

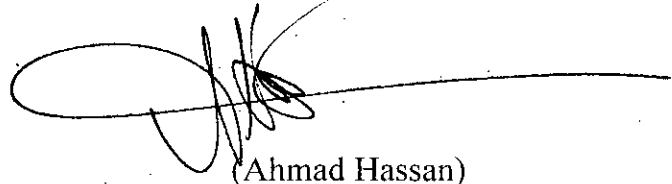
Order

09.05.2019

Counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Muhammad Arif, Supdt and Mr. Muhammad Iqbal, Assistant for respondents. present. Arguments heard and record perused.

This appeal is also accepted as per detailed judgment of today placed on file in service appeal No. 1161/2018 titled "Mohammad Taj -vs- The Govt: of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar and two others." Parties are left to bear their own cost. File be consigned to the record room.

Announced:
09.05.2019



(Ahmad Hassan)
Member



(Hamid Farooq Durrani)
Chairman

13.03.2019

Mr. Noor Muhammad Khattak, Advocate for appellant and Mr. Ziaullah, DDA alongwith Muhammad Arif, Superintendent for the respondents present.

Learned counsel for the appellant almost concluded the arguments when learned DDA stated that the record ~~concerning~~ pertaining to departmental proceedings against the appellant, more particularly, the enquiry report and statements recorded in its course, shall be necessary for just conclusion of the matter in hand. He, therefore, seeks time to produce the relevant record. Adjourned to 29.04.2019 before this D.B.

The requisite record shall positively be produced with spare copies for the consumption of the appellant on the next date.

ASA



Member



Chairman

29.04.2019

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Mr. Muhammad Arif, Supdt and Mr. Muhammad Iqbal, Assistant. for respondents present.

The representative of the respondents has provided copies of documents noted in order sheet dated 13.03.2019 which are placed on record. A complete copy of the submitted documents has also been provided to the learned counsel for the appellant. To come up for arguments on 09.05.2019 before D.B.



Member



Chairman

Service Appeal No. 1162/2018

25.01.2019

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant alongwith Mr. Muhammad Arif, Superintendent for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 06.02.2019 for arguments before D.B.

(AHMAD HASSAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

06.02.2019

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. M. Arif, Supdt for respondents present. Clerk to counsel for the appellant stated that similar nature of appeal has been fixed for arguments before D.B-I, therefore the may also be clubbed with the said appeal. Request allowed. To come up for arguments on 13.03.2019 before D.B.

(Ahmad Hassan)
Member

(M. Amin Khan Kundi)
Member

12.12.2018

Appellant with junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Arif Superintendent present. Junior to counsel for the appellant requested that similar nature appeal bearing No.1161/2018 entitled Muhammad Taj is fixed on 18.12.2018, therefore the present appeal may be clubbed with that case. Requested accepted. To come up for arguments alongwith connected appeal on 18.12.2018 before D.B.



Member


Member

18.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Javed Iqbal, Senior Clerk for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 10.01.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

10.01.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 25.01.2019 before D.B.


Member


Member

25-10-18

Due to retirement of Honorable
Chairman the Tribunal is non
functional therefore the case is
adjourned to come up for the
same on 13-11-2018

Reader
Reader

13.11.2018

Due to retirement of Hon'ble Chairman, the
Tribunal is defunct. Therefore, the case is adjourned. To
come up on 04.12.2018. Written reply received on behalf
of respondents by Mr. Javid Assistant and placed on file.

Reader
READER

04.12.2018

Counsel for the appellant present. Mr. Ziaullah, DDA for
respondents present. Counsel for the appellant seeks adjournment.
Granted. To come up for arguments on ~~12.02~~ 2019 before D.B.

AH
(Ahmad Hassan)
Member

M. Amin Khan Kundi
(M. Amin Khan Kundi)
Member

03.10.2018

Counsel for the appellant Waheed Akhtar present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Revenue Department as Kanungo. It was further contended that the appellant was imposed major penalty of compulsory retirement vide impugned order dated 13.08.2018 on the allegation of compared inheritance mutation No. 9344 in Revenue Estate Sandesar Mansehra without attestation about the deceased and his legal heirs which was wrongly entered and attested as the original owners was residing in Indonesia. It was further contended that the appellant filed departmental appeal but the same was rejected hence, the present service appeal. It was further contended that neither proper inquiry was conducted nor any show-cause notice was issued to the appellant before imposing of major penalty therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter, notice be issued to the respondents for written reply/comments for 17.10.2018 before S.B.

Appellant Deposited
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member

17.10.2018



Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. Learned AAG seeks adjournment. Adjourned. Case to come up for written reply on 25.10.2018 before S.B.


(Ahmad Hassan)
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1162/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/09/2018	<p>The appeal of Mr. Waheed Akhtar presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 18/9/18</p>
2-	22-9-18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23-10-18</u>.</p> <p style="text-align: right;"> MEMBER</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1162 /2018

WAHEED AKHTAR

VS

GOVT: OF KP

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	...	1- 4.
2	Charge sheet & statement of allegation	A & B	5- 6.
3.	Reply	C	7- 9.
4.	Impugned Notification	D	10.
5.	Departmental appeal	E	11- 12.
6.	Rejection order	F	13.
7.	Letter	G	14- 17.
8.	Vakalat nama	...	18.

