.
4. District Accounts Officers of the respective Districts.
5. Officer / Officials concerned.
6. Office Order file.
7. Personal file.


Secretary-1
Sri

ATTACHED

Registrar

REGISTERED

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No. Estt: I/PF/S. Aftab Hussain Shah/
Peshawar dated the 30/04/2017

To

Mr. Malik Mansoor Qaisar,
Secretary to Commissioner,
DIKhan.

SUBJECT: DISCIPLINARY ACTION AGAINST OFFICERS/ OFFICIALS.

I am directed to refer to the captioned subject and to state that the Competent Authority has been pleased to approve initiation of disciplinary proceedings against the following officer/ officials under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:-

1. Syed Aftab Hussain Shah the then Naib Tehsildar Rod kohi Irrigation/ District Kanungo now Tehsildar Settlement Havelian.
2. Mr. Gohar Zaman (Ex-District Kanungo DIKhan) now Naib Tehsildar Daraban.

Consequently, the Competent Authority has further been pleased to appoint you as Inquiry Officer to investigate the charges / conduct inquiry under the provision of the said rules against the aforesaid Officer/ Officials in light of the attached charge sheets / statement of allegations with the request to submit your findings / recommendations / report within a period of 20 days positively.

Assistant Secretary (Estt)

No. Estt: I/PF/S. Aftab Hussain Shah/ 8338-39

Copy forwarded to:-

1. Deputy Commissioner, DIKhan. Copies of charge sheets are enclosed. It is requested to depute a representative of your office to join the proceedings on the date, time and place fixed by the Inquiry Officer.
2. Tehsildars, Abbottabad and Paharpur alongwith copies of charge sheets and statement of allegations (in duplicate) for service upon the accused officers/ officials and return one copy of its acknowledgement. The accused officer/ officials may also be directed to submit their statements before the Enquiry Officer within 7 days positively.

ATTESTED

Assistant Secretary (Estt)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated 31/07/2017

Amexure E b

16

SHOW CAUSE NOTICE

I, Zafar Iqbal, Senior Member, Board of Revenue, as Competent Authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency Discipline) Rules, 2011, serve you via Mr. Colur Zaman, Naib Tehsildar Daraban (Ex-District Kamungo D.I.Khan) Show Cause Notice that:-

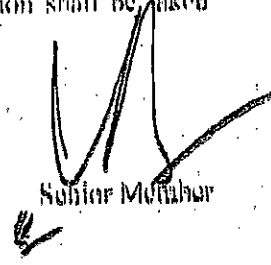
a. That on 01.07.2015 and 02.07.2015 the Hon'ble Peshawar High Court D.I.Khan Bench passed judgment in the writ petitions filed by the patwar candidates where by the Hon'ble Court directed the respondents to consider the overage Patwar Candidates for appointment as Patwaris against the vacant posts. Being District Kamungo, it was your duty to inform the competent authorities for filing the CPLA against the judgments of Hon'ble Peshawar High Court D.I.Khan Bench but you failed to do so.

b. That due to your this act of negligence, CPLA could not be filed, in time and the judgments got finality. Consequently the petitioners have filed contempt petitions against the District Collector, D.I.Khan. This acts on your part liable you to be proceeded under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011,

Your this act tantamount to misconduct and liable you to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

You are therefore required to Show Cause as to why the aforesaid penalty under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, should be imposed upon you. Furthermore, you are directed to appear on 9-8-17 at 10:00AM before the undersigned for personal hearing.

If no reply to this notice is received within 7 days of its delivery, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.


Senior Member

No. 15955
Dist: JPI/Colur Zaman/
Peshawar dated 31/07/2017.
Naib Tehsildar Daraban

ATTESTED

1. ~~...~~
 2. ~~...~~
 3. ...
 4. ...
 5. ...

6. ...
 7. ...
 8. ...
 9. ...
 10. ...

NO. ESTT./BF/Accounts No/18455
 Dated: 31/07/2017
 ...

...

سایم ضابطہ جناب ایڈووکیٹ مشیر صاحب صرف 6/8/81 کو DPC کا احسن مفہود تھا
 جس میں تمام ریکارڈ مفہودات باہمی کورٹ وغیرہ پیش ہوئے تھے۔ جو کہ DPC فیس
 سے ظاہر ہے۔ کہیں نے مفہودات کے حوالہ سپریم کورٹ آف پاکستان میں ایپل
 دائر کرنے کا کوئی حکم نہیں دیا ہے۔

لہذا استدعا ہے کہ شوکاڈ نوٹس میں موجود رکاز کے بارے میں الزامات بالکل
 غلط ہیں۔ جس سے قصور میں ان لوگوں پر ڈاؤن دھرتی جاوے۔ فقط صرف
 9/8/17

Imran Khan

محکم رضوان نائب کسٹڈیاں ایبٹ آباد
 ساتھ DK کورہ لکھنؤ

ATTESTED

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

CHARGE SHEET

Annexure 4 B
19

I, Zafar Iqbal, Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, hereby charge you Gohar Zaman presently posted as Naib Tehsildar, Daraban (Ex-District Kanungo DIKhan) as follows:

That you while posted as District Kanungo DIKhan (Additional Charge) committed the following irregularities:

- i) That on 01/07/2015 and 02/07/2015 the Hon'ble Peshawar High Court DIKhan Bench passed judgments in the writ petitions filed by the Patwar candidates whereby the Hon'ble Court directed the respondents to consider the over age Patwar Candidates for appointment as Patwaris against the vacant posts. Being District Kanungo, it was your duty to inform the competent authorities, for filing the CPLA against the judgments of Hon'ble Peshawar High Court DIKhan Bench. But you failed to do so.
- ii) That due to your this act of negligence, CPLA could not be filed, in time and the judgments got finality. Consequently, the petitioners have filed contempt petitions against the District Collector, DIKhan. This act on your part liable you to be proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

2. By reasons of the above you appear to be guilty of misconduct under Rule 2 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

3. You are, therefore, required to submit your written defence within 07 days of the receipt of this charge sheet to the Inquiry Officer.

4. Your written defence, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that you have no defence to put in and that case ex-parte action shall be taken against you.

5. Intimate us to whether you desire to be heard in person or otherwise.

6. Statement of allegations is enclosed.

Senior Member

ATTESTED

28/7/17
نايب تھسڈلر
داربان

20

DISCIPLINARY ACTION

I, Zafar Iqbal, Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Gohar Zaman presently posted as Naib Tehsildar, Daraban (Ex-District Kanungo DIKhan) has rendered himself liable to be proceeded against, as he committed the following acts / omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- i). That on 01/07/2015 and 02/07/2015 the Hon'ble Peshawar High Court DIKhan Bench passed judgments in the writ petitions filed by the Patwar candidates whereby the Hon'ble Court directed the respondents to consider the over age Patwar Candidates for appointment as Patwaris against the vacant posts. Being District Kanungo, it was his duty to inform the competent authorities for filing the CPLA against the judgments of Hon'ble Peshawar High Court DIKhan Bench but you failed to do so.
- ii). That due to his this act of negligence, CPLA could not be filed, in time and the judgments got finality. Consequently, the petitioners have filed contempt petitions against the District Collector, DIKhan. This act on his part liable him to be proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

2. For the purpose of inquiry against the said accused with reference to the above allegations, Mr. Mr. Malik Mansoor Qaisar, Secretary to Commissioner, DIKhan is appointed as Inquiry Officer under Rule 10(1)(a) of the Rules ibid.

3. The Inquiry Officer shall, in accordance with the provisions of the Rules ibid provide reasonable opportunity of hearing to the accused, record findings and make, within thirty (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Deputy Commissioner, DIKhan shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

ATTESTED

بخدمت جناب سیکریٹری ٹوکشنز ڈیپارٹمنٹ، ایگروائری آفیسر
 عنوان: جواب چارج شیڈ منجانب گورنمنٹ آف پنجاب، لاہور
 سبج: ڈسٹرکٹ قانون گورنمنٹ آف پنجاب

جناب عالی

بورڈ آف ریونیو ضلع بہاولپور، لاہور، برائے سیشن ڈیپارٹمنٹ، 39-338 مورخہ 29/4/77
 موصول چارج شیڈ ملاحظہ کی گئی جس کا جواب ذیل عرض گزارش کرتا ہوں

جواب چارج نمبر 1

1. عدالت عالیہ لاہور، ڈسٹرکٹ سیشن ڈیپارٹمنٹ، لاہور نے مورخہ 21/7/77 اور 27/7/77
 ججز اڈا ٹیڈا اور اڈا امداد خان کو پٹواروں کی خرابی کی بنا پر پٹواری معافی کرنے کا
 حکم دیا تھا۔ اس وقت میں بطور ڈسٹرکٹ ریونیو آفیسر لاہور تھیں۔

2. میں نے مورخہ 15/8/77 کو پٹوار اڈا امداد خان کو مورخہ 13/8/77 S.M.B.R. صاحب
 ڈسٹرکٹ قانون گورنمنٹ کا چارج سنبھالا ہے۔ نوڈل آڈر کا پی و چارج دیا گیا ہے

3. میرے چارج لینے سے قبل میرے پیش رو سید افتاب حسین شاہ (نائب کھیلدار)
 سابقہ D.C. نے متذکرہ مالہ فیصلہ جات کے بارے میں مورخہ 15/7/77 کو اس وقت