APPELLANT

THROUGH:

**NOOR MOHAMMAD KHATTAK,
ADVOCATE**

Flat No. 3, Upper Floor,
Islamia Club Building,
Khyber Bazar, Peshawar
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 1162 /2018

Diary No. 1455

Dated 18/9/18

Mr. Waheed Akhtar, Ex: Kanungo,
Laberkot, District Mansehra

APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2- The Board of Revenue through Assistant Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
- 3- The Senior Member of Revenue, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 13.8.2018 WHEREBY MAJOR PENALTY OF COMPULSORY RETIREMENT WAS IMPOSED ON THE APPELLANT AND AGAINST THE APPELLATE ORDER DATED 11.9.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED BY THE RESPONDENT No.1 ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned Notification dated 13.8.2018 and impugned appellate order dated 11.9.2018 may very kindly be set aside and the appellant may kindly be re-instated into service with all back benefits.

Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R.SHEWETH:

Brief facts giving rise to the present appeal are as under:

- 1- That appellant is the employee of the respondent Department and had served the respondent Department as Kanungo quite efficiently and up to the entire satisfaction of his superiors.
- 2- That appellant while posted as Kanungo, Halqa Laberkot, District Mansehra received charge sheet along with statement of allegations issued vide dated 19.6.2018 wherein it was alleged that the appellant while posted as Kanungo Mansehra, **"compared inheritance Mutation No.9344 in Revenue Estate Sandesar Mansehra without attestation about the deceased and his legal heirs. The said mutation was wrongly entered and attested as the original owners of the land are residing in Indonesia".** Copy

Filed to-day

Registrar

18/9/18

of the charge sheet and statement of allegation are attached as annexure **A and B.**

- 3- That in response to the said charge sheet and statement of allegations the appellant submitted his detailed reply and denied the allegation. That in the said reply the appellant had clearly stated that during my visit for verification of mutations patwari Halqa Sand-e-Sar the appellant visited the office of the patwar Halqa on 21.01.2015. That in the said visit the patwari Halqa shows two muzaat of Chitta Batta and Sand-e-Sar. That the appellant checked both the muzaat as the responsibility and duty of the Girdawar is only to the extent of comparing the entries of the muzaat with register Haqdarain e Zameen for examination. The appellant further stated that buyers and sellers appear before the Revenue officer during the Jalsa e Aam and not before Girdawar during the examination process, therefore the appellant cannot be held guilty for the said irregularity. Copy of the reply to the charge sheet is attached as annexure **C.**
- 4- That astonishingly the respondent No.3 without adopting the legal procedure as mentioned in the Khyber Pakhtunkhwa Government Servants E&D Rules 2011 issued the impugned Notification dated 13.8.2018 whereby major punishment of compulsory retirement was imposed on the appellant. Copy of the impugned Notification is attached as annexure **D.**
- 5- That it is pertinent to mention that the issue on which the appellant was awarded major punishment of compulsory retirement is pending before the competent Court of law and the same has not been reach to the logical end but inspite of that the respondents punished the appellant in a hurry manner.
- 6- That feeling aggrieved from the impugned Notification dated 13.8.2018 the appellant preferred Departmental appeal before the respondent No.1 but vide impugned appellate order dated 11.9.2018 the said Departmental appeal was rejected on no good grounds and in violation of clause 24(A) of the General Clauses Act 1897. Copies of the Departmental appeal and rejection order are attached as annexure **E and F.**
- 7- That appellant having no other remedy prefer the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned Notification dated 13.8.2018 and impugned appellate order dated 11.9.2018 issued by the respondent No.1 & 3 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted

above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the respondent No.1 & 2 acted in arbitrary and malafide manner while issuing the impugned Notification dated 13.8.2018 and impugned appellate order dated 11.9.2018.
- D- That no chance of personal hearing/ defense has been given to the appellant before issuing the impugned Notification dated 13.8.2018 and impugned appellate order dated 25.4.2016.
- E- That no regular Departmental has been conducted by the respondents before issuing the impugned Notification dated 13.8.2018 against the appellant which is as per Supreme Court Judgments is necessary in punitive actions against the civil servant.
- F- That the anti corruption Department also initiated inquiry upon complainant is also filed by the Department after the mutation was cancelled, thus putting at rest all the matter and as such the impugned Notification dated 13.8.2018 is not tenable and liable to be set aside. Copy of the Letter is attached as annexureG.
- G- That no loss has been caused to the Government Exchequer nor to the other parties, therefore the impugned Notification is not tenable and liable to be set aside.
- H- That in the fact finding inquiry conducted by the Deputy Commissioner the appellant including Tehsildar were exonerated while the patwari and witnesses were held responsible for the mentioned issue.
- I- That the inquiry officer who conducted the inquiry was biased because of the fact that the said inquiry is belonging to District Mansehra and as such his role was partial, therefore the impugned Notification is void ab initio on this score alone.
- J- That it is pertinent to mention that the issue on which the appellant was awarded major punishment of compulsory retirement is pending before the competent Court of law and the same has not been reach to the logical end but inspite of that the respondents punished the appellant in a hurry manner.
- K- That as the revenue officer don't know the owners and legal heirs personally but attested/verified mutation through witnesses similarly, the appellant compared the entries of the muzaat with register Haqdarain e Zameen bonafidely and no malafide has been proved on the part of the appellant, therefore the impugned Notification dated 13.8.2018 is not tenable and liable to be set aside.

- L- That neither the complainant nor the witnesses were cross examined by the appellant, therefore the impugned Notification dated 13.8.2018 is not tenable and liable to be set aside.
- M- That the notice of personal hearing was received by the appellant on 17.7.2018 while the date for personal hearing was fixed on 13.7.2018.
- N- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may accepted as prayed for.