کے ڈیپٹی کمشنر صاحب ڈیپارٹمنٹ، لاہور کو تحریری طور پر آگاہ کر چکے تھے۔ اور جناب
 ڈیپٹی کمشنر صاحب ڈیپارٹمنٹ نے ان کو فیصلہ جات D.P.C. کے آئندہ اجلاس میں پیش کرنے کا
 حکم دیا۔ مگر C.P.L.A. دائر کرنے کا کوئی حکم نہیں دیا۔ نقل لفظ شدہ ہے

4. پٹوار اڈا امداد خان کی ریٹیشنز کے فیصلہ جات کے پیرا 4 کے مطابق جناب

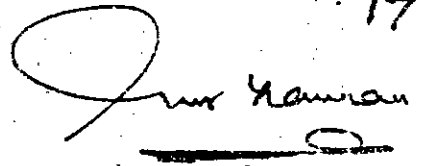
ایڈیشنل ایڈووکیٹ جنرل ڈیپارٹمنٹ، لاہور نے عدالت کے رویہ اس بات کا اعادہ
 کیا کہ محکمہ مال ڈیپارٹمنٹ، لاہور میں 32 پٹواریوں کی اسمبلی کی خرابی ہوئی ہے

اور محمد امدواران کو ان آسامیوں پر مطابق رجسٹر نوٹوار امدواران اور صاحب کر دیا جائے گا۔ کیونکہ امدواران تھری پور کے اہل بین نقل فیصلہ عدالت نوشہہ ہے۔

جواب چارج نمبر 2

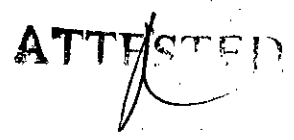
جیسا کہ الزام ہے اس کے جواب میں وضاحت کی گئی ہے کہ میر پش رو سابقہ DK نے بروقت اس وقت کے ڈپٹی کمشنر صاحب ڈیرہ کو فیصلہ جات عدالت ہائی کورٹ مدد کی بابت تحریری طور پر آگاہ کیا تھا۔ آگست 2015 سے دسمبر 2015 تک DPC کالونی اجلاس نہیں سکا۔ بندہ 6 نومبر 2015 کو 28654 مورخہ 22/12/15 جناب SMBR صاحب پوسٹ DK ڈیرہ سے نائب تحصیلدار درانل تعینات ہوا۔ مورخہ 28/12 کو DK ڈیرہ کا چارج حوالہ عبد الجلیل نائب تحصیلدار کیا۔ اور نائب تحصیلدار درانل سے چارج عبد الجلیل نائب تحصیلدار سے حاصل کیا۔ تاہم مورخہ 17/1/16 کو DPC کا اجلاس منعقد ہوا۔ اجلاس کے دوران نوٹوار امدواران کے ریکارڈ کے سمرہ مدد سے فیصلہ جات ہائی کورٹ پہنچے ڈیرہ بھی کمیٹی کے روبرو پیش کیے گئے۔ جو کہ ڈی بی بی منسٹرس سے بھی ظاہر ہے۔ کمیٹی ممبران نے فیصلہ جات کا بخور جائزہ لیا۔ اور فیصلہ کیا کہ کمیٹی کو نوٹوار امدواران کو نوٹواری نہیں لیا جائے گا۔ اور صرف ان امدواران کو جن کی عمر 35 سال سے کم ہے۔ کو نوٹواری لیا جائے گا۔ کمیٹی نے بھی فیصلہ جات کے حذف سیریکل کورٹ آف پاکستان میں اپیل دائر کرنے کا کوئی حکم نہیں دیا تھا۔ نقل منسٹر اپنے لہذا استدعا ہے کہ چھو پر لگائے گئے چارج بالکل غلط ہیں۔ اننواری

فقط مورخہ 17/05/17



نوٹوار امدواران تعینات و چارج ہونے پر فریاد نوشہہ پش

کو حکم زمان نائب تحصیلدار سابقہ DK ڈیرہ
حال نائب تحصیلدار روبرو کوئی نوٹوار ڈیرہ

ATTESTED


17/5/17

ENQUIRY REPORT

23
تعمیراتی

Background:

Background: Brief facts of the case are that one Muhammad Bashir s/o Amanullah Khan r/o District DIKhan and Mr. Tahir Bashir s/o Sheikh Abdul Hanan r/o DIKhan city filed an application in the Peshawar High Court Bench for appointment as Patwari on the ground that they have passed Patwar Patwaris on contract basis and their names have been entered in the Mohala Kutch Register and in the merit lists prepared by the concerned Revenue DIKhan. In their appeal that due to the recruitment of certain persons who were appointed as Patwaris, the appellants' names have become overage. The Peshawar High Court decided the Writ Petition No. of 2015 on 02.07.2015 in favour of the applicants. They submitted applications before the Commissioner DIKhan by enclosing copy of the judgment with the request to be appointed as Patwaris. The applications alongwith judgment of the Peshawar High Court Bench were put up to Deputy Commissioner DIKhan by the District Kanungo DIKhan for consideration and submission before the next Departmental Promotion Committee. The case of overage Patwar candidates were discussed in the Departmental Promotion Committee held on 06.01.2016. The CPLA against the judgements of honorable Peshawar High Court were not filed. The Competent Authority ordered an Inquiry under Efficiency & Disciplinary Rules-2011 and appointed the undersigned as Inquiry Officer.