Dated: 14.9.2018

APPELLANT



WAHEED AKHTAR

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

A - (5)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

DISCIPLINARY ACTION

I, Zafar Iqbal, Senior Member, Board of Revenue Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Waheed Akhtar, Kanungo Manshra has rendered himself liable to be proceeded against, as he committed the following commission, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- 1 That you compared inheritance mutation No. 9344 in Revenue Estate Sandesar Manshra without attestation about the deceased and his legal heirs. The said mutation was wrongly entered and attested as the original owners of the land are residing in Indora.
- 2
- 3 Your this act tantamount to misconduct and liable you to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011

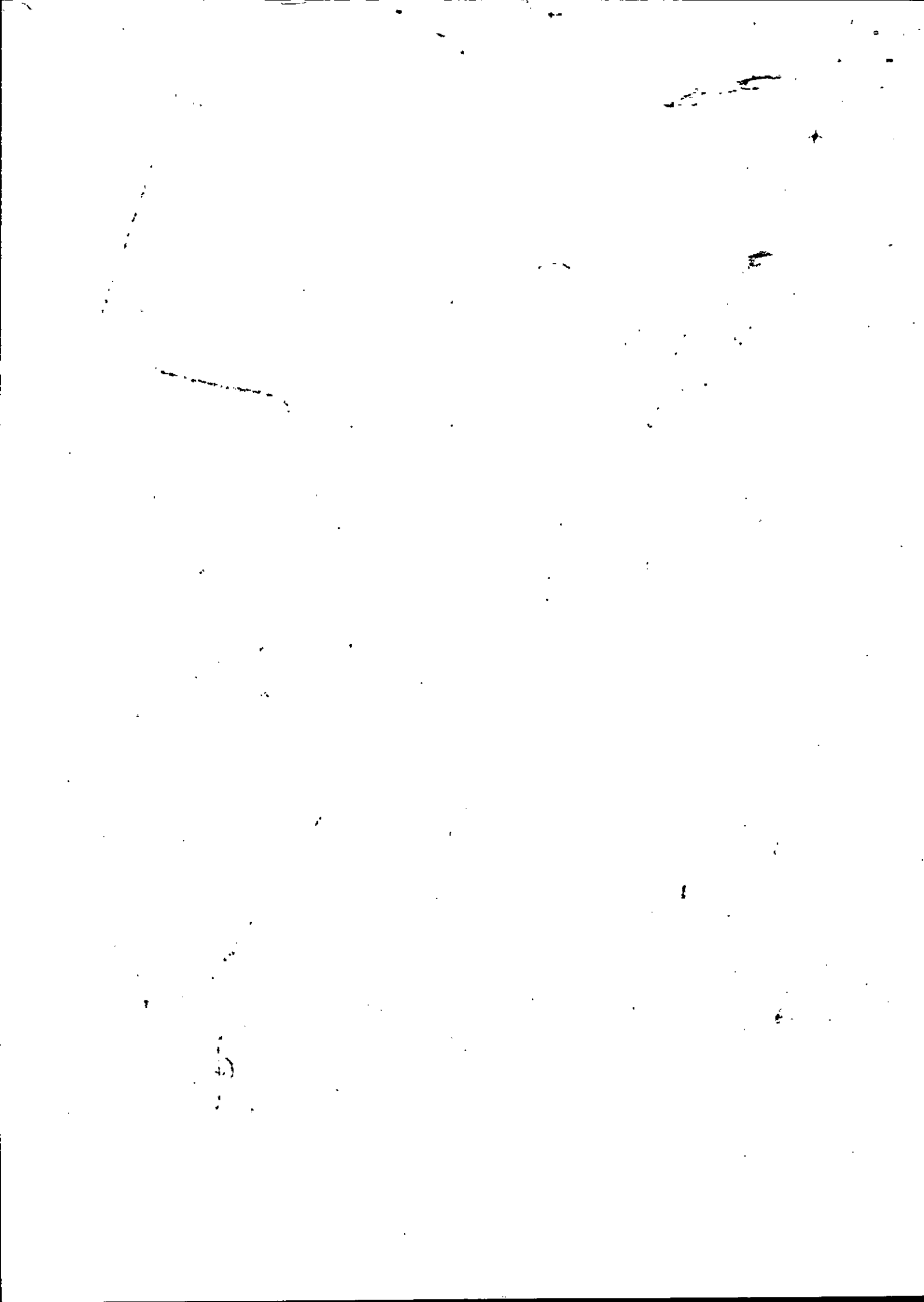
For the purpose of inquiry against the said accused with reference to the above allegations, Mr. Saif ul Islam Additional Deputy Commissioner Haripur was appointed as Inquiry Officer under Rule 10(1)(a) of the Rules ibid.

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

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

RECEIVED

af



Handwritten mark resembling a stylized 'A' or 'B'.

ATTACHED

Handwritten signature or initials, possibly 'S. M. S.', with a vertical line extending downwards.

Statement of allegations is enclosed.

Inmate as to whether you desire to be heard in person or otherwise.

and in this case ex parte action shall be taken against you.

and if period, failure which it shall be presumed that you have no desire to file.

Your written defence, if any, should reach the Inquiry Officer within

the receipt of this charge sheet to the Inquiry Officer.

You are, therefore, required to submit your written defence within 72

of the subject Pabankhwa Government Servant (Efficiency and Discipline) Rules, 2011.

By reasons of the above, you appear to be guilty of misconduct under Rule 2

Servant (Efficiency and Discipline) Rules, 2011.

proceeded against under the subject Pabankhwa Government Servant (Efficiency and Discipline) Rules, 2011.

and his legal heirs. The said institution was severely ordered to

and his legal heirs. The said institution was severely ordered to

and his legal heirs. The said institution was severely ordered to

the following particulars:

That you while posted at Kamrupa on 1st of April 1980, you were

and follow

and follow

1. That you while posted at Kamrupa on 1st of April 1980, you were

CHARGE SHEET

TO THE MEMBER IN CHARGE
INQUIRY OFFICER
GOVT. PABANKHWA GOVT. SERVANTS

Handwritten circled number '6' followed by 'B-6'.

قریبی بیان و حیدر اختر سانی گروڈ کو سرکل سرپرستوں کو

بین الاقوامی ڈیڑھ گرام ہیرے پیمانے پر انتقال بابت پیواریا کے بارے میں
دفعہ 21/01/2015 کو بدھن پٹواریا خانہ گاہ میں پیواریا کے پاس دو موٹو گاڑیوں میں

سے کر کے دستخط شدت کے ضمن میں انتقال نمبر 9344 وراثت پٹواریا کے بارے میں
سے پیواریا کے قبائلیہ اہلکاروں کے ساتھ جانا ہے جبکہ وراثت کے قصور

سے پیواریا جو کہ پیواریا انتقال پر درپوش کرنا ہے جانا ہے اور وارثان کی
لکھن پٹواریا کے ہوتے اندر سے انتقال ہونے پر سرکل یوٹھ لکھن پٹواریا

انتقال بجا عام کرنا ہے چونکہ یوٹھ پٹواریا گروڈ کو - باغیان - شہان
عترتی کے وارثان حاضر نہیں ہو سکی ہیں جس کی بنا پر وارثان عترتی کے مقبروں

باغیان کی لکھن پٹواریا ہو سکتے۔ لکھن پٹواریا شہان وارثان عترتی اور پیواریا کے ہوتے عام

Handwritten signature and date 13/06/18

Handwritten signature and date 13/06

ATTESTED

Handwritten mark

	<p>بند اول</p> <p>در حدود ۱۲۰ متر مربع در بخش اول</p> <p>بیتا</p> <p>۱۲۱۵</p> <p>۲۹/۰۱</p> <p>۱۳۹۵</p>	<p>بند دوم</p> <p>در حدود ۱۲۰ متر مربع در بخش اول</p> <p>بیتا</p> <p>۱۲۱۵</p> <p>۲۹/۰۱</p> <p>۱۳۹۵</p>	<p>بند سوم</p> <p>در حدود ۱۲۰ متر مربع در بخش اول</p> <p>بیتا</p> <p>۱۲۱۵</p> <p>۲۹/۰۱</p> <p>۱۳۹۵</p>	<p>بند چهارم</p> <p>در حدود ۱۲۰ متر مربع در بخش اول</p> <p>بیتا</p> <p>۱۲۱۵</p> <p>۲۹/۰۱</p> <p>۱۳۹۵</p>	<p>بند پنجم</p> <p>در حدود ۱۲۰ متر مربع در بخش اول</p> <p>بیتا</p> <p>۱۲۱۵</p> <p>۲۹/۰۱</p> <p>۱۳۹۵</p>
--	--	--	--	--	---

RECEIPT

مدرسه

NADRA

RECEIPT

مدرسه

NADRA

RECEIPT

مدرسه

NADRA

ATTESTED

۲۹/۰۱

۱۳۹۵

بسم الله الرحمن الرحيم
 هذه اقراره على
 ذم دلی میری الی اللہ
 محمد عادل خان

9

محمد عادل خان
 الی اللہ

آن دور میں محمد فیاض خان ولد محبوب خان قلم سوائے سکنہ مقیم تھے
 آری بیان کیا کہ نہ 582 تا 585 میں جسے فائز خان ولد ابرہیم قلم سوائے
 ہو گیا ہے۔ فضاوا انہوں نے سوائے لالہ شہزادہ (9) دیو، جوہادوں، محمد زین، محمد سعید کھنہ
 (10) ان اور سوائے ان، جیلہ، رستیل، حقیقی کی کہہ رہے ہیں فائز خان قلم سوائے
 لالہ شہزادہ سے انہوں نے لکھی کہ وہ نہ ہے۔ حد پر ہم فائز خان ولد ابرہیم
 ذم دلی میری الی اللہ
 محمد عادل خان

299
 داریت

محمد عادل خان ولد محبوب خان

آن دور میں محمد سعید خان ولد محمد اللہ خان قلم سوائے مقیم تھے
 بیان کیا کہ برفہ 673، 674، 675 اور 676 میں 3-18 سے 786
 2492
 18- سے جانب محمد سعید خان (10) سوائے جیلہ سوائے خان، منظور
 ان لیا قلم سوائے انہوں نے لکھی کہ وہ نہ ہے۔ حد پر ہم فائز خان قلم سوائے
 ذم دلی میری الی اللہ
 محمد عادل خان

9345
 عہدہ

Settlement Office
 Mansehra
 56

ATTESTED

محمد سعید خان

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
Peshawar dated the 12 /08/2018

D - (10)

NOTIFICATION.

No.Estt:I/PF/Muhammad Taj/_____ WHEREAS; Mr. Waheed Akhtar Kanungo Laberkot District Mansehra, was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the Charge Sheet.

2. AND WHEREAS; Syed Saif-ul-Islam Additional Deputy Commissioner Haripur was appointed as Inquiry Officer to probe into the charges leveled against the said official and submit finding/ recommendations.