Proceedings:

The Competent Authority served Charge Sheets and Statements of Allegations upon the following officials and directed them to submit reply to the Inquiry Officer.

1. Syed Aftab Hussain Shah the then Naib Tehsildar Rod Kohi Irrigation / District Karungo now Settlement Tehsildar Hawalian.
2. Mr. Cohar Zaman (Ex- District Kanungo) now Naib Tehsildar Irrigation Paroa.

The accused submitted their written replies to the undersigned as per following detail: -

The accused Syed Aftab Hussain Shah stated that he was posted as Naib Tehsildar Rod Kohi and was entrusted with the additional charge of the post of District Kanungo DIKhan. He stated that he submitted the judgement of the Peshawar High Court before the Deputy Commissioner DIKhan on 10.07.2015 upon which Deputy Commissioner DIKhan passed remarks that it may be put up in the Departmental Promotion Committee and passed no order regarding filing of CPLA against these judgements. He stated that prior to these judgements many candidate Patwaris have been appointed upon the judgement of Peshawar High Court and no any CPLA such

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ATTACHED

Assistant Secretary (Enq.)

1492

ENQUIRY REPORT

23

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2

Background:

Brief facts of the case are that one Muhammad Bashir s/o Amanullah Khan r/o Gara Haji Hussain Tehsil Paroa District Dikhan and Mr. Tahir Bashir s/o Sheikh Abdul Hanan r/o Mohalla Kaiqmatgaran wala Dikhan city filed an application in the Peshawar High Court Bench Dikhan claiming the rights of appointment as Patwari on the ground that they have passed Patwar course and working as Patwari on contract basis and their names have been entered in the relevant Patwar Candidates Register and in the merit lists prepared by the concerned Revenue hierarchy. They stated in their appeal that due to the recruitment of certain persons who were junior to them they have become overage. The Peshawar High Court decided the Writ Petition No. 137-D and 153-D of 2015 on 02.07.2015 in favour of the applicants. They submitted applications to the Deputy Commissioner Dikhan by enclosing copy of the judgment with the request to appoint them as Patwaris. The applications alongwith judgment of the Peshawar High Court Bench Dikhan were put up to Deputy Commissioner Dikhan by the District Kanungo Dikhan for consideration and submission before the next Departmental Promotion Committee. The case of overage Patwar candidates were discussed in the Departmental Promotion Committee held on 06.11.2016. The CPLA against the judgements of honorable Peshawar High Court were not filed. The Competent Authority ordered an Inquiry under Efficiency & Disciplinary Rules-2011 and appointed the undersigned as Inquiry Officer.

Proceedings:

The Competent Authority served Charge Sheets and Statements of Allegations upon the following officials and directed them to submit reply to the Inquiry Officer.

1. Syed Aftab Hussain Shah the then Naib Tehsildar Rod Kohi Irrigation / District Kanungo now Settlement Tehsildar Hawaiian.
2. Mr. Gohar Zaman (Ex- District Kanungo) now Naib Tehsildar Irrigation Paroa.

The accused submitted their written replies to the undersigned as per following detail: -

The accused Syed Aftab Hussain Shah stated that he was posted as Naib Tehsildar Rod Kohi and was entrusted with the additional charge of the post of District Kanungo Dikhan. He stated that he submitted the judgement of the Peshawar High Court before the Deputy Commissioner Dikhan on 10.07. 2015 upon which Deputy Commissioner Dikhan passed remarks that it may be put up in the Departmental Promotion Committee and passed no order regarding filing of CPLA against these judgments. He stated that prior to these judgements many candidate Patwaris have been appointed upon the judgement of Peshawar High Court and no any CPLA such

ATTACHED

Assistant Secretary (Enq.)

1492

orders was filed. He also stated that in Para-4 of the judgement the Additional Advocate General admitted before the court that in Revenue Department DIKhan, (32) posts of Patwaris were lying vacant and all the candidates may be appointed according to their merit maintained in the Patwar Register as per their eligibility. (Statement at Flag-A)