3. AND WHEREAS, The Inquiry Officer after having examine the charges, evidence produced before him and statement of accused official, submitted his reply whereby the charges against the accused official stand proved.

4. AND WHEREAS, The Competent Authority, is of the view that the accused official is inefficient and has committed misconduct / slackness and criminal negligence in verifying and in supervising action for inheritance mutation. Under para 2.45 of the Land Record Manual, Kanungo is fully responsible to check the work of Patwari, but he blindly compared the wrong entry of Patwari, due to which the inheritance mutation of alive person, living abroad; attested by Tehsildar unlawfully, illegally and against the will and consent of the real land owner.

5. NOW THEREFORE, I as Competent Authority in exercise of powers conferred by Rule 4 (b) (ii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 impose major penalty of "compulsory retirement" upon Mr. Waheed Akhtar Kanungo Laberkot District Mansehra with immediate effect.

By order of
Senior Member

No.Estt:I/PF /Muhammad Taj/_____

ATTESTED

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. Commissioner, Hazara Division Abbottabad.
3. Deputy Commissioner, Mansehra.
4. District Accounts Officer, Mansehra.
5. Official concerned.
6. Office order file.




Assistant Secretary (Estt.)

To

E-11

The Chief Secretary Khyber Pakhtunkhwa,
Khyber Pakhtunkhwa, Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
ORDER DATED 13.08.2018**

Respected Sir,

With most respect it is stated that the appellant is the employee of the Revenue Department and had served the Department as Kanungo quite efficiently and up to the entire satisfaction of his superiors. That while posted as Kanungo, Halqa Laberkot, District Mansehra the appellant received charge sheet along with statement of allegations issued vide dated 19.6.2018 wherein it was alleged that the appellant while posted as Kanungo Mansehra, **"compared inheritance Mutation No.9344 in Revenue Estate Sandesar Mansehra without attestation about the deceased and his legal heirs. The said mutation was wrongly entered and attested as the original owners of the land are residing in Indonesia"**.

That in response to the said charge sheet and statement of allegations the appellant submitted his detailed reply and denied the allegation. That in the said reply the appellant has clearly stated that during my visit for verification of mutations patwari Halqa Sand-e-Sar I visited the office of the patwar Halqa on 21.01.2015. That in the said visit the patwari Halqa shows two muzaat of Chitta Batta and Sand-e-Sar. I checked both the muzaat as the responsibility and duty of the Girdawar is only to the extent of comparing the entries of the muzaat with register Haqdarain e Zameen for examination. The appellant further stated that buyers and sellers appear before the Revenue officer during the Jalsa e Aam and not before Girdawar during the examination process, therefore the appellant cannot be held guilty for the said irregularity.

That astonishingly the concerned authority without adopting the legal procedure as mentioned in the Khyber Pakhtunkhwa Government Servants E&D Rules 2011 issued the impugned Notification dated 13.8.2018 whereby major punishment of compulsory retirement was imposed on the appellant.

That as the revenue officer don't know the owners and legal heirs personally but attest/verify mutation through witnesses similarly, the appellant compared the entries of the muzaat with

ATTESTED
af

register Haqdarain e Zameen bonafidely and no malafide has been proved on the part of the appellant, therefore the impugned Notification is not tenable and liable to be set aside.

That show cause notice nor chance of personal hearing was provided to the appellant while issuing the impugned Notification dated 13.8.2018. Moreover no opportunity was provided to the appellant to cross examine the witnesses nor regular Departmental inquiry has been conducted by the concerned authority which as per Supreme Court Judgments is necessary in punitive action against Civil Servants.

It is therefore, most humbly requested that on acceptance of this Departmental appeal the impugned Notification dated 13.08.2018 may please be set aside and the appellant may kindly be re-instated in to service with all back benefits.

Dated: 17.08.2018

Sincerely Your's



WAHEED AKHTAR
Ex-Kanungo, District Mansehra.

ATTESTED



F-13


GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
No. Estt: I/PF/M.Taj/ 32008
Peshawar dated the 11/09/2018.

To

Mr. Waheed Akhtar
Ex -Kanungo District Manshera.

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER
DATED 13.8.2018.

Your Departmental appeal dated 17.08.2018 has been examined and rejected
by appellate authority.


Assistant Secretary (Estt:)

ATTESTED





Anx "B" G-20-14

DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT
KHYBER PAKHTUNKHWA
PESHAWAR

No. 14440 Dated 25/09/2017.

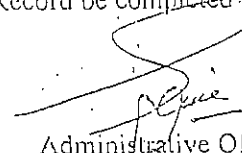
To
The Assistant Director Crimes,
Anti-Corruption Establishment,
Mansehra.

Subject:- COMPLAINT NO. 6542/ACE, DATED 18.4.2017 AGAINST THE
CONCERNED STAFF OF REVENUE DEPARTMENT,
MANSEHRA AND OTHERS.

Reference your report dated 16.8.2017.

The subject complaint has been filed. Record be completed accordingly.


Encls: As above.


Administrative Officer,
Anti-Corruption Establishment,
Khyber Pakhtunkhwa,
Peshawar.

No. Dated 10/9/2017.

Copy to S.A., ACE, Peshawar.

Administrative Officer,
Anti-Corruption Establishment,
Khyber Pakhtunkhwa,
Peshawar.