Mr. Gohar Zaman Naib Tehsildar, the accused, stated that he was posted as District Revenue Accountant DIKhan at the time of the judgement and took over the charge of the post District Kanungo DIKhan on 18.06.2015. He further stated that his predecessor Syed Aftab Hussain Shah Naib Tehsildar holding the charge of District Kanungo had already informed the Deputy Commissioner DIKhan about the judgement of Peshawar High Court upon which the Deputy Commissioner directed that it may be put up before the next Departmental Promotion Committee meeting and did not pass any order regarding filing of CPLA against these judgements. He also stated that from August-2015 to December-2015 no Departmental Promotion Committee meeting was held and on his posting as Naib Tehsildar Daraban he handed over the charge of District Kanungo to Mr. Abdul Jalil Naib Tehsildar on 23.12.2015. However, Departmental Promotion Committee meeting was held on 06.01.2016 wherein the record of the candidate Patwaris alongwith judgments of the court were placed before the Departmental Promotion Committee meeting. The Committee decided that no overage candidate will be considered for appointment as Patwari and no any decision regarding filing of CPLA against the judgements was taken. (Statement at Flag-B)

Both the accused and departmental representative deputed by the Deputy Commissioner DIKhan were called to attend the proceedings on 05.06.2017. The departmental representative produced copies of Writ Petition No. 137, (Flag-C) Judgement of the Peshawar High Court dated. 02.07.2015 (Flag-D) as well as Note Part of District Kanungo DIKhan (Flag-E) submitted to the Deputy Commissioner DIKhan dated. 10.07.2015.

The accused Syed Aftab Hussain Shah & Mr. Gohar Zaman relied upon their written statements at (Flag-A & B)

Findings

The perusal of statements of the accused and available record has led to the following:-

1. The judgement of Peshawar High Court Bench DIKhan passed in Writ Petition No. 137-D/2015 on 02.07.2015 (Flag-D) was submitted by the then District Kanungo DIKhan (Syed Aftab Hussain Shah accused) on 10.07.2015 for order of the Deputy Commissioner DIKhan by proposing that it may be placed before the next Departmental Promotion Committee upon which the Deputy Commissioner DIKhan passed order "put up then" (Flag-E)

ATTESTED

ASSISTANT SECRETARY (S&P)

25

2. The meeting of Departmental Promotion Committee (DPC) meeting was held on 06.01.2016 wherein the record of candidate patwaris alongwith the judgment of the court was placed before the forum which decided that no overage candidate will be considered for appointment as patwari. ((Flag-F))
3. It transpires from the above that although both the accused officials did not put up the judgement to the competent authority with express proposal of filing of CPLA, however the judgement dated. 02.07.2015 was brought into the notice of Deputy Commissioner DIKhar. on 10.07.2015 within a few days of its announcement.

Recommendations

1. The charge against Syed Aftab Hussain Shah the then Naib Tehsildar Rod Kohi DIKhan having the additional charge of the post of District Kanungo DIKhan. proved to the extent that he has not put up the judgement to the competent authority with express proposal of filing of CPLA, however he brought the judgement dated. 02.07.2015 into the notice of Deputy Commissioner DIKhan on 10.07.2015 within a few days of its announcement. It is recommended that one of the minor penalties as prescribed in Rule 4 (1) (a) of Efficiency and Disciplinary Rules 2011 may be imposed upon him.
2. The charge against Mr. Gohar Zaman Naib Tehsildar the then District Revenue Accountant having the additional charge of the post of District Kanungo DIKhan with effect from 18.08.2015 proved to the extent that he did not put up the judgement during his tenure to the competent authority with express proposal of filing of CPLA, and relied upon the submission of report by his predecessor dated on 10.07.2015 vide which the judgment dated. 02.07.2015 was brought into the notice of Deputy Commissioner DIKhan. It is recommended that one of the minor penalties as prescribed in Rule 4 (1) (a) of Efficiency and Disciplinary Rules 2011 may be imposed upon him.



30/6/2017
Enquiry Officer /
Secretary to Commissioner
DIKhan Division DIKhan

~~ATTACHED~~

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 26/09/2017

NOTIFICATION.

No.Estt:I/PF/Aftab Hussain Shah/_____ WHEREAS; Mr. Gohar Zaman Naib Tehsildar Irrigation Paroa was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges mentioned in the Charge Sheet and statement of allegations.

AND WHEREAS; Malik Mansoor Qaisar, Secretary to Commissioner DIKhan was appointed as Inquiry Officer to probe into the charges leveled against the said official and submit findings and recommendations.

AND WHEREAS the Inquiry Officer after having examined the charges, evidence produced before him and statement of accused official, submitted his report whereby the charges against the accused official stands proved.

AND WHEREAS I, Zafar Iqbal, Senior Member Board of Revenue after having examined the charges, evidence produced, statement of accused official, findings of Inquiry Officer and after personal hearing of the accused concur with the findings and recommendations of the Inquiry Officer.

NOW THEREFORE I as Competent Authority in exercise of powers conferred by Rule-4 (a) (ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 impose minor penalty of withholding of one increment for a period of one year upon Mr. Gohar Zaman Naib Tehsildar Irrigation Paroa with immediate effect.

Sd/-
Senior Member

No.Estt:I/PF/Aftab Hussain Shah/

18836-40

Copy forwarded to the:-

1. Commissioner DIKhan Division DIKhan.
2. Deputy Commissioner DIKhan.
3. District Accounts Officer, DIKhan.
4. Official concerned.
5. Personal file.

ATTESTED

~~Signature~~
Assistant Secretary (Estt:)

To

Annexure H⁶

27

**The Worthy
Chief Secretary
Khyber Pakhtunkhwa Province
Peshawar**

Subject:- **DEPARTMENTAL APPEAL/REPRESENTATION**

REGISTERED A.D/THROUGH PROPER CHANNEL/~~BY HAND~~

Respected Sir,

The Petitioner humbly submits as under:-

1. **That** in the year 2015, Petitioner was serving as District Revenue Accountant, District D.I.Khan and assumed the charge of District Kanungo (DK) on 18.08.2015 vide Office Order No 18671-88 Dated 13.08.2015. On 28.04.2017, the Petitioner received charge sheet by the Worthy competent authority containing two allegations, the details of which are fully mentioned in the charge sheet Dated 20.04.2017. The Charge sheet was properly replicated.
2. **That** after sending charge sheet to the Petitioner, the Worthy competent authority/SMBR was pleased to appoint enquiry officer namely Malik Mansoor Qaiser Secretary to Commissioner to D.I.Khan to probe into the allegations.

ATTESTED

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3. **That** enquiry officer conducted the enquiry in a patently illegal manner and prepared his joint report on 30.06.2017. The enquiry officer neither recorded the statement of any independent witness nor gave the Petitioner any right of cross examination. Finally, the enquiry reports along with illegal recommendations of imposing minor penalty were submitted to the Worthy competent authority.

4. **That** after receiving recommendations of the enquiry officer, the worthy competent authority was pleased to issue show cause to the Petitioner on 31.07.2017 in which date of personal hearing was fixed as 09.08.2017. Opportunity of formal personal hearing was afforded to the Petitioner and finally on 06.09.2017, (Date inadvertently shown in the impugned punishment Order as 06.08.2017), the competent authority was pleased to issue impugned Order, hence the instant departmental appeal on the following amongst other grounds:-

G R O U N D S

a. **That** impugned punishment Order Dated 06.09.2017 which was never communicated to the Petitioner is against law, facts of the case and material available on the record, hence not tenable in the eyes of law and liable to be struck down by your Honor.

b. **That** as evident from the record of the case that on the crucial dates i.e 01.07.2015 and 02.07.2015, the dates on which the Honorable Peshawar High Court Bench

ATTESTED

D.I.Khan delivered its judgments, the Petitioner was serving as District Revenue Accountant D.I.Khan and was not having any concern with the DK office and Learned enquiry officer over looked this important aspect of the case by treating the Petitioner with the same yard stick, thus the recommendation of the learned enquiry officer are patently illegal and against the record of the case and liable to be struck down.

c. **That** vide office Order No 18671-86 Dated 13.08.2015 issued by Worthy Senior Member Board of Revenue, the Petitioner was posted as District Kanungo (DK) D.I.Khan and later on, through officer Order No 28654-60 Dated 22.12.2015 issued by Worthy Senior Member Board of Revenue, the Petitioner was posted as Naib Tehsildar Tehsil Draban. So the total tenure of the Petitioner as District Kanungo was hardly 04 months and 09 days and as the Petitioner never remained posted as DK on the crucial dates i.e. 01.07.2015 and 02.07.2015, so as natural corollary he was unaware from the developments which were happening prior to his postings. The learned enquiry officer and the Worthy Competent Authority never attended this important aspect of the case, there by illegally indicting to the charges

ATTESTED

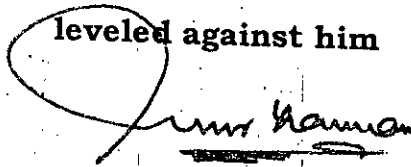
d. **That** impugned action taken against the Petitioner is against the settled principles of Law and he has been made an escape goat, thus the impugned action is liable to be rectified by your Honor.

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- e. **That** the very initiation of the departmental proceedings against the Petitioner is patently illegal and charges are also groundless, thus the impugned action is liable to be rectified by your Worthy Honor.
- f. **That** the legal and factual aspects of the controversy have not been appreciated in its true perspective neither by the enquiry officer nor by the Learned Competent Authority, thus the impugned Order Dated 06.09.2017 imposing minor penalty of withholding one increment for a period of one year is totally unjustified and have no legal backing, thus liable to be struck down.