ATTESTED


15

15

15

ضلع حائل

فائل رپورٹ برائے داخل دست

46/16

حوالہ شکایت نمبر ACE/42/56 مورخہ 18/4/17 حکم حائل ضلع
بدریہ۔ علی زبان خان ولد ارسل خان کنہ بیرو ملک اندول سیٹیا۔

نام۔ ایک طرف حکم حائل ضلع و سٹیٹین وغیرہ

ضلع حائل حائل شکایت نمبر بالا ایس میں آمدی با 77 نے ٹریڈ شکایت بدست
ACE/42/56 کی حکم حائل میں پاکستان آیا اور ریشتر ران سے مفلوح
بیرو کہ ایک والد ارسل خان کی جائیداد وارثت ایک طرف حائل کی ملاقات
حوالہ استعمال نمبر 9344 مورخہ 18/4/15 نمبر خانیہ خان ولد ارسل خان لہو بیرو اور
لہو بیرو اسکا جائیداد اور ایک بیٹیوں وغیرہ وراثت کی ارہم مختلف لوگوں کو لہو بیرو
سے بدریہ و شہادت منتقل کی گئی

شکایت میں درج الزامات کی رو سے حکم حائل سے مفلوح ریکارڈ الفارغ
حاصل کی گئیں اور بیانات ایک طرف حکم حائل بیرو ایسی تبدیل کر دیے۔ طہر
کر دے ریکارڈ اور بیانات ایک طرف حکم حائل سے پایا گیا کہ شکایت کنہ اور اس
کیا عدویگز وراثت کا جو جائیداد بدریہ استعمال منتقل کیا تھا وہ استعمال رپورٹ
افران نے رپورٹوں ایک کے تحت بعد نظر ثانی خارج کر دیے ہیں۔ شکایت کنہ
اور ایک دیگر وراثت کو کوئی لہو بیرو اب ہیں لہجے اُنکا عمل جائیداد انہی
کے نام و ایس منتقل ہو چکا ہے جو نے خاندان حکم رپورٹوں کے ایک طرف
سے ہوئی تھی وہ درست ہو چکا ہے

اسد ماہیکہ شکایت صدا کو لہو بیرو ACE/ADR مورخہ داخل دست

نرمانا خان
Co-ACC-MA

16-08-2017

ATTESTED

A

Ⓟ

Ⓟ

16

No-233
14/9/17

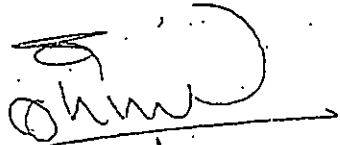
Reference Attached.

R/Sir,

Circle Officer Anti-Corruption Establishment, Mansehra conducted Preliminary Enquiry on the allegation levelled in the complaint, collected the relevant record of disputed mutations of inheritance of late Ali Zaman Khan Son of Arsla Khan and recorded the statements of concerned Revenue officials. After going through the revenue record and statements, it is found that all the disputed mutation regarding property of late Khan Zaman and his brothers cancelled by revenue officials concerned under revenue ACT and there remains no loss to complainant and his brothers etc. Their property is intact in revenue record after cancellation of disputed mutations by revenue officials. CO submitted final report for filing the instant complaint.

Therefore, it is requested that in the light of above mentioned circumstances, the in hand complaint may kindly be filed after opinion of ADK/ACE, please.

ATTACHED



Assistant Director Crimes,
Anti-Corruption Establishment
Mansehra.

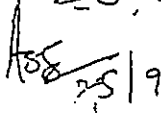
16/9/17

صاحب عالی

AD(R)/ADL - I



ملکائی رپورٹ ڈائریکشن انویسٹی گیشن
میں ایک زبیرا عزیز کی ریکارڈ انتقال سے متعلقہ کی نقل تھی جو
درستی ہو سکتی ہے۔ لہذا ان معاملات میں ایسی اصل حالت میں آئی ہیں
لہذا رپورٹ ختم کرنا اور اسٹیٹس میں لپیٹا جائے۔ AD-1 داخل دفتر کی
حالت کی سہولت سے ہو جاتی ہے


25/9

ADL - II

~~17~~

~~17~~

17

R/SW,

May be filed, please.

[Signature]

10/11/17

20/09/17

W/STATE

As proposed

A -
BBC
25/9/17

ATTESTED

[Signature]

VAKALATNAMA

IN THE COURT OF KP Service Tribunal Peshawar.

_____ OF 2018

Wahed Akhtar

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt: of KP & others

(RESPONDENT)
(DEFENDANT)

I/We Wahed Akhtar

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____ / ____ / 2018



CLIENT



ACCEPTED

**NOOR MOHAMMAD KHATTAK
ADVOCATES**

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9090737, 03339-9313113

Service Appeal No. 1162

Waheed Akhtar Kanungo, Laberkot, District Mansehra.

VERSUS

Senior Member Board of Revenue and others.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 1,2 & 3 ARE AS UNDER.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the Appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is time barred.
5. That the appeal is not maintainable in its present form.

ON FACTS.

1. No comments. Pertains to record.
2. Correct to the extent that on receipt of report from Deputy Commissioner Mansehra to the effect that the appellant has compared, inspected and verified entries of inheritance mutation of an alive person who was residing in Indonesia. Charge sheet was served upon the appellant and an enquiry was conducted through Syed Saif-Ul-Islam Additional Deputy Commissioner Haripur.
3. Incorrect. Not satisfied with the reply of the appellant, the Inquiry Officer recommended major penalty to be imposed upon the appellant (copy of enquiry report is at Annexure-A).
4. Incorrect. On the basis of report of Inquiry Officer, major penalty of compulsory retirement was imposed upon the appellant.
5. Incorrect. The appellant has committed gross irregularity by comparing / verifying inherence of an alive person, therefore major penalty of compulsory retirement was imposed upon the appellant.
6. Correct to the extent that Departmental appeal of the appellant was rejected by the appellate authority.
7. Incorrect. Appeal of the appellant is not maintainable.