Dated: 03.10.2017

It is therefore, most humbly prayed that on acceptance of instant Departmental Appeal, the impugned Order No.Estt:I/PF/Aftab Hussain Shah/18835 and No.Estt:I/PF/Aftab Hussain Shah/18836-40 Dated 06.09.2017 inadvertently shown as 06.08.2017 may please be set aside and Petitioner may please be exonerated from all the charges leveled against him


Gohar Zaman (Presently posted as)
NAIB TEHSILDAR RODKONI-PAROA
~~District Kenungo (DK)~~ D.I. Khan

Mobile No: 03459874988

ATTESTED

REGISTERED

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No. Estt: I/Aftab Husain/27012
Peshawar dated the 23/11/2017

To

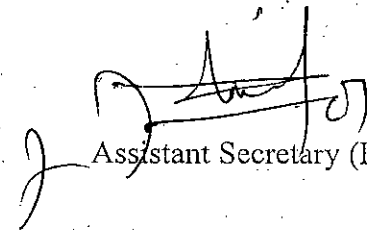
Mr. Gohar Zaman,
Naib Tehsildar,
Rod Kohi Paroa D.I.Khan.

Annexure I³
31


Through: Deputy Commissioner, D.I. Khan.

SUBJECT: DEPARTMENTAL APPEAL AGAINST ORDER DATED 06.09.2017.

Your departmental appeal on the subject dated 03.10.2017 has been examined and rejected by the Appellate Authority.


Assistant Secretary (Estt)


Supdt


DK
28-11-17

No. 659/912 9297/DC
4/12/2017
6.12.2017

DK
K
30/11/17

Mr. Gohar Zaman Khan
N.T.I. Paroa


DK
5/11/2017

ATTESTED

وکالت نامہ

32

قیثی ایک روپیہ		کورٹ فیس
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سر دس بیل

بجالات جناب جسٹس صاحبہ حنیف کھٹو کی راجہ لٹا
 Appellant منجاب
 گوبند زمان نامہ حکومت پاکستان دہلی

دعویٰ یا جرم

سر دس بیل

باعث تحریر آنکہ

تفصیل دعویٰ یا جرم

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جواب دہی برائے پیشی یا تفریق مقدمہ بنام جناب صاحبہ حنیف کھٹو کے لئے

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ہذا بذریعہ رو برو عدالت حاضر ہوگا رہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے پر مظہر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا بحث نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر داخست صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ یا درخواست اجراء اسانے ڈگری نظر ثانی اہل گمرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر غائی یا راضی نامہ و فیصلہ برحکف کرنے اقبال دعویٰ کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مقرر بیرون از پکھری صدر پیروی مقدمہ مقرر نظر ثانی اہل گمرانی و برآمدگی مقدمہ یا منسوخ ڈگری ایک طرف یا درخواست حکم اتنا ہی یا قرتی یا گرفتاری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادا کیلی علیحدہ مختص پیروی کا اختیار ہو گا اور تمام ساختہ پر داخست صاحب موصوف مثل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو کہ مقدمہ مقررہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اہل گمرانی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا ہیر سز کو اپنے بھانے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور دینے اختیارات حاصل ہوں گے پیچھے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے

مورخہ 20 _____ ماہ _____ دسمبر 2017

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Accepted

12/12/2017

Gobind Zaman
Appellant

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 18/2018.

Gohar ZamanAppellant

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary and others.Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 & 2 ARE AS UNDER
RESPECTFULLY SHEWETH.**

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action or locus standi.
2. That the appeal is bad for mis- joinder and non- joinder of necessary parties.
3. That appellant is estopped by his own conduct to institute the instant appeal.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the Honble tribunal has no jurisdiction to adjudicate the matter.

ON FACTS

1. No comments. Pertains to record
2. Correct to the extent of initiation of enquiry against the appellant
3. Incorrect. During his posting as District Kanungo DIKhan some Patwar candidates approached High Court Bench DIKhan requesting therein for appointment as Patwari which was accordingly decided in their favor and against the Government. The appellant failed to inform Deputy Commissioner DIKhan about the decision for filling CPLA before the Supreme Court as a result of failure on the part of appellant the decision of Peshawar High Court got finality and the Patwari candidates filed COC against the Competent Authority. Accordingly an enquiry was conducted through Malik Mansoor Qaiser, the then Secretary to Commissioner DIKhan who recommended minor penalty to be imposed upon the appellant as the charges were proved against him. After adopting proper procedure show cause notices was issued and proper chance of personal hearing was afforded to the appellant before the Competent Authority but the appellant failed to defend himself and accordingly minor penalty of withholding of one increment for a period of one year was imposed upon him under Rule - 4 (a) (ii) of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011.

4. Incorrect. As in para - 3 above.
5. Correct to the extent that his departmental appeal was filed by the Competent Authority.
6. Incorrect. Appeal of the appellant is not maintainable.

GROUNDS.