GROUND.

- A. Incorrect. Notification dated 13.08.2018 was issued strictly in accordance with law after fulfillment proper procedure under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.
- B. Incorrect. The appellant has been treated in accordance with law/rules.
- C. Incorrect. Both the orders / Notification have been issued with the approval of Competent Authority.
- D. Incorrect. The appellant has been given proper chance of hearing vide show cause notice and reply of the appellant (Annexure- B & C).
- E. Incorrect. Regular enquiry has been conducted against the accused appellant (charge sheet is at Annexure- D).
- F. No comments. Pertains to record of Anti Corruption Establishment.
- G. Incorrect. That Inquiry Officer has held the appellant guilty of negligence / inefficient.
- H. Incorrect. In the regular enquiry under (Efficiency & Discipline), Rules-2011 the appellant has been found guilty of inefficiency, therefore major penalty was imposed upon the appellant by the Competent Authority.
- I. Incorrect. All the proceedings have been carried according to law/rules by the Inquiry Officer as well as by the Competent Authority.
- J. Incorrect. Major penalty of compulsory retirement was imposed upon the appellant on the basis of recommendation of Inquiry Officer.
- K. Incorrect. Notification dated 13.08.2018 is according to law/rules.
- L. Incorrect. The appellant was properly heard orally on 13.07.2018, who also submitted his written reply before the Competent Authority (Annexure-E).
- M. Respondent will also seek permission to produce additional grounds at the time of arguments.

Keeping in view of the above the appeal having no legal grounds may be dismissed please.



Respondent No. 1, 2 & 3

INQUIRY PROCEEDINGS AGAINST M/S MUHAMMAD TAJ, THE THEN TEHSILDAR MANSEHRA, WAHEED AKHTER KANUNGO, DISTRICT MANSEHRA AND FARRUKH MEHMOOD PATWARI HALQA SANDESAR, DISTRICT MANSEHRA HELD ON 27.06.2018 IN THE OFFICE OF ADDITIONAL DEPUTY COMMISSIONER, HARIPUR.

Background:

The Senior Member, Board of Revenue, Revenue & Estate Department, Peshawar was pleased to appoint the undersigned as Inquiry Officer, which was conveyed vide letter No. Estt:/I/PF/Muhammad Taj/24686 dated 08.06.2018 with the mandate to enquire into the allegations leveled against the following officials as mentioned in the Charge Sheets and Statements of Allegations:-

1. Mr. Muhammad Taj, the then Tehsildar Manshra.
2. Mr. Waheed Akhter, Kanungo Girdawar District Mansehra.
3. Mr. Farrukh Mehmood, Patwari Halqa Sandesar, District Mansehra.

The Competent Authority was further pleased to ordered submission of the findings / recommendations/- report of the inquiry within a period of 20 days positively.

Proceedings:

All the above mentioned officials were directed to appear before the Inquiry Officer on 27.06.2018 for inquiry proceedings vide this office letter No. 1(8)/511-16/ADC(H) dated 11.06.2018. Similarly the Deputy Commissioner, Mansehra was requested to depute a departmental representative with record to assist during inquiry proceedings (**Annexure-A**). Accordingly, all the accused officials attended the office of the undersigned on the date fixed and submitted their respective written statements (copies of which are attached as **Annexure-B, C & D**). They were directed to attend the office of the undersigned on 27.06.2018 vide this office letter No. 1(8)/517-21/ADC(H) dated 13.06.2018 for cross examination and further proceedings (**Annexure-E**). Mr. Muhammad Zia, Assistant District Kanungo, DC Office Mansehra participated the inquiry proceedings and produced the relevant / required record.

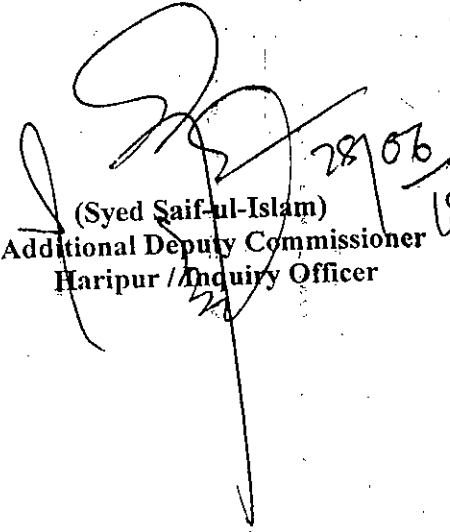
1. **Mr. Muhammad Taj, the then Tehsildar Manshra** stated on oath that he remained posted as Tehsildar Mansehra from 15.07.2013 to 19.03.2015 and he attested mutation No. 9344, which was entered by Patwari Halqa on 18.02.2015 during Jalsa-e-Aam. Replying to a question, he stated that it was correct that he attested the said mutation being Revenue Office., which was examined by Girdawar Circle concerned. His report was existing on the said mutation. Mr. Asim Jadoon s/o Ghulam Mustafa Jadoon identified himself as relative of the deceased Khani Zaman. Furthermore, on the witnesses of locals namely Shabbir Khan Councilor and Muhammad Farooq s/o Afzal Khan, the mutation was attested. Attestation of mutation is of summary nature, recording of details and checking is the responsibility of Patwari Halqa and Girdawar Circle. Replying to a question as to whether he satisfied himself that the witnesses of the mutation had complete information about the legal heirs of deceased, he replied that mutation No. 9344 was attested after completion of all codal formalities correctly and on the identification of witnesses. Replying to a question as to how he came to know that the mutation was suspect, he replied that after his transfer from Mansehra, Patwari Halqa reported the matter and in pursuance of which Deputy Commissioner / Collector, Mansehra ordered for cancellation of the inheritance mutation. Furthermore, a civil suit is pending in Civil Court pertaining to the said mutation. Anti Corruption also inquired into it and filed the complaint against him. The Deputy Commissioner / Collector, District Mansehra has also held the Revenue Officer exonerated of this charge (copies of cross examination are attached as **Annexure-F**).

duty of the accused officials to check and verify about the deceased and his legal heirs but they blindly completed the process without bothering of going into the details. This is, therefore, serious slackness and criminal negligence on the part of all three accused officials.

Surprisingly, all the accused officials are taking refuge behind the identifiers / witnesses of the inheritance mutation No. 9344 namely Mr. Asim Jadoon s/o Ghulam Mustafa Jadoon, Shabbir Khan Ex. Lambardar and Muhammad Farooq Khan s/o Fazal Khan whereas all of them vide their statements given during an inquiry held on the same subject by Assistant Commissioner, Mansehra had denied any relation with the deceased and knowledge about his legal heirs (copies of their written statements given to AC Mansehra provided by departmental representative are attached as Annexure-I, J & K).

In view of the above, it is recommended that one of the major penalties as mentioned in Rule-4(b) of Government Servants (Efficiency and Discipline) Rules-2011 may be imposed upon the accused officials for serious violation of revenue laws and criminal negligence in processing a very important matter of attestation of inheritance mutation.

Submitted please.


(Syed Saif-ul-Islam)
Additional Deputy Commissioner
Haripur / Inquiry Officer

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated 06/07/2018

SHOW CAUSE NOTICE

I, Dr. Fakhz Alam, Senior Member, Board of Revenue, as Competent Authority, under the Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) Rules, 2011, do hereby serve you Mr. Waheed Akhtar, Kanungo Laberkot Mansehra as follow :-

1. That you entered inheritance mutation o. 9344 in Revenue Estate Sandesar Mansehra without attestation about the deceased and his legal heirs. The said mutation was wrongly entered and attested as the original owners of the land are residing in Indonesia.
2. These act on your part tantamount to misconduct and make action under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

2. As a result thereof, I as Competent Authority have tentatively decided to impose upon you the penalty under Rule - 4 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

3. You are therefore required to Show Cause as to why the aforesaid penalty should not be imposed upon you. Furthermore, you are directed to appear on 13.07.18 at 10.00 AM before the undersigned for personal hearing.

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


Senior Member

No.-Estt:1/PF/Muhammad Taj/
Peshawar dated 06/07/2018.

فہرری بیان وحید اختر سہی گروڈ کو سرکل سہی ٹوٹ

بیان کیا کہ مطابق ٹور پروگرام ہرے پھرے انتقال بابت پورا صلہ سہی

دہے 21/01/2015 کو بدھن پٹو ارضانہ گنا اس پٹو ارضانہ کے پاس دو موافقت

جہے پٹو سہی سہی سرخ میں ہے محمد انتقال کا مقابلہ سہی پٹو ارضانہ

سے کر کے دستخط ثبت کے جس میں انتقال نمبر 9344 وراثت بھاری

سے یہہہ ہتارہ کا مقابلہ اٹھارہ ماں کے ساتھ کیا جاتا ہے جبکہ وراثت کے

سہی سہی جو کہ پٹو ارضانہ انتقال سہی سہی کرنا ہے کیا جاتا ہے اور وارثان

لہدی پٹو ارضانہ لہدی لہدی انتقال ہونو ارضانہ سہی لہدی لہدی

انتقال سہی سہی کرنا ہے چونکہ لہدی سہی گروڈ اور ہتارہ سہی سہی

مترقی سہی وارثان حاضرین سہی سہی بنا سہی وارثان سہی سہی سہی

ہتارہ سہی لہدی سہی سہی لہدی سہی سہی وارثان سہی سہی سہی سہی

لہدی کرنا ہے
13/06
2015

13/06/15

②

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

CHARGE SHEET

I, Zafar Iqbal Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, hereby charge you Mr. Waheed Akhtar, Kanungo District Manshra as follows:

That you while posted as Kanungo Circle Laberkot Manshra committed the following irregularities:-

1. That you compared inheritance mutation No. 9344 in Revenue Estate Sandesar Manshra without attestation about the deceased and his legal heirs. The said mutation was wrongly entered and attested as the original owners of the land are residing in Indonesia.
2. Your this act tantamount to misconduct and liable you to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 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 in that case ex-parte action shall be taken against you.

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

6. Statement of allegations is enclosed.


Senior Member

DISCIPLINARY ACTION

I, Zafar Iqbal, Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Waheed Akhtar, Kanungo Manshara 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

1. That you compared inheritance mutation No. 9344 in Revenue Estate Sandesar Manshara without attestation about the deceased and his legal heirs. The said mutation was wrongly entered and attested as the original owners of the land are residing in Indonesia.
2. Your this act tantamount to misconduct and liable you to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.
2. For the purpose of inquiry against the said accused with reference to the above allegations, **Mr. Saif ul Islam Additional Deputy Commissioner Haripur** 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 Manshara shall join the proceedings on the date, time and place fixed by the Inquiry Officer.