- a Incorrect. Both the notifications have been communicated in time to the appellant.
- b Incorrect. The Inquiry Officer has held him responsible, therefore minor penalty of withholding of one increment for a period of one year was imposed upon the appellant.
- c Incorrect. As in para - b above.
- d Incorrect. The impugned action was taken strictly in accordance with law.
- e Incorrect. All the proceedings have been carried out according to law.
- f Incorrect. Penalty of withholding of one increment for a period of one year was imposed upon the appellant on the basis of recommendation of Inquiry Office.
- g. The respondents will also seek permission to adduce additional grounds at the time of arguments.

In view of the above, the appeal of the appellant having no legal grounds may be dismissed with costs.



Respondent No. 1 to 2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 18/2018.

Gohar ZamanAppellant

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary and others.Respondents

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- g. The respondents will also seek permission to adduce additional grounds at the time of arguments.

In view of the above, the appeal of the appellant having no legal grounds may be dismissed with costs.


Respondent No. 1 to 2

خدمت جہان بیکری ٹریڈنگ کمپنی ڈیپارٹمنٹ ڈویژن /
پشاور افسر

عنوان: حوالہ جاری شدہ خانہ بدوش
جہان علیا چارج شدہ موصولہ سفر نامہ 2017
ESTD: 11/P-F Syed Agha Hussain Shah
Peshawar dated the 20/01/2017

No. 9338-39

یہ کہ سن میں سید صاحب حسین شاہ اس وقت بطور
ٹیکسٹائل ایجنٹ کے طور پر خدمات انجام دے رہے ہیں۔
ڈیپارٹمنٹ خالی ہے۔ اس لیے اس کے لیے کوئی
ابھی تک کوئی ایجنٹ نہیں مقرر کیا گیا ہے۔
جواب جاری شدہ

انہیں قابل قبول نہ ہے کیونکہ فیصلہ جات عدالت عالیہ
کے لیے کوئی ایجنٹ نہیں مقرر کیا گیا ہے۔
موجودہ ایجنٹوں کے لیے اس وقت کے افسر
کو کسی طور پر مقرر کیا گیا ہے۔
(منسل الف)

ii:- ڈیپارٹمنٹ ڈیپارٹمنٹ خالی ہے فیصلہ جات ملاحظہ
اور ریڈیٹ کر کے D.P.C کے اجلاس میں ان فیصلہ جات
کو پیش کیا جائے۔ انہوں نے CPLA دائر کرنے کا
کوئی حکم/ریڈیٹ صادر نہیں کیا۔

iii) ان فیصلہ جات سے قبل کسی ایجنٹ کو ایجنٹوں کی عدالت
عالیہ کے لیے کوئی ایجنٹ نہیں مقرر کیا گیا ہے۔
فیصلہ جات کے دوران فیصلہ جات کے خلاف کوئی

CPLA دائرہ میں کئی عہدے

۱۷۔ پٹواری امیدواران کمارٹ ڈسٹریکٹ فیڈریشن کے عہدہ جات کے لیے اپنی
 کے مطابق عہدہ ایڈیشنل ایجوکیٹڈ جنرل ڈیپو اسٹیشن خاں
 نے عدالت عالیہ کے رویہ و اس بات کا اعادہ کیا کہ محکمہ خاں
 ڈیپو اسٹیشن خاں میں (3) پٹواریان کو آسامیاں خاں پٹواری ہیں۔
 اور تمام امیدواران کو ان آسامیوں پر مطابق پٹواری امیدواران
 ایڈجسٹ کر دیا جائیگا۔ کیونکہ یہ امیدوار عہدہ جات کے لیے اپیل ہیں
 جواب الزام ابرا

جیساکہ الزام نمبر ۱ کے جواب بالا میں وضاحت کی گئی ہے
 کہ مندرجہ جات مرصع ہونے پر بروقت اس وقت
 کے ڈپٹی کمشنر صاحب ڈیپو اسٹیشن خاں کو پیش کر کے
 اور انہوں نے عہدہ جات ملاحظہ کرنے کے بعد
 ان عہدہ جات کو آئندہ بلوچستان کے DP کے
 احلاس میں پیش کیا جائے۔

لہذا یہ الزام کہ میں نے بروقت اپنے اسٹیشن کو
 عہدہ جات سے آگاہ نہیں کیا اور ہماری غفلت
 کے باعث سپریم کورٹ آف پالٹنل میں ان
 عہدہ جات کے خلاف بروقت اپیل دائر نہ ہو سکی
 یا نکل چکی ہے۔

لہذا استدعا ہے کہ محکمہ کے لیے الزامات ناکمل عطا
 اور نے بنیاد میں لہذا ان کو اس کی اصل رقم مال خاں

سید شاہ حسین شاہ کھیلدار

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 670 /ST

Dated 3-4- /2019

To,


Senior Member Board of Revenue,
Govt of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: -

ORDER IN APPEAL NO. 18/2018, GOHAR ZAMAN VS GOVT.

I am directed to forward herewith a certified copy of Order/Judgment dated 26.03.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR