

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 1180/2018

Date of Institution ... 25.09.2019

Date of Decision ... 31.05.2021

Abdullah Khan Ex-Patwari, Halqa Mouza Marmandi Azeem, Tehsil Serai Naurang, District Lakki Marwat.

... (Appellant)

VERSUS

The Chief Secretary, Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Present:

Syed Noman Ali Bukhari,
Advocate

--- For Appellant.

Muhammad Adeel Butt,
Additional Advocate General

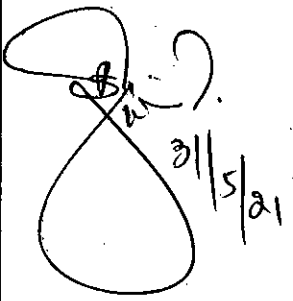
--- For respondents.

ROZINA REHMAN
ATIQU UR REHMAN WAZIR

--- **MEMBER(Judicial)**
--- **MEMBER(Executive)**

JUDGMENT.

ROZINA REHMAN, MEMBER(J): Brief facts of the case are that appellant was appointed as Halqa Patwari. He entered a mutation No.2253 in Mouza Marmandi Azeem on 14.11.2012 in respect of property measuring 10 Kanal 2 Marla and accordingly, mutation was attested in favor of buyer. After alienation of property one of the co-owner approached Senior Member Board of Revenue regarding his share and denied transfer of his property, therefore, appellant was served with charge sheet and statement of allegation which was properly replied. The matter was referred to Deputy



Commissioner Lakki Marwat for inquiry and after submission of inquiry report, major penalty of removal from service was imposed upon appellant. Feeling aggrieved, he filed departmental appeal which was not responded to within statutory period, he, therefore, filed amended appeal to include the rejection order in appeal, hence, the present amended appeal.

02. Learned counsel for appellant argued that order dated 22.06.2018 and rejection order dated 01.01.2019 are against law, facts and norms of justice. It was submitted that the appellant was exonerated in the first inquiry while Tehsildar was held guilty but in the second inquiry both appellant and Tehsildar were held responsible equally but on the departmental appeal, the penalty order in respect of Tehsildar was withdrawn which treatment is discriminatory and in violation of Article 4-A & 25 of the Constitution of Islamic Republic of Pakistan, 1973. Learned counsel for appellant contended that as per provision of Section-25 of the Land Revenue Act read with Para-7.4 of the Land Record Manual, Patwari Halqa shall enter every report made to him in the register of mutation and that entry in respect of mutation in question was correctly recorded by the appellant in the light of contents of the Revenue record. He submitted that the entry was made on the report of interested parties and not a single word was added by the appellant on his own who was having no role in the final attestation of mutation. It was also argued by the learned counsel that no order was passed for holding a fresh inquiry against appellant and since it was a mechanical order, therefore, it was legally not tenable. Learned counsel submitted that the inquiry was not fair and was against the mandate of service rules.

31/5/21

03. Conversely, learned A.A.G submitted that appellant entered a bogus mutation No. 2255 in the name of Latif Ur Rehman from Ghulam Rasool Khan without obtaining thumb impression of the actual land owner, an inquiry was conducted but being not satisfied with the recommendation of the inquiry officer, the competent authority ordered another inquiry to be conducted through Director Land Records and on the basis of his recommendation, major penalty was imposed upon appellant. He submitted that charge sheet and statement of allegations were served upon appellant and that all the proceedings were carried out strictly in accordance with law. He, therefore, requested for dismissal of the instant appeal.

04. We have heard learned counsel for parties and perused record. In the first place, it was noted that the appellant had made entry in the register of mutation as per provisions contained in the Land Revenue Act, 1967⁴ Land record Manual, which infers that Patwari is required to make entry in the register of mutation every report made to him either by the person acquiring any right in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation and the appellant was exonerated of the charges by the inquiry officer, whereas, the concerned Tehsildar, who was responsible for attestation of mutation and obtaining thumb impression/signature of the vendor as well as witnesses was held responsible as per provisions of law. It was further noted that the respondents, while conducting another inquiry by another inquiry officer have not completed codal formalities under the E&D Rules, 2011, as the appellant was not issued fresh charge

31/5/21

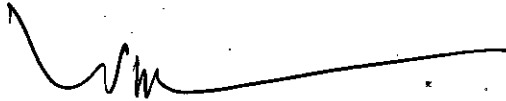
sheet/statement of allegations. Record reveals that such irregularity was pointed out by Establishment Department on submission of departmental appeal in respect of the concerned Tehsildar (the co-accused) and the competent authority set aside orders of imposition of major penalty upon the co-accused with the directions to initiate fresh inquiry, which inquiry was conducted against the Tehsildar and which resulted into conversion of his major penalty into minor penalty of stoppage of one increment, whereas in case of appellant, his departmental appeal was out rightly rejected, which is discriminatory, as the appellant as well as Tehsildar were proceeded against in the same case, but with a different mode and in a discriminatory manner, which shows malafide on the part of the respondents. Before passing an order for fresh inquiry, the competent authority has to satisfy himself that the inquiry officer earlier appointed had not conducted the proceedings in a lawful manner. It is mandatory for him to pass a speaking order containing reasons when he finds it necessary to hold a fresh inquiry by quashing the inquiry proceedings and inquiry report submitted by the inquiry officer appointed earlier. The accused officer has a right to know as to why a fresh inquiry has been ordered against him. We agree with the learned counsel for the appellant that the order for fresh inquiry should not be mechanical. For passing that order, the competent authority must apply his mind and give logical reasons.

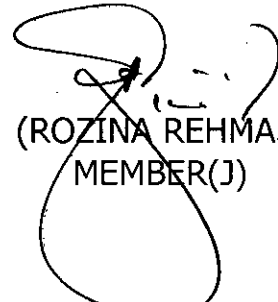
05. In the present case, we find that the competent authority did not give any reason for quashing the findings of the first inquiry officer. He also did not mention as to what were the circumstances, which had compelled him to order fresh inquiry.

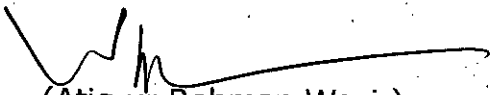
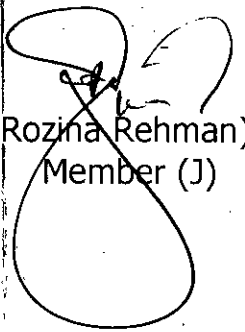
31/5/21

06. The long and short of the above discussion is that appeal is partially accepted and the penalty of removal from service is converted into withholding of one increment for period of two years. The intervening period be converted into leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
31.05.2021


(ATIQ UR REHMAN WAZIR)
MEMEBR(E)


(ROZINA REHMAN)
MEMBER(J)

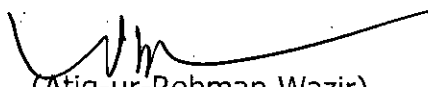
S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	31.05.2021	<p><u>Present.</u></p> <p>Syed Noman Ali Bukhari, Advocate ... For Appellant</p> <p>Muhamma Adeel Butt, Additional Advocate General ... For respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, instant service appeal is partially accepted and the penalty of removal from service is converted into withholding of one increment for period of two years. The intervening period be converted into leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 31.05.2021</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  (Atiq ur Rehman Wazir) Member (E) </div> <div style="text-align: center;">  (Rozina Rehman) Member (J) </div> </div>

26.01.2021

Counsel for the appellant and Asstt. AG alongwith Muhammad Asif, Assistant for the respondents present.

At the outset, learned AAG stated that the respondents required some more time to bring on record documents pertaining to requirement of second enquiry and other related with the matter in hand\$. Learned counsel for the appellant does not object to the request. The needful shall positively be done on or before the next date of hearing.

Adjourned to 10.03.2021 for hearing before the D.B.


(Atiq-ur-Rehman Wazir)
Member(E)

Chairman 

10.3.2021

The Worthy Chairman is on leave, therefore, the bench is incomplete. To come up for hearing on 28.05.2021 before the D.B.



Reader


28.05.2021

Appellant with counsel present.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

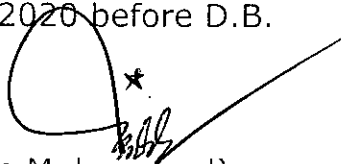
Arguments heard. To come up for order on 31.05.2021 before D.B.

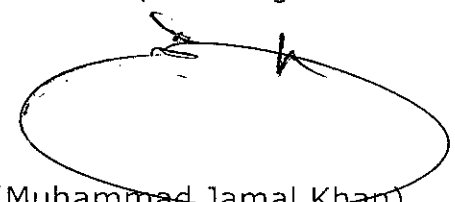

(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

21.09.2020

Syed Noman Ali Bukhari, Advocate for appellant is present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith representative of the department Mr. Muhammad Arif, Superintendent are also present. Learned counsel for the appellant submitted rejoinder which is placed on file. File to come up for arguments on 11.11.2020 before D.B.

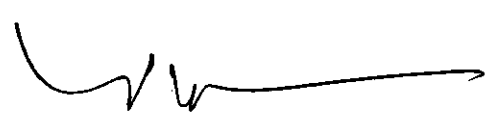

(Mian Muhammad)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

11.11.2020

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General for respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 27.01.2021 for hearing before the D.B.


(Atiq-ur-Rehman Wazir)
Member (E)


Chairman

24.06.2020

Due to public holiday on account of COVID-19,
the case is adjourned for the same on 27.07.2020 before
D.B.



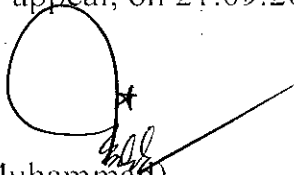
Reader

27.07.2020

Appellant alongwith counsel present.

Mr. Muhammad Jan learned Deputy District Attorney
alongwith Muhammad Arif Superintendent and Mukhtiar
Superintendent for respondents present.

Partial arguments heard. Reportedly, another
connected appeal titled Abdul Ghaffar is pending before
this Tribunal, moreover, this case was fixed for
submission of reply/comments as the appellant had filed
amended appeal on 07.02.2020. Reply to amended appeal
was submitted. To come up for arguments alongwith
connected appeal, on 21.09.2020 before D.B.



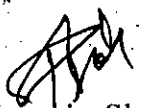
(Mian Muhammad)
Member (E)

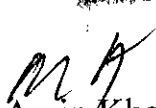


(Rozina Rehman)
Member (J)

30.12.2019

Appellant with counsel present. Mr. Riaz Paidakhel learned Assistant Advocate General alongwith M/S Afan Junior Clerk for respondents No. 1, 2 and Farman Superintendent for respondent No.3 present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 07.02.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

07.02.2020

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Farman Superintendent and Affan J.C present.

Learned counsel for the appellant submitted amended appeal wherein he also made impugned the order of appellate authority dated 01.01.2019 regarding rejection of appeal. Copy of the same given to representative of respondents. Amended appeal shall be subject to all just objections. Joint request made for adjournment. Adjourn. To come up for further proceedings on 01.04.2020 before D.B.


Member


Member

01.04.2020


Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 24.06.2020 before D.B.


Reader

11.09.2019

Counsel for the appellant present. Asst: AG for respondents present. Counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourned. To come up for arguments on 04.10.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

04.10.2019

Counsel for the appellant present. Mr. Addl: AG alongwith Mr. M. Arif, Supdt for respondents present. It was pointed out that the departmental appeal has been decided by the departmental authority after institution of the present service appeal and the same order has not been challenged by the appellant in the present service appeal, therefore, learned counsel for the appellant requested for time to challenge the same in amended appeal. Adjourned. To come up for further proceedings on 06.11.2019 before D.B.



Member

Member

06.11.2019

Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney alongwith Farman Ullah Superintendent present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for further proceedings on 30.12.2019 before D.B.


Member


Member

30.04.2019

Counsel for the appellant and Mr. Usman Ghani District Attorney alongwith Farmanullah, Superintendent for the respondents present.

Representative of respondents states that written reply is in the process of preparation and requests for adjournment. Adjourned to 10.06.2019 for submission of written reply/comments.



Chairman

10.06.2019

Counsel for the appellant and Addl: AG alongwith Mr. Muhammad Arif, Supdt and Mr. Farmanullah, Supdt for respondents present. Written reply not submitted. Requested for adjournment. Adjourned but as a last chance. Case to come up written reply/comments on 08.07.2019 before S.B.



(Ahmad Hassan)
Member

08.07.2019

Appellant in person and Addl. AG alongwith Muhammad Arif Superintendent for respondents No. 1 & 2 and Farmanullah, Supdt. for respondent No. 3 present.

Parawise comments on behalf of respondents No. 1 & 2 submitted which are placed on record. Representative of respondent No. 3 relies on the parawise comments of respondents No. 1 & 2 submitted today. To come up for arguments on 11.09.2019 before the D.B. The appellant may submit rejoinder, within a fortnight, if so advised.



Chairman

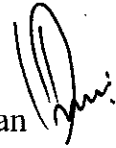
1180/2018

14.1.2019

Counsel for the appellant and Addl AG for the respondents present.

Learned AAG states that the written reply could not be prepared as none has contacted him from the respondent department. Adjourned to 21.03.2019 for submission of written reply.

Chairman



21.03.2019

Appellant in person present. Mr. Kabirullah Khattak learned Addl: AG alongwith Mr. Farman Superintendent for the respondents present. Written reply not submitted. Representative of the respondents seeks time to file written reply. Granted. To come up for written reply/comments on 12.04.2019 before S.B.

Member

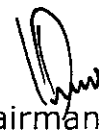


12.04.2019

Counsel for the appellant and Addl. AG alongwith M/S Muhammad Arif and Farmanullah, Superintendents for the respondents present.

Representative of respondent No. 3 requests for further time to submit the requisite reply. Adjourned to 30.4.2019 on which date the requisite reply shall positively be submitted.

Chairman



23.11.2018

Counsel for the appellant Abdullah Khan present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Revenue Department as Patwari. It was further contended that during service he was removed from service vide order dated 06.06.2018 on the allegation that he entered a bogus mutation No. 2255 in Khata No. 264, Ketat No. 48 for land measuring 7 Kanal 16 Marla in the name of Haji Latif-ur-Rehman from Mr. Ghulam Rasool Khan S/O Baitullah resident of Marmandi (Azim) while the actual owner was Mr. Ghulam Rasool Khan S/o Baitullah resident of Marmandi (Azim). It was further contended that the appellant filed departmental appeal on 23.06.2018 but the same was not responded hence, the present service appeal. It was further contended that neither proper inquiry was conducted nor the appellant was provided opportunity of personal hearing and defence, even copy of inquiry report was not provided to the appellant with the show-cause notice 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 all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 14.01.2019 before S.B.

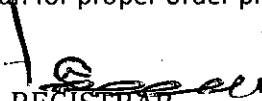


Appellant Deposited
Security & Process Fee


Muhammad Amin Khan Kundi
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1180/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/09/2018	<p>The appeal of Mr. Abdullah Khan presented today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	26-9-18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25-10-2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	25.10.2018	<p>Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on <u>13.11.2018</u>.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

(AMENDED SERVICE APPEAL)

IN

APPEAL NO. 1180/2018

Abdullah Khan

V/S

Revenue Deptt:

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Abdullah Khan
APPELLANT
ABDULLAH KHAN

THROUGH:

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

(AMENDED SERVICE APPEAL)

IN

APPEAL NO. 1180/2018

Abdullah Khan Ex- Patwari,
Halqa Mouza Marmandi Azeem
Tehsil Serai Naurang Distt Lakki Marwat.

(Appellant)

VERSUS

1. The Chief Secretary , Khyber Pakhtunkhwa Peshawar.
2. The Senior Member of Board of revenue, kpk, Peshawar.
3. The Deputy Commissioner, Lakki Marwat.

(Respondents)

.....

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE ODER DATED 06.06.2018 RECEIVED
BY THE APPELLANT ON 22/06/2018 WHEREBY THE
APPELLANT WAS REMOVED FROM THE SERVICE
AND AGAINST THE REJECTION ORDER DATED
01.01.2019 WHICH WAS PASSED AFTER LAPSE OF 90
DAYS DURING PENDENCY OF SERVICE APPEAL.**

PRAYER:

**THAT ON THE ACCEPTANCE OF THIS APPEAL, THE
ORDER DATED 06.06.2018 RECEIVED BY THE
APPELLANT ON 22/06/2018 AND 01-01-2019 MAY BE**

SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Halqa patwari and work with full zeal and zest. The appellant while workings as Halqa Patwari entered the mutation 2253 dated 14.11.2012 in moza Marmandi Azeem , alienating 10 kanal 2 marla of land.
2. That , subsequently the entry was checked through part all by the concerned girdawar circle and subsequently the attestation of mutation in question was done in favor of the beneficiary i.e buyer. **copy of document is attached as Annexure-A.**
3. That after alienation of the land vide mutation in question, one of the co-owner approached the senior member board of revenue Peshawar on the ground that his share vide mutation in question was alienated without his consent ,and he has not made any mutation or alienation in favour of buyers mention in mutation in question.
4. That senior member board of revenue served the appellant with statement of allegation , charge sheet and the appellant properly replied and denied all the allegation. **Copy of charge sheet, statement of allegation and reply is attached as annexure-B & C.**
5. That SMBR has referred the inquiry to deputy commissioner Lakki Marwat for inquiry into the allegation ,who forwarded the same to director land record for recording the statement of concerned and other necessary formalities.
6. That , the inquiry was completed with recommendation forwarded the inquiry to deputy commissioner Lakki Marwat for further order. The director land record after completing the inquiry forwarded the same to senior member board of revenue Peshawar for further disposal. Senior Member Board of Revenue Peshawar notice concurrently and issued show cause notice to the appellant. The appellant properly replied to the show cause notice and denied the entire allegations.

Copy of letter, show cause notice and reply is attached as Annexure-D, E & F.

7. That thereafter, without personal hearing the major penalty of Removal from service was imposed upon the appellant vide order dated 06.06.2018. The appellant being aggrieved filed departmental appeal against the order dated 06.06.2018 but the same was not responded within statutory period of 90 days, SO the appellant filed Service appeal no. 1180/2018 in this Hon'ble Service Tribunal but during the pendency of appeal, in utter violation of law and rules the deptt passed order on the departmental appeal of the appellant on 01.01.2019. so during course of arguments the Tribunal directed the appellant vide order dated 04.10.2019 to file the amended appeal to include the rejection order in appeal. Hence the present amended appeal on the following grounds amongst others. **Copy of impugned order and departmental appeal is attached as annexure-G, H & I.**

GROUND:

- A. That the orders dated 22.06.2018 and rejection order dated 01.01.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. That in first inquiry the appellant was exonerated and tehsildar has been held guilty and in second inquiry the appellant and Tehsildar held guilty and equally responsible but quite astonishingly on deptt appeal the penalty order of the Tehsildar has been withdrawn vide order dated 20.12.2018. which is discriminatory and violation of Article-2, 4A and 25 of the constitution . **copy of order is attached as annexure-J.**
- C. That as per the provision of sec 42 of the land revenue act read with para 7.4 of the land record manual , patwari halqa shall enter in his register of mutation every report made to him either by the person acquiring any right in the landed property or on the information of any other person having charge of property intended to be transferred through mutation
- D. That the mutation in question has been correctly prepared by appellant in the light of the contents the revenue record of the mouza concerned .there exists no mistake or irregularity either in the factum of the sale transaction reported to appellant or the

contents of the sheet of the subject mutation , all the columns of both the foil and counter foil have correctly been filled by appellant exactly in accordance with the nature of landed property i.e khata number , khasara number , name of land owner /vendors and vendee.

- E. That, the subject mutation has been prepared by appellant on the report of the interested parties and not a single word /figure has been added by appellant on his own .it is further added here that the patwari Halqa has got no role in the final attestation of mutation.
- F. That the impugned order of SMBR Peshawar is void, contrary to law, facts and available record the appellant was treated discriminatory .the inquiry conducted was biased one. The inquiry was not fair and against mandate of service rules and policy.
- G. That, the mutation in question was attested in general mass/jalsa aam and appellant has no concern with the attestation of mutation in question.
- H. That, the entry appellant was thoroughly scrutinized and checked by girdawar circle concerned and later the mutation in question was attested in the presence of required witness.
- I. That, the appellant has done his job accordingly to law and has made the entry for mutation in question only.
- J. That, if the complainant is aggrieved, then he would be from girdawar circle and tehsildar concerned who have attested mutation but action was taken against the patwari by exonerating the tehsildar and Girdawar and punished the appellant to save the skin of High ups.
- K. That, according to soul of sec 42 of land revenue act 1964,the thumb impression of vendor is not crucial but those are the witness whose signatures are sine-qua-none.
- L. That, the Inquiry was not conducted as per the mandate of law. Neither any statement of any witness was recorded in the presence of appellant neither he was afforded opportunity of cross examination.
- M. That, the impugned order is a sort of misjudgment arising from non reading of record and mis interpretation of law, defining the role of patwari in entering the mutation .on the request of parties, any member of vendors , having specific share in proprietorship of land

,can be entered by patwari in the mutation register .however it is duty of revenue officer to transfer the share of willing vendors /transferors and retain the share of those who are unwilling at the time of attestation of mutation

- N. That, personal hearing, being mandatory, was not afforded to appellatant which is against the law and rules.
- O. That no inquiry report was provided to the appellatant with show cause notice which is against the law and rules.
- P. That, appellatant being employee, was not tenable to any penal action so the impugned order is based on ulterior motive.
- Q. That the res pondent not decided the departmental appeal within statutory period of 90 days and after institution of service appeal/ during pendency of service appeal the department rejected the departmental appeal by violation the rules and superior court judgment.
- R. That the penalty of removal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- S. That the appellatant seeks permission to advance others grounds and proofs at the time of hearing.

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

Abdullah Khan

APPELLANT
ABDULLAH KHAN

THROUGH:

Syed Noman Ali Bukhari

(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

۹

استعمال شدہ بیہ قلمی حصہ ۱۱/۱۴ میں نے دیکھ لیا۔

استعمال شدہ نوٹوں میں سے جو اس حلقہ میں آئے ہیں ان کو اس میں

تیار کیا ہے جو کہ درست اور صحیح ہے۔ ان کو اس کے ساتھ ساتھ
بالکل اسی کے ساتھ ساتھ اس کے ساتھ ساتھ اس کے ساتھ ساتھ

8/9/07
دو نومبر ۲۰۰۷ء

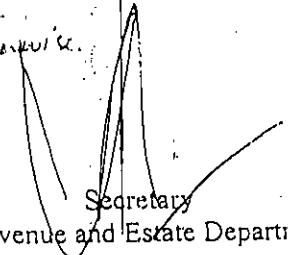
GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

CHARGE SHEET

I, Zafar Iqbal, Senior Member Board of Revenue, Khyber Pakhtunkhwa, as Competent Authority, charge you, Mr. Abdullah Jan, Ex: Patwari-Moza Marmandi, now Patwari Halqa Nawar Khel District Lakki Marwat, as follows:

That you while posted as Patwari Halqa Marmandi, committed the following irregularities:-

1. That while posting as Patwari halqa Moza Marmandi, you entered a bogus mutation No. 2255 in Khata No. 264, Ketat No. 48, for land measuring 7 Kanal 16 Marla in the name of Haji Latif-ur-Rehman from Mr. Ghulam Rasool Khan S/O Baitullah r/o Marmandi (Azim) while the actual owner was Mr. Ghulam Rasool Khan S/O Baitullah r/o Marmandi (Azim).
2. That during the fact finding / pre-liminary inquiry, you failed to remove the charges levelled against you before the Inquiry Officer.
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 and have rendered yourself liable to all or any of the penalties specified in Rule 4 of the Rules ibid.
3. You are, therefore, required to submit your written defence within seven days on receipt of this Charge Sheet to the Inquiry Officer / Inquiry Committee.
4. Your written defence, if any, should reach to Inquiry Officer, within the specified period, failing which it shall be presumed that you have no defence and in that case ex-parte action will be taken against you.
5. Intimate as to whether you desire to be heard in person. *by certificate.*
6. Statement of allegations is enclosed.


Secretary
Revenue and Estate Department

Mr. Abdullah Jan,
Patwari Halqa Nawar Khel District Lakki Marwat.

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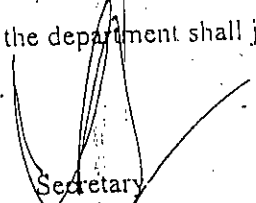
GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
No. Admn: IV/Inquiry/Tehsildar/Naurang/Abdullah Jan/ 2751
Dated 24/11/2017

DISCIPLINARY ACTION

I, Zafar Iqbal, Senior Member / Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department, as Competent Authority, am of the opinion that Mr. Abdullah Jan, Patwari Halqa Nawar Khel District Lakki Marwat, 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 while posting as Patwari halqa Moza Marmandi, he entered a bogus mutation No. 2255 in Khata No. 264, Ketat No. 48, for land measuring 7 Kanal 16 Marla in the name of Haji Latif-ur-Rehman from Mr. Ghulam Rasool Khan S/O Baitullah r/o Marmandi (Azim) while the actual owner was Mr. Ghulam Rasool Khan S/O Baitullah r/o Marmandi (Azim).
2. That during the fact finding / pre-liminary inquiry, he failed to remove the charges levelled against him before the Inquiry Officer.
2. For the purpose of inquiry against the said accused with reference to the above allegations, Mr. Muhammad Bakhtaw Khan, D.C. Lakki Marwat 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 its findings and make, within thirty 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 department shall join the proceedings on the date, time and place fixed by the Inquiry Officer.


Secretary
Revenue and Estate Department.

To:

The Deputy Commissioner,
Lakki Marwat.

Subject:

REPLY OF ABDULLAH KHAN EX-PATWARI HALQA MARMANDI AZEEM TEHSIL SERAI NAURANG IN CONNECTION WITH CHARGE SHEET ISSUED BY THE SECRETARY REVENUE & ESTATE DEPARTMENT KHYBER PAKHTUNKHWA IN CASE OF SALE MUTATION BEARING NO. 2555 DATED, 14/11/2012 MOUZA MARMANDI AZEEM.

Respected Sir,

With reference to the above subject charge sheet, hereby submit the following lines for your sympathetic consideration.

1. As per the provisions of section 42 of the Land Revenue Act read with para (1) 7.4 of the Land Record Manual, the Patwari Halqa shall enter in his register of mutations every report made to him either by the person acquiring any rights in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation.
2. The mutation in question has been correctly prepared by me in the light of the contents of the Revenue Record of the mouza concerned. There exists no mistake or irregularity either in the factum of the sale transaction reported to me or the contents of the sheet of the subject mutation, all the columns of both the foil and counterfoil have correctly been filled by me exactly in accordance with the nature of the transaction as well as the nature of the landed property i.e. Khata number, Khasra number, name of land owners/vendors and vendee.
3. The subject mutation has been prepared by me on the report of the interested parties and not a single word / figure has been added by me on my own. It is further added here that the patwari halqa has got no role in the final attestation of mutations.

Keeping in view the aforementioned points, it is hereby requested that a lenient view be taken of the instant complaint and as such be filed without further proceedings, for no direct and solid proof is available for incriminating me as patwari halqa in the instant complaint.

Abdullah Khan
Ex- Patwari Halqa Marmandi Azeem
Tehsil Serai Naurang



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF LAND RECORD
REVENUE AND ESTATE DEPARTMENT

2

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Email: landrecord.kpk@gmail.com

No. Enquiry/Abdu Ghafar-Tehsildar L.M/

438-41

Dated Peshawar the 26 / 01/2018

To.

Deputy Commissioner,
Lakki Marwat.

SUBJECT: INQUIRY AGAINST M/S ABDUL GHAFFAR KHAN EX: TEHSILDAR SARAI NAURANG NOW POLITICAL TEHSILDAR FR BANNU, GHULAM JAN GIRDWAR CIRCLE MAMA KHEL TEHSILS SARAI NAURANG, ABDULLAH JAN EX: PATWARI MOUZA MARMUNDI NOW HALQA PATWARI NAWAR KHEL DISTRICT LAKKI MARWAT.

Refer to the subject noted above and to say that the undersigned has been appointed as Inquiry Officer to conduct an inquiry in the subject titled case.

You are therefore, requested to direct M/S Ghulam Jan Girdawar Circle Mama Khel Tehsils Sarai Naurang and Abdullah Jan Ex: Patwari Mouza Marmundi now Halqa Patwari Nawar Khel District Lakki Marwat to attend the office of the undersigned on 01.02.2018 at 1200 hrs alongwith all relevant record (in original).

(Muhammad Asif) 26.1.18
Director Land Record
(Inquiry Officer)

End: No. & Date Even.

Copy forwarded to the:-

1. Assistant Secretary (Estt.), Board of Revenue w/r to his letter dated 23.01.2018.
2. Private Secretary to Senior Member Board of Revenue Khyber Pakhtunkhwa.
3. M/S Ghulam Jan Girdawar Circle Mama Khel Tehsils Sarai Naurang and Abdullah Jan Ex: Patwari Mouza Marmundi now Halqa Patwari Nawar Khel District Lakki Marwat with direction to attend the office of the undersigned on 01.02.2018 at 1200 hrs alongwith all relevant record (in original).

(Muhammad Asif) 26.1
Director Land Record
(Inquiry Officer)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated 03/04/2018

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 upon you Mr. Abdullah Jan. Ex-Patwari Mouza Marmandi now Patwari Halqa Nawar Khel District Lakki Marwat, Show Cause Notice that:-

1. That while posting as Patwari Halqa mouza marmandi, you entered a bogus mutation No.2255 in Kata No. 264, Ketate No. 48, for land measuring 7 kanal and 16 marla in the name of Haji Latif-Ur-Rehman from Mr. Ghulam Rasool Khan S/O Batiullah R/O Marmandi (Azim) while the actual owner was Mr. Ghulam Rasool S/O Batiullah R/O marmandi (Azim).

2. That during the fact finding/preliminary inquiry, you failed to remove the charge levelled against you before the inquiry officer during personal hearing.

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.

4. 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 not be imposed upon you. Furthermore, you are directed to appear on 10.04.2018 at 11:00AM before the undersigned for personal hearing.

5. 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. Estt:1/PI/Abdul Ghaffar/
Peshawar dated 03/04/2018.

16873

3/4/18

To:-

The Senior Member,
Board of Revenue, Khyber Pakhtunkhwa
(Competent Authority)

Subject:

REPLY TO SHOW CAUSE NOTICE IN RESPECT OF MR ABDULLAH KHAN EX
PATWARI HALQA MARMANDI AZIM TEHSIL SERAI NAURANG IN
CONNECTION WITH SALE MUTATION NO. 2555 DATED: 14.11.2012 MOUZA
MARMANDI AZIM

Respected Sir,

With reference to show cause notice bearing No. Ett:1/PF/Abdul
Ghaffar/ 16873 dated 03.04.2018.

1. As per the provision of section 42 of the Land Revenue Act read with para (i) 7.4 of the Land Record Manual, the Patwari Halqa shall enter in his register of mutations every report made to him either by the person acquiring any rights in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation.
2. The mutation in question has been correctly prepared by me in the light of the contents of the Revenue Record of the mouza concerned. There exists no mistake or irregularity either in the factum of the sale transaction reported to me or the contents of the sheet of the subject mutation, all the columns of both the foil and counterfoil have correctly been filled by me exactly in accordance with the nature of the transaction as well as the nature of the landed property i.e. Khata Number, Khasra Number, name of land owner/vendors and vendee.
3. The subject mutation has been prepared by me on the report of the interested parties and not a single word/figure has been added by me on my own. It is further added here that the Patwari Halqa has got no role in the final attestation of mutations.

Keeping in view the aforementioned points, it is hereby requested that I am innocent and may please be exonerated from the charges leveled against me in the instant complaint and as such may please be filed without any further proceedings, for no direct and solid proof is available for incriminating me as a patwari Halqa in the instant complaint.

Thanking You Sir,

Yours Most Obedient Servant

Dated: 10 /04/2018


Abdullah Khan

Ex Patwari Halqa Marmandi Azim
Tehsil Naurang District Lakki Marwat.



(4) 5 (18)
 GOVERNMENT OF KHYBER PAKHTUNKHWA
 BOARD OF REVENUE
 REVENUE & ESTATE DEPARTMENT

Peshawar dated the 06/06/2018

ORDER.

No.Estt://PF/Abdul Ghaffar/_____ WHEREAS; Mr. Abdullah Khan the then Patwari halqa Marmandi Azim Tehsil Naurang was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheet.

AND WHEREAS; Mr. Muhammad Asif Director Land Records was appointed as Inquiry Officer to probe into the charges leveled against the said official and submit finding/recommendations.

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.

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

NOW THEREFORE, I as Competent Authority in exercise of powers conferred by Rule 4 (b) (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 impose major penalty of removal from service upon Mr. Abdullah Khan the then Patwari office of the Deputy Commissioner Lakki Marwat with immediate effect.

By order of
Senior Member

No.Estt://PF/Abdul Ghaffar/ 24363-67

Copy forwarded to the:-

1. Commissioner, Bannu Division, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. District Accounts Officer-Lakki Marwat.
4. Official concerned.
5. Office order file.

عبداللہ خان پتواری حلتہ
 نادروخل سے صاحب وصول
 عبداللہ خان کو فارغ کیا
 22/6/18

RECEIVED	
No	3042
Date	11/6/18
Return Date	
Action	Asst Est/Rev

Assistant Secretary (Est)

دستخط محمد اسف / صاحب لند ریکارڈ / ڈائریکٹر / لاہور
 22/6/18

① H (14)

BEFORE THE WORTHY CHIEF SECRETARY
KHYBER PAKHTUNKHWA PESHAWAR

SERVICE APPEAL/REPRESENTATION No. _____/2018

SUBJECT: REMOVAL FROM SERVICE ORDER NO. 24363-67 ON DATED 06-06-2018 WHICH HAS BEEN RECEIVED TO THE PETITIONER ON 22.06.2018

PRAYER: ON ACCEPTANCE OF INSTANT APPEAL/REPRESENTATION, AGAINST IMPUGNED ORDER DATED 06-06-2018 (ACKNOWLEDGE AT LAKKI ON DATED 10.06.2018) MAY KINDLY BE SET ASIDE OR ANNULED AND THE APPELLANT MAY KINDLY BE RE-INSTATED IN HIS INCUMBENCY OF PATWAERI HALQA IN DISTRICT LAKKI MARWAT WITH ALL BACK BENEFITS.

That, succinct and germane facts culminating in Instant Appeal are as such:

- (1) That, the appellant as Patwari Halqa entered the Mutation 2253 dated 14-11-2012 in moza marmandi Azeem, alienating 10 Kanal 2 marla of land in the name of Haji Latif ur Rehman. The entry was made on the oral statements of concerned Party/Vendors.
- (2) That, subsequently the entry was checked through part all by the concerned girdawar circle and subsequently the attestation of mutation in question was done in favour of the Beneficiary i.e., Buyer.
- (3) That, after alienation of the land vide Mutation in question, one of the co-owners approached the Senior Member board of Revenue Peshawar on the ground that his share vide Mutation in question was alienated without his consent, and he has not made any Mutation or alienation in favour of the Buyers mentioned in Mutation in questions.
- (4) That, Senior Member board of Revenue Peshawar has pleased referring the inquiry to Director Land Record for inquiry into the allegations, who forwarded the same to Deputy Commissioner Lakki Marwat for recording the statements of concerned and others necessary formalities. The Deputy Commissioner Lakki Marwat served the appellant with notice for reply and hearing. The appellant submitted his respective reply and recorded statements.
- (5) That, The inquiry was completed with recommendation forwarded the inquiry to Director Land Record for further order. The Director Land Record after completing the inquiry forwarded the same to Senior Member board of Revenue Peshawar for further disposal. Senior Member board of Revenue Peshawar served the appellant with statements of allegation, charge sheet and show cause notice

concurrently. Subsequently without any other codal formalities, the appellant was imposed the major penalty of Dismissal from service.

(6) Being Unhappy from the order dated 06-06-2018 of Senior Member board of Revenue Peshawar based on the inquiry in question, the appellant has rushed to your majestic authority for your kind interference into the matter. Inter-alia, on the following grounds.

GROUND:

- (1) That, as per the provision of sec 42 of the Land Revenue Act read with para (i) 7.4 of the Land Record Manual, the Patwari Halqa shall enter in his register of mutations every report made to him either by the person acquiring any rights in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation.
- (2) That, the mutation in question has been correctly prepared by appellant in the light of the contents of the Revenue Record of the mouza concerned. There exists no mistake or irregularity either in the factum of the sale transaction reported to appellant or the contents of the sheet of the subject mutation, all the columns of both the foil and counterfoil have correctly been filed by appellant exactly in accordance with the nature of the transaction as well as the nature of the landed property i.e, Khata number, Khasra number, name of land owners/Vendors and vendee.
- (3) That, the subject mutation has been prepared by appellant on the report of the interested parties and not a single word/ figure has been added by appellant on his own. It is further added here that the Patwari Halqa has got no role in the final attestation of mutations.
- (4) That the impugned order of SMBR Peshawar is contrary to law, facts and available record. The appellant was treated discriminatory. The inquiry conducted was biased one. The inquiry was not fair and against mandate of service rules and policy.
- (5) That, the mutation in question was attested in general Mass/ Jalsa Aam and appellant has no Concern with the attestation of mutation in question.
- (6) That, the entry of appellant was thoroughly scrutinized and checked by Girdawar circle concerned and later the mutation in question was attested in the presence of Required Witnesses.
- (7) That, the appellant has done his job accordingly to Law and has made the entry for mutation in question only.
- (8) That, if the complainant is aggrieved, then he would be from girdawar circle and Tehsildar concerned who have attested mutation.

- (9) That, according to the soul of Sec 42 of Land Revenue Act 1964, the thumb impression of vendor is not crucial but those are the witnesses whose signatures are sine-qua-none.
- (10) That, the inquiry was not conducted as per the mandate of law. Neither any statement of any witness was recorded in the presence of appellant neither he was afforded opportunity of cross examination.
- (11) That, the impugned order is a sort of mis judgment arising from non reading of record and mis interpretation of law, defining the role of Patwari in entering a mutation. On the request of parties, any member of vendors, having specific share in the proprietorship of land, can be entered by the Patwari in the mutation register. However, it is for the revenue officer to transfer the shares of willing vendors/transferrors and retain the shares of those who are un-willing at the time of attestation of mutation.
- (12) That, personal hearing, being mandatory, was not afforded to the appellant what to speak of providing him opportunity of self defense.
- (13) That, appellant being employee, was not amenable to any penal action, so the impugned orders are biased on ulterior motive.

It is, humbly prayed that the impugned order No. 24363-67 dated 06.06.2018 may kindly rescinded, the inquiry conducted may kindly be declared Null and Void and appellant may kindly be reinstated by exonerating him of all charges leveled against him.

Dated: 23.06.2018.



Appellant Abdullah Khan
EX-Patwari Halqa mouza Marmandi
Azeem
Tehsil Serai Naurang Distt: Lakki Marwat

I (17)



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.
Facebook ID: www.facebook.com/bor.kpk92
Twitter ID: @RevenueBoardkp
Fax No: 091.9213989

No. Estt: I/PF/Abdul Ghaffar/ 62
Peshawar dated the 01 /01/2019.


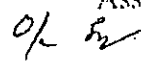
To

Mr. Abdullah Khan,
Ex-Patwari, Halqa Mouza
Marmandi Azim Tehsil Sarai Naurang,
District Lakki Marwat.

Through: Deputy Commissioner, Lakki Marwat.

SUBJECT: REMOVAL FROM SERVICE ORDER NO. 24363-67 DATED 06.06.2018.

Your Departmental Appeal dated 23.06.2018 has been examined and rejected by the
Appellate Authority (i.e Chief Secretary).


Assistant Secretary (Estt.)
of 



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT
Facebook ID: www.facebook.com/bor.kpk92
Twitter ID: @RevenueBoardkp
Fax No: 091.9213989

Peshawar dated the 26/12/2018.

NOTIFICATION:


No. Esstt:/PF/Abdul Ghaffar/ _____ In pursuance of order dated 26.11.2018 passed by Appellate Authority (Chief Secretary) in Departmental Appeal filed by Mr. Abdul Ghaffar Tehsildar, this Department order bearing No. Esstt:/PF/Abdul Ghaffar 24369-74 dated 06.06.2018 is hereby cancelled/withdrawn.

By order of
Competent Authority

No. Esstt:/PF/Abdul Ghaffar/ 40015-21

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
3. Commissioner Bannu Division, Bannu.
4. District Accounts Officer, Lakki Marwat.
5. Bill Assistant Board of Revenue.
6. Mr. Abdul Ghaffar Tehsildar Naurang Lakki Marwat.
7. Personal file.


Assistant Secretary (Esstt.)

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1180 /2018

Abdullah Khan

V/S

Revenue Deptt:

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Abdullah Khan
APPELLANT

ABDULLAH KHAN

THROUGH:

Noman
(SYED NOMAN ALI BULHARI)

Uzma Syed
(UZMA SYED)

ADVOCATES, HIGH COURT.

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1180 /2018

Abdullah Khan Ex- Patwari,
Halqa Mouza Marmandi Azeem
Tehsil Serai Naurang Distt Lakki Marwat.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1470

Dated 25/9/2018

(Appellant)

VERSUS

1. The Chief Secretary , Khyber Pakhtunkhwa Peshawar.
2. The Senior Member of Board of revenue, kpk, Peshawar.
3. The Deputy Commissioner, Lakki Marwat.

(Respondents)

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APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE ODER DATED 06.06.2018 RECEIVED
BY THE APPELLANT ON 22/06/2018 WHEREBY THE
APPELLANT WAS REMOVED FROM THE SERVICE
AND AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT
WITHIN STATUTORY PERIOD OF 90 DAYS.

Filed to-day

Registrar

25/9/18

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL THE
ORDER DATED 06.06.2018 RECEIVED BY THE
APPELLANT ON 22/06/2018 MAY BE SET ASIDE AND
THE APPELLANT MAY BE REINSTATED WITH ALL

BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Halqa patwari and work with full zeal and zest. The appellant while workings as Halqa Patwari entered the mutation 2253 dated 14.11.2012 in moza Marmandi Azeem., alienating 10 kanal 2 marla of land.
2. That, subsequently the entry was checked through part all by the concerned girdawar circle and subsequently the attestation of mutation in question was done in favor of the beneficiary i.e buyer. **copy of document is attached as Annexure-A.**
3. That after alienation of the land vide mutation in question, one of the co-owner approached the senior member board of revenue Peshawar on the ground that his share vide mutation in question was alienated without his consent, and he has not made any mutation or alienation in favour of buyers mention in mutation in question.
4. That senior member board of revenue served the appellant with statement of allegation, charge sheet and the appellant properly replied and denied all the allegation. **Copy of charge sheet, statement of allegation and reply is attached as annexure-B & C.**
5. That SMBR has referred the inquiry to deputy commissioner Lakki Marwat for inquiry into the allegation, who forwarded the same to director land record for recording the statement of concerned and other necessary formalities.
6. That, the inquiry was completed with recommendation forwarded the inquiry to deputy commissioner Lakki Marwat for further order. The director land record after completing the inquiry forwarded the same to senior member board of revenue Peshawar for further disposal. Senior Member Board of Revenue Peshawar notice concurrently and issued show cause notice to the appellant. The appellant properly replied to the show cause notice and denied the entire allegations. **Copy of letter, show cause notice and reply is attached as Annexure-D, E & F.**

7. That thereafter, without personal hearing the major penalty of Removal from service was imposed upon the appellant vide order dated 06.06.2018. The appellant being aggrieved filed departmental appeal against the order dated 06.06.2018 but the same was not responded within statutory period of 90 days. Hence the present appeal on the following grounds amongst others. **Copy of impugned order and departmental appeal is attached as annexure-G & H.**

GROUNDS:

A. That the orders dated 22.06.2018 and not taking action on the departmental appeal of the appellant are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside

B. That as per the provision of sec 42 of the land revenue act read with para 7.4 of the land record manual, patwari halqa shall enter in his register of mutation every report made to him either by the person acquiring any right in the landed property or on the information of any other person having charge of property intended to be transferred through mutation

C. That the mutation in question has been correctly prepared by appellant in the light of the contents the revenue record of the mouza concerned. there exists no mistake or irregularity either in the factum of the sale transaction reported to appellant or the contents of the sheet of the subject mutation, all the columns of both the foil and counter foil have correctly been filled by appellant exactly in accordance with the nature of landed property i.e khatana number, khasara number, name of land owner/vendors and vendee.

D. That, the subject mutation has been prepared by appellant on the report of the interested parties and not a single word/figure has been added by appellant on his own. it is further added here that the patwari halqa has got no role in the final attestation of mutation.

E. That the impugned order of SMBR Peshawar is void, contrary to law, facts and available record the appellant was treated discriminatory. the inquiry conducted was biased one. The inquiry was not fair and against mandate of service rules and policy.

- F. That, the mutation in question was attested in general mass/jalsa nam and appellant has no concern with the attestation of mutation in question.
- G. That, the entry appellant was thoroughly scrutinized and checked by girदार circle concerned and later the mutation in question was attested in the presence of required witness.
- H. That, the appellant has done his job accordingly to law and has made the entry for mutation in question only.
- I. That, if the complaints is aggrieved, then he would be from girदार circle and tehildar concerned who have attested mutation but action was taken against these officials.
- J. That, according to soul of sec 42 of land revenue act 1964, the thumb impression of vendor is not crucial but those are the witness whose signatures are sine-qua-none.
- K. That, the Inquiry was not conducted as per the mandate of law. Neither any statement of any witness was recorded in the presence of appellant neither he was afforded opportunity of cross examination.
- L. That, the impugned order is a sort of misjudgment arising from non reading of record and mis interpretation of law, defining the role of patwari in entering the mutation on the request of parties, any member of vendors, having specific share in proprietorship of land, can be entered by patwari in the mutation register. However it is duty of revenue officer to transfer the share of willing vendors /transferors and retain the share of those who are unwilling at the time of attestation of mutation.
- M. That, personal hearing, being mandatory, was not afforded to appellant which is against the law and rules.
- N. That no inquiry report was provided to the appellant with show cause notice which is against the law and rules.
- O. That, appellant being employee, was not enable to any penal action so the impugned order are based on ulterior motive.
- P. That the penalty of removal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.

3

Q. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

Abdullah Khan
APPELLANT
ABDULLAH KHAN

THROUGH:

Noman Ali Bulhari
(SYED NOMAN ALI BULHARI)

& Uzma Syed
(UZMA SYED)
ADVOCATES, HIGH COURT.

استفادہ ۵۵۵۵۵

بیمہ ملی مصروف ۱۱/۱۲/۱۴ میں سے دیکھی جاوے

استعمال مندرجہ ذیل میں ہو اور اسی حلقہ میں رہنے والے حضرات کو اس سے

تیار کیا گیا ہے جو کہ درست اور صحیح ہے۔

بالکل ان کو اصرار ہے کہ یہ سب صحیح ہے۔

819107

دفعہ نمبر ۱۰ کی نشانی

MAILED

B (7)

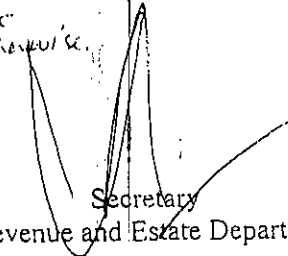
GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

CHARGE SHEET.


I, Zafar Iqbal, Senior Member Board of Revenue, Khyber Pakhtunkhwa, as Competent Authority, charge you, Mr. Abdullah Jan, Ex: Patwari-Moza Marmandi, now Patwari Halqa Nawar Khel District Lakki Marwat, as follows:

That you while posted as Patwari Halqa Marmandi, committed the following irregularities:-

1. That while posting as Patwari halqa Moza Marmandi, you entered a bogus mutation No. 2255 in Khata No. 264, Ketat No. 48, for land measuring 7 Kanal 16 Marla in the name of Haji Latif-ur-Rehman from Mr. Ghulam Rasool Khan S/O Baitullah r/o Marmandi (Azim) while the actual owner was Mr. Ghulam Rasool Khan S/O Baitullah r/o Marmandi (Azim).
2. That during the fact finding / pre-liminary inquiry, you failed to remove the charges levelled against you before the Inquiry Officer.
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 and have rendered yourself liable to all or any of the penalties specified in Rule 4 of the Rules ibid.
3. You are, therefore, required to submit your written defence within seven days on receipt of this Charge Sheet to the Inquiry Officer / Inquiry Committee.
4. Your written defence, if any, should reach to Inquiry Officer, within the specified period, failing which it shall be presumed that you have no defence and in that case ex-parte action will be taken against you.
5. Intimate as to whether you desire to be heard in person. *by c/ke/w/1/2*
6. Statement of allegations is enclosed.


Secretary
Revenue and Estate Department

Mr. Abdullah Jan,
Patwari Halqa Nawar Khel District Lakki Marwat.


SECRETED

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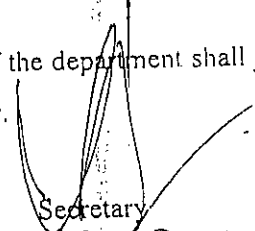
GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
No. Admn: IV/Inquiry/Tehsildar/Naurang/Abdullah Jan/ 27/51
Dated 24/11/2017


DISCIPLINARY ACTION.

I, Zafar Iqbal, Senior Member / Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department, as Competent Authority, am of the opinion that Mr. Abdullah Jan, Patwari Halqa Nawar Khel District Lakki Marwat, 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 while posting as Patwari halqa Moza Marmandi, he entered a bogus mutation No. 2255 in Khata No. 264, Ketat No. 48, for land measuring 7 Kanal 16 Marla in the name of Haji Latif-ur-Rehman from Mr. Ghulam Rasool Khan S/O Baitullah r/o Marmandi (Azim) while the actual owner was Mr. Ghulam Rasool Khan S/O Baitullah r/o Marmandi (Azim).
2. That during the fact finding / pre-liminary inquiry, he failed to remove the charges levelled against him before the Inquiry Officer.
2. For the purpose of inquiry against the said accused with reference to the above allegations, Mr. Muhammad Bakhtaw Khan, D.C. Lakki Marwat, 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 its findings and make, within thirty 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 department shall join the proceedings on the date, time and place fixed by the Inquiry Officer.


Secretary
Revenue and Estate Department.


RECEIVED

To:

The Deputy Commissioner,
Lakki Marwat.

Subject:

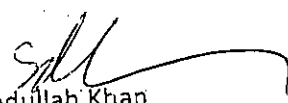
REPLY OF ABDULLAH KHAN EX-PATWARI HALQA MARMANDI AZEEM TEHSIL SERAI NAURANG IN CONNECTION WITH CHARGE SHEET ISSUED BY THE SECRETARY REVENUE & ESTATE DEPARTMENT KHYBER PAKHTUNKHWA IN CASE OF SALE MUTATION BEARING NO:2555 DATED, 14/11/2012 MOUZA MARMANDI AZEEM.

Respected Sir,

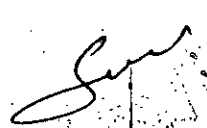
With reference to the above subject charge sheet, hereby submit the following lines for your sympathetic consideration:-

1. As per the provisions of section 42 of the Land Revenue Act read with para (i) 7.4 of the Land Record Manual, the Patwari Halqa shall enter in his register of mutations every report made to him either by the person acquiring any rights in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation.
2. The mutation in question has been correctly prepared by me in the light of the contents of the Revenue Record of the mouza concerned. There exists no mistake or irregularity either in the factum of the sale transaction reported to me or the contents of the sheet of the subject mutation, all the columns of both the foil and counterfoil have correctly been filled by me exactly in accordance with the nature of the transaction as well as the nature of the landed property i.e. Khata number, Khasra number, name of land owners/vendors and vendee.
3. The subject mutation has been prepared by me on the report of the interested parties and not a single word / figure has been added by me on my own. It is further added here that the patwari halqa has got no role in the final attestation of mutations.

Keeping in view the aforementioned points, it is hereby requested that a lenient view be taken of the instant complaint and as such be filed without further proceedings, for no direct and solid proof is available for incriminating me as patwari halqa in the instant complaint.


Abdullah Khan

Ex- Patwari Halqa Marmandi Azeem
Tehsil Serai Naurang


24/11/2012

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GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF LAND RECORD
REVENUE AND ESTATE DEPARTMENT

Email: landrecord.kpk@gmail.com

No. Enquiry/Abdu Ghafar-Tehsildar L.M/ 1438-41

Dated Peshawar the 26 / 01/2018

To.

Deputy Commissioner,
Lakki Marwat.

SUBJECT: INQUIRY AGAINST M/S ABDUL GHAFAR KHAN EX: TEHSILDAR SARAI NAURANG NOW POLITICAL TEHSILDAR FR BANNU, GHULAM JAN GIRDAWAR CIRCLE MAMA KHEL TEHSILS SARAI NAURANG, ABDULLAH JAN EX: PATWARI MOUZA MARMUNDI NOW HALQA PATWARI NAWAR KHEL DISTRICT LAKKI MARWAT.

Refer to the subject noted above and to say that the undersigned has been appointed as Inquiry Officer to conduct an inquiry in the subject titled case.

You are therefore, requested to direct M/S Ghulam Jan Girdawar Circle Mama Khel Tehsils Sarai Naurang and Abdullah Jan Ex: Patwari Mouza Marmundi now Halqa Patwari Nawar Khel District Lakki Marwat to attend the office of the undersigned on 01.02.2018 at 1200 hrs alongwith all relevant record (in original).

(Muhammad Asif) 26.1.18
Director Land Record
(Inquiry Officer)

End: No. & Date Even.

Copy forwarded to the:-

1. Assistant Secretary (Estt.), Board of Revenue w/r to his letter dated 23.01.2018.
2. Private Secretary to Senior Member Board of Revenue Khyber Pakhtunkhwa.
3. M/S Ghulam Jan Girdawar Circle Mama Khel Tehsils Sarai Naurang and Abdullah Jan Ex: Patwari Mouza Marmundi now Halqa Patwari Nawar Khel District Lakki Marwat with direction to attend the office of the undersigned on 01.02.2018 at 1200 hrs alongwith all relevant record (in original).

(Muhammad Asif) 26.1
Director Land Record
(Inquiry Officer)

ATTACHED

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2

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated 03/04/2018

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 upon you Mr. Abdullah Jan, Ex-Patwari Mouza Marmandi now Patwari Halqa Nawar Khel District Lakki Marwat, Show Cause Notice that:-

That while posting as Patwari Halqa mouza marmandi, you entered a bogus mutation No.2255 in Kata No. 264, Ketate No. 48, for land measuring 7 kanal and 16 marla in the name of Haji Latif-Ur-Rehman from Mr. Ghulam Rasool Khan S/O Batiullah R/O Marmandi (Azim) while the actual owner was Mr. Ghulam Rasool S/O Batiullah R/O marmandi (Azim).

That during the fact finding/preliminary inquiry, you failed to remove the charge levelled against you before the inquiry officer during personal hearing.

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.

4. 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 not be imposed upon you. Furthermore: you are directed to appear on 10.04.2018 at 11:00AM before the undersigned for personal hearing.

5. 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. Estt./PP/Abdul Ghaffar/
Peshawar dated 03/04/2018.

16873

3/4/18

ATTESTED

To:- The Senior Member,
Board of Revenue, Khyber Pakhtunkhwa
(Competent Authority)

Subject: REPLY TO SHOW CAUSE NOTICE IN RESPECT OF MR ABDULLAH KHAN EX
PATWARI HALQA MARMANDI AZIM TEHSIL SERAI NAURANG IN
CONNECTION WITH SALE MUTATION NO. 2555 DATED 14.11.2012 MOUZA
MARMANDI AZIM

Respected Sir,

With reference to show cause notice bearing No. Ett:1/PF/Abdul
Ghaffar/ 16873 dated 03.04.2018.

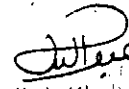
1. As per the provision of section 42 of the Land Revenue Act read with para (i) 7.4 of the Land Record Manual, the Patwari Halqa shall enter in his register of mutations every report made to him either by the person acquiring any rights in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation.
2. The mutation in question has been correctly prepared by me in the light of the contents of the Revenue Record of the mouza concerned. There exists no mistake or irregularity either in the factum of the sale transaction reported to me or the contents of the sheet of the subject mutation, all the columns of both the foil and counterfoil have correctly been filled by me exactly in accordance with the nature of the transaction as well as the nature of the landed property i.e. Khata Number, Khasra Number, name of land owner/vendors and vendee.
3. The subject mutation has been prepared by me on the report of the interested parties and not a single word/figure has been added by me on my own. It is further added here that the Patwari Halqa has got no role in the final attestation of mutations.

Keeping in view the aforementioned points, it is hereby requested that I am innocent and may please be exonerated from the charges leveled against me in the instant complaint and as such may please be filed without any further proceedings, for no direct and solid proof is available for incriminating me as a patwari Halqa in the instant complaint.

Thanking You Sir,

Yours Most Obedient Servant

Dated: 10 /04/2018


Abdullah Khan

Ex Patwari Halqa Marmandi Azim
Tehsil Naurang District Lakki Marwat.


2018 APR 10 10:10 AM



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(15)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 06/06/2018

ORDER.

No.Estt:I/PF/Abdul Ghaffar/_____ WHEREAS; Mr. Abdullah Khan the then Patwari halqa Marmandi Azim Tehsil Naurang was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the Charge Sheet.

AND WHEREAS; Mr. Muhammad Asif Director Land Records was appointed as Inquiry Officer to probe into the charges leveled against the said official and submit finding/ recommendations.

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.

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

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 removal from service upon Mr. Abdullah Khan the then Patwari office of the Deputy Commissioner Lakki Marwat with immediate effect.

By order of
Senior Member

No.Estt:I/PF/Abdul Ghaffar/ 24363-67

Copy forwarded to the:-

1. Commissioner, Bannu Division, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. District Accounts Officer Lakki Marwat.
4. Official concerned.
5. Office order file.

عبدالرحمان نیواری حلقہ
نادوخل سے صاحب دھول
عبدالرحمان کو فارغ کیا
22/6/18

RECEIVED	
No	3042
Date	11/6/18
Return Date	
Action	ASST ESI/Rev
Land Revenue	

Assistant Secretary (Estt)

Handwritten notes and signatures in Urdu, including a large signature and the date 22/6/18.

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(14)

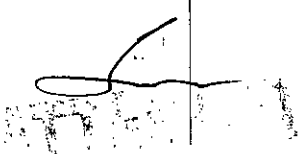
BEFORE THE WORTHY CHIEF SECRETARY
KHYBER PAKHTUNKHWA PESHAWAR

SERVICE APPEAL/REPRESENTATION No. _____/2018

SUBJECT: REMOVAL FROM SERVICE ORDER NO. 24363-67 ON DATED 06-06-2018 WHICH HAS BEEN RECEIVED TO THE PETITIONER ON 22.06.2018

PRAYER: ON ACCEPTANCE OF INSTANT APPEAL/REPRESENTATION, AGAINST IMPUGNED ORDER DATED 06-06-2018 (ACKNOWLEDGE AT LAKKI ON DATED 10.06.2018) MAY KINDLY BE SET ASIDE OR ANNULLED AND THE APPELLANT MAY KINDLY BE RE-INSTATED IN HIS INCUMBENCY OF PATWAERI HALQA IN DISTRICT LAKKI MARWAT WITH ALL BACK BENEFITS.

That, succinct and germane facts culminating in Instant Appeal are as such:

- (1) That, the appellant as Patwari Halqa entered the Mutation 2253 dated 14-11-2012 in moza marmandi Azeem, alienating 10 Kanal 2 marla of land in the name of Haji Latif ur Rehman. The entry was made on the oral statements of concerned Party/Vendors.
 - (2) That, subsequently the entry was checked through part all by the concerned girdawar circle and subsequently the attestation of mutation in question was done in favour of the Beneficiary i.e, Buyer.
 - (3) That, after alienation of the land vide Mutation in question, one of the co-owners approached the Senior Member board of Revenue Peshawar on the ground that his share vide Mutation in question was alienated without his consent, and he has not made any Mutation or alienation in favour of the Buyers mentioned in Mutation in questions.
 - (4) That, Senior Member board of Revenue Peshawar has pleased referring the inquiry to Director Land Record for inquiry into the allegations, who forwarded the same to Deputy Commissioner Lakki Marwat for recording the statements of concerned and others necessary formalities. The Deputy Commissioner Lakki Marwat served the appellant with notice for reply and hearing. The appellant submitted his respective reply and recorded statements.
 - (5) That, The inquiry was completed with recommendation forwarded the inquiry to Director Land Record for further order. The Director Land Record after completing the inquiry forwarded the same to Senior Member board of Revenue Peshawar for further disposal. Senior Member board of Revenue Peshawar served the appellant with statements of allegation, charge sheet and show cause notice
- 

concurrently. Subsequently without any other codal formalities, the appellant was imposed the major penalty of Dismissal from service.

- (6) Being Unhappy from the order dated 06-06-2018 of Senior Member board of Revenue Peshawar based on the inquiry in question, the appellant has rushed to your majestic authority for your kind interference into the matter. Inter-alia, on the following grounds.

GROUND:

- (1) That, as per the provision of sec 42 of the Land Revenue Act read with para (i) 7.4 of the Land Record Manual, the Patwari Halqa shall enter in his register of mutations every report made to him either by the person acquiring any rights in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation.
- (2) That, the mutation in question has been correctly prepared by appellant in the light of the contents of the Revenue Record of the mouza concerned. There exists no mistake or irregularity either in the factum of the sale transaction reported to appellant or the contents of the sheet of the subject mutation, all the columns of both the foil and counterfoil have correctly been filed by appellant exactly in accordance with the nature of the transaction as well as the nature of the landed property i.e, Khata number, Khasra number, name of land owners/Vendors and vendee.
- (3) That, the subject mutation has been prepared by appellant on the report of the interested parties and not a single word/ figure has been added by appellant on his own. It is further added here that the Patwari Halqa has got no role in the final attestation of mutations.
- (4) That the impugned order of SMBR Peshawar is contrary to law, facts and available record. the appellant was treated discriminatory. The inquiry conducted was biased one. The inquiry was not fair and against mandate of service rules and policy.
- (5) That, the mutation in question was attested in general Mass/ Jalsa Aam and appellant has no Concern with the attestation of mutation in question.
- (6) That, the entry of appellant was thoroughly scrutinized and checked by Girdawar circle concerned and later the mutation in question was attested in the presence of Required Witnesses.
- (7) That, the appellant has done his job accordingly to Law and has made the entry for mutation in question only.
- (8) That, if the complainant is aggrieved, then he would be from girdawar circle and Tehsildar concerned who have attested mutation.

ATTESTED

- (9) That, according to the soul of Sec 42 of Land Revenue Act 1964, the thumb impression of vendor is not crucial but those are the witnesses whose signatures are sine-qua-none.
- (10) That, the inquiry was not conducted as per the mandate of law. Neither any statement of any witness was recorded in the presence of appellant neither he was afforded opportunity of cross examination.
- (11) That, the impugned order is a sort of mis judgment arising from non reading of record and mis interpretation of law, defining the role of Patwari in entering a mutation. On the request of parties, any member of vendors, having specific share in the proprietorship of land, can be entered by the Patwari in the mutation register. However, it is for the revenue officer to transfer the shares of willing vendors/transferors and retain the shares of those who are un-willing at the time of attestation of mutation.
- (12) That, personal hearing, being mandatory, was not afforded to the appellant what to speak of providing him opportunity of self defense.
- (13) That, appellant being employee, was not amenable to any penal action, so the impugned orders are biased on ulterior motive.

It is, humbly prayed that the impugned order No. 24363-67 dated 06.06.2018 may kindly rescinded, the inquiry conducted may kindly be declared Null and Void and appellant may kindly be reinstated by exonerating him of all charges leveled against him.

Dated: 23.06.2018.

Appellant Abdullah Khan
EX-Patwari Halqa mouza Marmandi
Azeem
Tehsil Serai Naurang Distt: Lakki Marwat

S
ATTACHED

VAKALAT NAMA

NO. _____/20

IN THE COURT OF K.P.H Service Tribunal, Peshawar

Abdullah Khan

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Revenue Deptt.

(Respondent)
(Defendant)

I/~~We~~, Abdullah Khan

Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI and Uzma Syed Advocate High Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

Abdullah Khan

(CLIENT)

ACCEPTED

Syed
SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.

Uzma Syed
UZMA SYED

Advocate High Court Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1180/2018.

Abdullah Khan Ex-Patwari.....Appellant

VERSUS

Senior Member Board of Revenue and others.....Respondents

INDEX

S. No	Description of documents	Annexure
1.	Comments	-
2.	Affidavit	-
3.	Complaint of land owner	A
4.	Inquiry report of Mr. Bakhtiar Khan the then Deputy Commissioner Lakki Marwat.	B
5.	Inquiry report of Mr. Muhammad Asif the then Director Land Records	C
6.	Order of major penalty of removal from service	D
7.	Rejection of Departmental Appeal of the appellant	E

Assistant Secretary (Lit – I)
Board of Revenue KPK

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1180/2018.

Abdullah Khan Ex-Patwari Appellant.

VERSUS

Senior Member Board of Revenue and others..... Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 & 2.

RESPECTFULL 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.

ON FACTS.

1. No comments pertains to record.
2. Correct to the extent that the appellant was posted as Patwari and entered a bogus mutation No.2255 in khata No. 264 Mouza Marmandi for land measuring 7 kanal 16 marla in the name of Latif Ur Rehamn from Ghulam Rasool Khan son Baitullah without thumb impression of the actual land owner.
3. Incorrect. On receipt of compliant of the real land owner (Annexure-A) an enquiry was conducted through Mr. Bakhtair Khan, the then Deputy Commissioner Lakki Marwat (Annexure-B) but not satisfied with the recommendation of Inquiry Officer another enquiry was conducted through Mr. Muhammad Asif, the then Director Land Records by the Competent Authority and on the basis of his recommendation (Annexure-C), the Competent Authority imposed major penalty of removal from service upon the appellant (Annexure-D). The appellant filed two departmental appeals before the appellate authority i.e. Chief Secretary, which were examined and rejected by the appellate authority (Annexure-E).
4. Correct to the extent that Charge Sheet and statement of allegation were served upon the appellant and disciplinary proceedings were conducted under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 through Mr. Muhammad Asif, the then Director Land Records and on the basis of his recommendation, the Competent Authority imposed major penalty of removal from service upon the appellant.
5. As in Para 3 above.
6. As in Para 3 above.
7. Incorrect. Show Cause notice was served upon the appellant and proper opportunity of personal hearing was given to the appellant on 10.04.2018 vide Show cause notice dated 03.04.2018 (Annexure-F).

GROUNDS.

- A. Incorrect. Order dated 22.06.2018 and Departmental proceedings against the appellant are strictly in accordance with law/rules and facts, norms of justice and material of record.
- B. Incorrect. As in Para-2 of the facts.
- C. Incorrect. As explained in Para 2, 3 of the facts.
- D. Incorrect. As in Para-C above.
- E. Incorrect. On receipt of complaint of the real land owner an enquiry was conducted through Mr. Bakhtair Khan, the then Deputy Commissioner Lakki Marwat but not satisfied with the recommendation of Inquiry Officer, another enquiry was conducted by the Competent Authority through Mr. Muhammad Asif, the then Director Land Records. On the basis of his recommendation, the Competent Authority imposed major penalty of removal from service upon the appellant.
- F. Incorrect. As in Para-B & E above.
- G. Incorrect. The appellant entered a wrong mutation No.2255 in khata No. 264 Mouza Marmandi for land measuring 7 kanal 16 marla in the name of Latif Ur Rehman from Ghulam Rasool Khan son Baitullah the original land owner without his thumb impression.
- H. Incorrect. As in Para-G.
- I. Incorrect. As in Para-G.
- J. Incorrect. As in Para-G.
- K. Incorrect. As in Para-E.
- L. Incorrect. As in Para-3 of the facts and Para-G of the Grounds.
- M. Incorrect. Show cause notice was served upon the appellant and opportunity of personal hearing was given to the appellant on 10.04.2018.
- N. Incorrect. As the appellant annexed inquiry report as Annexure-D which shows that he has already been provided the requisite inquiry report.
- O. Incorrect. As in Para-G above.
- P. Incorrect. Charge Sheet and statement of allegation were served upon the appellant and disciplinary proceedings were conducted under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 through Mr. Muhammad Asif, the then Director Land Records and on the basis of his recommendation, the Competent Authority imposed major penalty of removal from service upon the appellant.
- Q. The respondent will also submit additional grounds at the time of arguments.

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



Senior Member,
Board of Revenue
Respondent No. 1, & 2

خدمت جناب محترم سید محمد بورداد ف رونیو
ضیبرہ نختوخواہ پشاور۔

PS/SMSR
Dy No. 4876
Date 28/8/19
Govt. of Khber Pakhtun

درخواست دربارہ قانونی و حکمانہ کارروائی بر خلاف

1۔ غفار خان سابقہ تحصیلدار سرٹھے ٹوڑا ضلع پٹیالہ
حالیہ پولیسٹیکل تحصیلدار الف۔ آر۔ ٹی لوت۔

AS-Admn.

2۔ غلام طمان سردار حالہ ڈلور سرکل مہضیل
تھیل سرٹھے ٹوڑا ضلع پٹیالہ لوت۔

2

Singh

3۔ عبداللہ خان سابقہ پیواری موضع مہضیل ٹوڑا
حالہ پیواری علاقہ ناوڑیل ضلع پٹیالہ لوت۔

Singh

28/8

جنیوں نے بذریعہ پوسٹ و جعلی انتقال 2255

صدقہ 2012-11-14 کے ذریعے سائل کی قیمتیں اراپی

بحوالہ کھاتہ نمبر 264 قطعات 48 تدارکی 07 سال

16 مہ 2 واقع موضع مہضیل ٹوڑا ضلع پٹیالہ لوت

محقق حاجی لطیف الرحمن ولد عبدالرحمن سکنہ

مائی سرکی خیل وزیر ضلع بنوں منتقل کسے محوط

مذکورہ انتقال پر سائل کا دستخط یا نشان انوکھا

تک ثبت نہیں ہے۔ سارے کارروائی فراڈ پر مبنی ہے۔

SMSR
78/8/19

جناب عالی! سائل ذیل عرض کرتا ہے

1۔ یہ کہ میں سائل موضع مہضیل سرٹھے ٹوڑا ضلع پٹیالہ

بحوالہ کھاتہ نمبر 264 قطعات 48 میں 16-07

کا مالہ و قابض ہوں۔ نقل فرد جمبندی سال

12-2011 مہ 06 لف میں۔

مہضیل ٹوڑا
ملا

2-19

(2) یہ کہ کھاتہ ہذا میں آئی۔ دوسرے شخص اسماعیل ولد عبدالرحیم

نے اپنا اراچی حاجی لطیف الرحمن مذکور میر فروغ کٹر دھا ملہ

میر انتقال کیں گا۔ انتقال پر 2255 مذکور اپنی جانب سے اور من سائل کی

لڑکیاں من سائل کی جانب سے حق لطیف الرحمن مذکور

درجہ 2 و تصدیق کروائی ہے۔ جو کہ مذکورہ انتقال پر 2255

میر من سائل کا دستخط یا نشان انٹو محکمات ثبت ہے۔

نقل انتقال مذکورہ پرا الف ہے۔

میر کہ مذکورہ انتقال (جو کہ انتقال) کا سب سے میرزا کن

بات یہ ہے کہ اس میر خود سافہ خواہ دلاور خان ولد نصر اللہ

کے ساتھ جو شناختی کارڈ نمبر 6748399-11201 درجہ 2 ہے وہ

در اصل من سائل کا شناختی کارڈ نمبر ہے۔ جبکہ انتقال

مذکورہ کے دوسرے خود سافہ گورہ نور خان ولد عبد الرشید کے

ساتھ جو شناختی کارڈ نمبر 6744118-5-11201 درجہ 2

وہ نادرا ایس کے مطابق منور خان ولد عبد الرحیم سندھ

مرفی عظیم ہرے نوزاد ضلع مکی روت ملے ہے جس کا

واحد طلب یہ ہے کہ مذکورہ انتقال خود سافہ

وہلی اور مینی بہر دعوتہ رہی ہے۔ جس میں مذکورہ

بالہ کھیلدار غفار خان، غلام خان کٹر دھور اور

پٹواری ملکہ عید اللہ خان سرتنا پائوں ملوت میں

مذکورہ حاجی لطیف الرحمن وزیر سابقہ صوبائی

وزیر شہد اعظم خان کا بھائی اور موجودہ MPA

فخر اعظم وزیر کا چچا ہے۔ جو مذکورہ بونس

انتقال پر 2255 کے اندر 2 اور تصدیق

میں سیاسی اثر و رسوخ کا بھی استعمال ہوئے

(5) یہ مذکورہ انتقال 2255 کو سائل نے عدالت دیوالی میں جی دعویٰ دیوالی نمبر 82/01 سال 2015ء کے ذریعے چسما کیا۔ جو من سائل کے حق میں مورخہ 30-06-07ء کو بلا نظر مذکور پیر ڈکڑا ہو کر انتقال مذکورہ خارج کرنے کا حکم صادر فرمایا گیا ہے نیز مذکورہ دعویٰ کی سماعت کے دوران پٹواری صلحہ اور مالڈنگو نے اپنے اپنے بیانات میں یہ تسلیم کیا ہے کہ انتقال نمبر 2255 مذکور پر من سائل کا دستخط یا نشان رانگوشا ثبت نہیں ہے۔ نہ ہی اس پر قیمت اراقی پر ہے۔
 نغول عدلی دعویٰ، بیانات گورہان اور ضمیمہ عدالت صبا ب سہولت صحابہ نمبر 2 سر کے توثیق شدہ کی طرف سے نقل پیر ڈکڑا پکا لکھ ہے۔

(6) یہ کہ سول ججیم غفار خان تحصیلدار وسیعہ نے قانون اور روینو رولز کی صحتاً خلاف ورزی کرنے کے ساتھ ساتھ اپنے اختیارات کے ناجائز استعمال کے بھی مرتکب ہوئے ہیں۔ جن کے خلاف مذکورہ بالا دستاویزی ثبوت پائے عدالت حوصوف کے ریکارڈ پر موجود ہیں اور حکمہ مال کے ریکارڈ میں جلی موجود ہیں۔

لکھنؤ سندھما جسکے مذکورہ تحصیلدار و دیگر حکمہ مال کے مذکورہ ریکارڈ کے خلاف الضابطی

کارروائی عمل میں لائی جا کر مذکورہ ایپکار ان کو
 صلہ رحمت سے فی الفور معطل کر دینے اُن کے خلاف
 کسی اطمینان دہانہ آفس کے ذریعے انکو آفیس لکھ دینے اور
 جرم ثابت ہونے پر صلہ رحمت سے بہ خواست
 کرنے کا حکم صادر فرمایا جاوے تاکہ ^{بہ} اللہ
 کے لئے کوئی ریونیو آفیسر یا ایپکار کسی کے حق پر
 پیرنا طرہ نہ ڈال سکے اور کسی کو اپنی ^{مفتی}
 اراچی سے ^{مفتی} جرم نہ کیا جائے۔ اور نہ ہی اس
 طرح کے دعوے دیے پر مبنی اقدامات کی وجہ سے
 فونڈز منہاد یا منادات و مقدمہ بازی سے
 بچا جائے۔ من سائل نے جو عرض کرنا چاہا وہ
 عرض کر دیا۔ آئے آئے آفسران مالدار کی طرف سے
 من سائل القاص کا طلبہ کو حود
 من سائل دعاؤں جو تھیں۔

عوضہ = 168267

سائل۔ غلام رسول خان لاہور بیت اللہ مسجد مرقومہ ط عظیم
 تحصیل لاہور کورنگ ضلع کئی لوتہ

399-7 6788 11201

دوبارہ 7814148-7814148

کاپی لہرائے اطلاع دینے اور کارروائی۔

1۔ صاحب کشتہ صاحب بنوں ڈسٹرکٹ بنوں۔

2۔ صاحب ڈپٹی کشتہ صاحب علی لوتہ۔



OFFICE OF THE

DEPUTY COMMISSIONER

LAKKI MARWAT (KHYBER PAKHTUNKHWA) Ph# 0969-538330-31 Fax# 538333
email: dclakkimarwat@hotmail.com facebook: www.facebook.com/dclakkimarwat website: www.lakkimarwat.gkp.pk

No. 4160 /

Dated: 21/12 2017

To

As-Adm.

The Senior Member
Board of Revenue Khyber Pakhtunkhwa, Peshawar

PSISMBR
By No 30
Date 21/12/17
Govt of Khyber Pakhtun Khwa

Subject:

INQUIRY REPORT AGAINST (1) MR.ABDULA GHAFAR KHAN
EX.TEHSILDAR SARAI NAURANG NOW POLITICAL TEHSILDAR FR
BANNU (2) GHULAM JAN GIRDAWAR CIRCLE MAMA KHEL TEHSIL
SARAI NAURANG (3) ABDULLAH JAN EX-PATWARI MOUZA
MARMANDI NOW HALQA PATWARI NAWAR KHEL DISTRICT LAKKI
MARWAT.

CD

*S-4
2/11*

Memo:

Reference your office letter No. No.Ad:IV/Ghulam Rasool/
L.Marwat/27156-57 dated 24th November 2017 and enclosed find herewith the inquiry
report for further necessary action please.

(Signature)

Deputy Commissioner
Lakki Marwat

سے

Ri Pawan

2/11

21/12/17

253

OFFICE OF THE
DEPUTY COMMISSIONER

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email: dclakkimarwat@hotmail.com facebook: www.facebook.com/dclakkimarwat website: www.lakkimarwat.gkp.pk

No. _____ / _____ / _____

Dated: _____ / _____ / 2017

INQUIRY REPORT

General:

The undersigned was appointed as Inquiry Officer by the Senior Member Board of Revenue Khyber Pakhtunkhwa, the competent authority, conveyed vide Board of Revenue Khyber Pakhtunkhwa letter No.Ad:IV/Ghulam Rasool/L.Marwat/27156-57 dated 24th November 2017 to inquire into charges leveled against Mr. Abdul Ghafar Khan Gandpur Tehsildar, Mr. Ghulam Jan, Girdawar Circle and Mr. Abdullah Khan, Patwari Halqa in the charge sheet.

II. Charges against the accused officials

- a. The charge against the accused official Tehsildar Abdul Ghafar, presently posted as PT FR Bannu, is that while posted as Tehsildar Naurang, he attested a bogus mutation No.2255 in Khata No. 264, Ketat No. 48, Moza Marmandi, for land measuring 7 Kanal & 16 Marlas in the name of Haji Latif-ur-Rehman from Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim without thumb impression of the actual land owner (vendor).
- b. The charge against Mr. Ghulam Jan, Girdawar Circle, is that while posted as Girdawar Circle Mama Khel Tehsil Sarai Naurang, he did not check / compared the revenue record properly and a bogus mutation no.2255 in Khata No.264 Ketat No.48 for land measuring 7Kanal & 16 Marla in favour of Mr. Haji Latif-ur-Rehman from Mr. Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim, while the actual land owner was Mr. Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim.
- c. The charge against Mr. Abdullah Khan, Patwari is that while posted as Patwari halqa Moza Marmandi he entered a bogus mutation no.2255 in Khata No.264 Ketat No.48 for land measuring 7Kanal & 16 Marla in the name of Haji Latif-ur-Rehman from Mr. Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim, while the actual owner was Mr. Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim.

III. Hearing and Proceedings of Inquiry:

The accused officials were directed vide this office letter No.29-11-2017 to submit their written defence and to attend this office along with relevant record on 4th December 2017. They turned up and furnished written defence, which are placed on file. The Mutation No.2255 whereupon the allegations are based, has been taken on record and placed on file. Another mutation bearing No.2904 attested on 29-8-2017 whereby the land measuring 7Kanal & 16 Marla was transferred back from Haji Latif-ur-Rehman to the name of Haji Ghulam Rasool s/o Baitullah r/o Marmandi Azim in pursuance of Civil Court Sarai Naurang Order dated 30-6-2017, also taken on record and placed on file. Record of Khata No.264 in the Periodical Record 2008-09 Moza Marmandi, whereupon the mutation no.2255 is based upon, has also been examined.

IV. Background of the Inquiry:

- i. A mutation no.2255 Moza Marmandi involving transfer of land measuring 10 kanal & 2 Marla in Khata No.264 from vendors Ismail Khan Khan s/o Abdur Rahim and Mr. Ghulam Rasool s/o Baitullah r/o Marmandi (Azim) in favour of Haji Latif-ur-Rehman s/o Abdur Rehman in lieu of consideration money of Rs.



OFFICE OF THE

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No. _____ /

Dated: _____ / _____ / 2017

- One lak and ten thousands, was entered by the accused Patwari Abdullah Khan on 27-8-2012, mutation entries with revenue record compared and certified as correct by the accused Girdawar Circle Ghulam Jan under his signature on 14-11-2012 and attested by the accused Tehsildar Abdul Ghafar Khan Gandapur on 14-11-2012 in Jalsa-e-Aam.
- ii. Thumb impressions of the witness are affixed on the mutation as required under the law.
 - iii. Thumb impression of one vendor namely Ismail Khan Khan s/o Abdur Rahim is affixed on the mutation, while there is neither affixed signature nor thumb impression of the other vendor namely Mr, Ghulam Rasool s/o Baitullah r/o Marmandi Azim on the mutation.
 - iv. The mutation order made by the accused official Abdul Ghafar Tehsildar involves transfer of land from both vendors namely Ismail Khan and Ghulam Rasool (whose thumb impression or signature is not affixed on the mutation). As such, land measuring 7 Kanal & 16 Marla from Ghulam Rasool has been transferred without obtaining his thumb impression or signature.

V. Responsibilities of the accused official regarding mutation under the law /rules and discharge of responsibilities by them in case of Mutation No.2255 Moza Marmandi.

a) Patwari Abdullah Khan.

Patwari is required to make entry in the register of the mutation every report made to him either by the person acquiring any rights in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation under the section 42 of the Land Revenue Act 1967 read with Para 7.4(i) of Land Records Manual. He shall draw up mutation in accordance with the contents of the revenue record of the moza.

As per relevant revenue record namely Khata No.264 in the Periodical Record 2008-09 Moza Marmandi, the mutation No.225 has correctly been entered with no fictitious or bogus entries therein. Therefore, the charge of bogus mutation against the accused official is not valid. Had he made fictitious and incorrect entries, then the charge of bogus mutation would have been correct.

Besides, if more than one vendors are entered in a single mutation and their shares are also correctly entered in accordance with the revenue record by a Patwari and at the time of attestation of mutation one of vendors appears before the Revenue officer and admits to have sold the land and the other one does not appear but the Revenue Officer records transfer of land from his name also in his order, it does not imply that the Patwari has entered bogus mutation.

b) Kanungo Ghulam Jan:

Under Par 7.4(ii) of Land Records Manual, responsibility of the Field Kanungo with reference to mutation is to personally examine and compare all the entries made by the Patwari in the foil and counterfoil of the mutation and with current revenue record and certify correctness thereof under his signature.

The relevant revenue record i.e. Khata No.264 in Periodical Record 2008-09 Moza Marmandi was checked and examined. The entries in the mutation no.2255 are in accordance with the revenue record and correct and certified as correct by the



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No. _____ /

Dated: _____ / _____ / 2017

accused official Ghulam Jan under his signature dated 14-11-2017 on the mutation. He has discharged his duty correctly as required under the law and rules. Therefore the charge that he did not check / compared the revenue record properly does not get proved.

c) Tehsildar Abdul Ghafar Gandapur:

As per rules and admitted practice, signatures or thumb impressions of the vendors and witnesses, who identify the vendors, are got affixed on the mutation by the RO. The share of those vendors is transferred who admit sale of land in favour of vendee and affix their thumb impression or signature on the mutation, while the shares of those vendors, if any, who do not admit the sale transaction or do not turn up before the Revenue Officer, is reserved by the Revenue Officer and order on the mutation is recorded accordingly.

Names of two vendors have been entered in the mutation No.2255 by the Patwari. Thumb impression of one vendor namely Ismail Khan Khan s/o Abdur Rahim is affixed on mutation while there is neither signature nor thumb impression of the other vendor namely Ghulam Rasool s/o Baitullah. But the accused official Tehsildar has recorded in his order transfer of land from both the vendors in favour of the vendee namely Haji Latif-ur-Rehman. He was required to have recorded in his order the share of vendor Ismail Khan as transferred in favour of Haji Latif-ur-Rehman-ur-Rehan s/o Abdur Rehman (vendee) while the share of the other vendor namely Ghulam Rasool as reserved/ not transferred. Part of the order involving transfer of land by vendor Ismail Khan is valid and the part of order involving of transfer of land of Ghulam Rasool illegal. Therefore, the order is partly legal and partly illegal.

The accused Tehsildar has stated in written defence (placed on file) that the name of the vendor Ghulam Rasool was inadvertently got incorporated in his order and not by design or intentionally. It would be too rigid approach to altogether brush aside the defence taken by the accused official if viewed from the following aspects:

- i. As Khata of the land is the same i.e Khata no. 264 and, therefore, names of the vendors written in close proximity, one after another, name of Gulam Rasool having got incorporated in the order inadvertently cannot be ruled out.
- ii. No fake thumb impression or signature of the vendor Ghulam Rasool have been inserted/got affixed on the mutation till date. It lends credence to presumption that the accused Tehsildar had no designs to effect fraudulent transfer of land from vendor Ghulam Rasool in favour of the vendee.
- iii. No impersonation has been done for transfer of land from Ghulam Rasool.

Besides, land measuring 7 Kanal & 16 Marla transferred from Ghulam Rasool s/o Baitullah vide mutation no. 2255 has already been restored / transferred back to him vide mutation bearing no.2904 attested on 29-8-2017 in pursuance of Civil Court Sarai Naurang Order dated 30-6-2017.

However, had he been careful and cautious, which he should have remained while dealing with an important document like mutation, he could have avoided it.



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No. _____ /

Dated: _____ / _____ / 2017

VI. Conclusion / Findings and Recommendation:

On the basis of what has been elaborated under Para V of the report, my finds and recommendations are as under:

- i. Charge against the Patwari Abdullah Khan not proved.
- ii. Charge against Kanungo Ghulam Jan not proved.
- iii. Lapse on the part of accused Tehsildar Abdul Ghafar Gandapur was seems not found though by design but due to carelessness on his part and that the land has been transferred back to the owner and no loss occurred to the government exchequer or individual.
- iv. Keeping in view the above facts, minor penalty of withholding one annual increment for the period of one year is recommended.

(Mohammad Bakhtiar Khan)

Inquiry Officer /
Deputy Commissioner
Lakki Marwat



GOVERNMENT OF KHYBER PAKHTUNKHWA
 LAND RECORDS & COLONIZATION
 REVENUE AND ESTATE DEPARTMENT

CONFIDENTIAL

No. Inquiry/Abdul-Ghaffar/Tehsildar/LakkiMarwat/ 1834-35

Peshawar dated the 21 Feb, 2018

To,

The Senior Member Board of Revenue,
 Revenue & Estate Department,
 Khyber Pakhtunkhwa.

PS/SMER
 Dy No. 257
 Date 22/2/18
 Govt. of Khyber Pakhtunkhwa

SUBJECT: INQUIRY REPORT REGARDING 1. MR. ABDULGHAFFAR KHAN, EX-TEHSILDAR, SARAI NOURANG NOW POLITICAL TEHSILDAR FR-BANNU, 2. GHULAM JAN GIRDARWAR CIRCLE MAMA KHEL TEHSIL SARAI NOURANG, 3. ABDULLAH JAN EX-PATWARI MOUZA MARMUNDI NOW HALQA PATWARI NAWAR KHEL DISTRICT LAKKI MARWAT.

Dear Sir,

Kindly refer to Assistant Secretary (Admin), Board of Revenue letter No. Ad:IV/GhulamRasool/LakkiMarwat/3193 dated 23.01.2018 wherein the undersigned has been nominated as Inquiry Officer.

Subject inquiry report comprising of 05 pages along with its enclosures (14 pages) is enclosed herewith for further necessary action please.

Enc: As Above

(MULHAMMAD AST) 21.2.18
 INQUIRY OFFICER/
 DIRECTOR LAND RECORDS,
 KHYBER PAKHTUNKHWA

Encl: No. & date above

Copy forwarded to the Secretary -- I Board of Revenue Khyber Pakhtunkhwa for information please.

DIRECTOR LAND RECORDS, 21.2.18

Signature
 21/2/18

AS (S/SA)

22/2

C/E

22/2/18

①

INQUIRY REPORT:

Accused Officials:

1. Mr. Abdul Ghaffar Khan (Ex-Tehsildar)
2. Mr. Ghulam Jan, Kannungo
3. Mr. Abdullah Khan, Patwari

HISTORY

A Mutation No. 2255 Mouza Marmandi involving transfer of land measuring 10 kanals and 02 marlas in Khata No. 264 from vendors Ismail Khan S/O Abdur Rahim and Mr. Ghulam Rasool S/O Bait Ullah Khan R/O Marmandi (Azim) in favour of Haji Latif-ur-Rehman S/O Abdur Rehman in lieu of consideration money of Rs. One Lakh and Ten Thousands, was entered by the accused Patwari Abdullah Khan on 27/08/2012, mutation entries with revenue record compared and certified as correct by the accused Girdawar Circle Ghulam Jan under his signature on 14/11/2012 and attested by the accused Tehsildar Abdul Ghaffar Khan Gandapur on 14/11/2012 in Jalsa-e-Aam. Through instant mutation total 10 Kanals and 02 Marlas land was transferred. From the total land (10 Kanals and 02 Marlas) so transferred 07 Kanals and 16 Marlas was owned by Mr. Ghulam Rasool; the thumb impression of one vendor Mr. Ismail and witnesses had been affixed on the mutation No. 2255 but neither the thumb impression nor the signature of other vendor, Mr. Ghulam Rasool was affixed on the impugned mutation.

To get their transferred share back, Mr. Ghulam Rasool agitated civil court in 2015 and got his share transferred back on his name through court decree vide mutation No. 2904.

BACKGROUND OF THIS INQUIRY

A fact finding/ preliminary inquiry was conducted in the above matter and on the failure of the accused officials to remove the charges, the accused officials were served upon with the charge sheets by the competent authority and Deputy Commissioner Lakki Marwat Mr. Muhammad Bakhtiar Khan was appointed as inquiry officer. (Charge Sheet is annexed as **(Annexure-A)**). The inquiry officer submitted his inquiry report to the competent authority but the competent authority was not satisfied with the inquiry report and thus appointed the undersigned to conduct the inquiry afresh vide letter No. Ad:IV/GhulamRasool/LakkiMarwat/3193 dated 23/01/2018 **(Annexure-B)**.

PROCEEDINGS

The accused officials were summoned for 01/02/2018 at 1200 hours through Deputy Commissioner Bannu and Deputy Commissioner Lakki-Marwat vide this office letters **(Annexure-C & D)**. The accused officials attended the office of the undersigned on the given date (their attendance are annexed as **Annexure-E**) and recorded their statements. Their written statements / replies are annexed as:-

Statement of Abdul Ghaffar Ex-Tehsildar (Annexure-F)

Statement of Ghulam Jan Girdawar (Annexure-G)

Statement of Abdullah Khan Patwari (Annexure-H)

All the three officials relied upon the written statements they had earlier submitted to Deputy Commissioner Lakki-Marwat during proceedings of the enquiry conducted by him, the gist of their written replies is produced as under:

Statement of Abdul Ghaffar Ex-Tehsildar:

The Ex-Tehsildar stated:-

- That he attested the impugned mutation [No. 2255] in Jalsa-e-Aam (Assembly of villagers).
- That he took thumb impressions of 02 witnesses and one vendor namely Ismail on mutation.
- That he did not take thumb impression of the co-owner (2nd Seller) Mr. Ghulam Rasool on register mutation, which was not his intentional act rather that was a human error.
- That the share of Ghulam Rasool, transferred by the mutation No. 2255 was reversed in his name vide mutation no. 2904 dated 28/08/2017, on the Court directions.
- That his omission may be considered as human error and he may be exonerated.

Statement of Ghulam Jan, Girdawar Circle:

The Girdawar Circle in his statement claimed that as per rules it is the duty of girdawar to check and authenticate the entries of the mutation made by Patwari, both in foil and counterfoil. So he performed his duty by ascertaining the entries in impugned mutations. He examined khasras No, Khata No, Shares of vendors, which were found correct and thus certified by him. He further stated that during attestation of mutations the shares of the vendor(s) is/are transferred to extent of share intended to be so transferred and rest of the share(s) is kept reserved at the time of passing final order of attestation of the revenue officer. He stated that his responsibility is just to examine and authenticate entries of mutations, which he rightly did and had no role in attestation of mutation.

The Girdawar prayed that the instant complaint might be filed.

Statement of Ex-Patwari:

The gist of the statement of Patwari is that as per rules a Patwari is required to enter mutation both in foil and counterfoil, whenever any person having certain right in the landed property comes to him and ask for entering mutation. He further said that on the request of co-owner (Mr. Ismail) he entered the mutation with due care and diligence. He reiterated that all the entries made by him were correct and he had nothing to do with the process of the attestation of mutation.

ATTESTATION OF THE MUTATION

From the statements of the accused officials and complaint/charge sheet, the following questions emanated to be answered.

1. What is rules/ regulation and procedure of attestation of mutation?
2. What is practice in vogue regarding mutations?
3. What is responsibility, as per law, of Patwari, Girdawar and Tehsildar during the process of mutation from entry to attestation?

The answers to the above queries are given as below:-

Q1. Procedure of mutation as per law?

Section 42 of Land Revenue Act 1967, and Para 7.4 of Land Record Manual deals with the attestation of mutation.

As per procedure given in law, a Patwari is bound to enter mutation (foil and counterfoil) on the request of any right holder in the land intended to be transferred. The Patwari requires to fill all the columns carefully and correctly.

The Girdawar Circle then examine the entries made by Patwari and tally them with record and certify with his signature all the entries.

The mutation is then submitted to revenue circle office (Tehsildar) for attestation. The tehsildar is required to attest the mutation in Jalsa-e-Aam. He is required to satisfy himself in all respects. He is required to ascertain in Jalse-e-Aam (crowd) of mouza, the vendor(s), vendee(s), their respective share to be transferred, value of mutation, tax to be levied, affixing thumb impression of the parties and witnesses.

He is further required to enquire about transfer of possession/right from vendor to vendee as the purpose of mutation is transfer of rights/possession. The reader of the tehsildar is key person to assist tehsildar in all the above steps. After being satisfied in all aspects in Jalsa-e-Aam, the tehsildar then passes order of attestation. Patwari halqa is present and he assists the tehsildar in discharge of his duty.

Q2. What is practise in vogue regarding mutations?

It is common practice across the province that a Patwari enters a mutation on the application of any interested party. Girdawar does his partal. To save time or whatever purpose, the Patwari usually get thumb impressions of the parties and witnesses in his Patwar khana before putting the same for order of the revenue circle officer. The reader of tehsildar than writes order on the mutation and tehsildar attests the same usually without or sometime going into the jalsa-e-Aam. Patwari concerned is always present with record while a mutation is being attested by the tehsildar.

Q3. What is responsibility as per law, of Patwari, Girdawar and Tehsildar during the process of mutation from entry to attestation?

The role and responsibility of the Patwari, Girdawar and tehsildar has been elaborated above while answering the Question No. 1 and 2.

CROSS EXAMINATION

To dig out the facts the accused officials were cross examined. The tehsildar and Patwari were asked whether the impugned land measuring 7 kanals & 16 marlas owned by the applicant Ghulam Rasool was transferred with his approval and whether he came to Patwari or tehsildar in connection with his property to be transferred.

(4)

The Patwari told that only the co-sharer Mr. Ismail, came to him for entering impugned mutation and Ghulam Rasool did not come.

The tehsildar replied that Ghulam Rasool was present in Jalsa-e-Aam but due to mistake his thumb impression could not be taken but he failed to bring proof in support of his claim.

Vide impugned mutation the share transferred of Mr. Ismail was 2 Kanal 16 Marla and that of Ghulam Rasool was 7 Kanal 16 marla, almost three times of the share of the Ismail.

The accused officials were asked that why care was not taken in transferring the share of major vendor (Mr. Ghulam Rasool). Despite of possessing lion share, the thumb impression of the major vendor (share-holder) was not taken?

Other than having said of human error/mistake the accused officials (Tehsildar & Patwari) failed to give a satisfactory reply.

The impugned mutation was attested in 2012 and the share of Ghulam Rasool was reversed in 2017 vide mutation no. 2904. The accused officials were asked that if thumb impression of the applicant Ghulam Rasool was not taken mistakenly and if his property share was rightly transferred then why the mistake was not tried to be rectified by having taken the thumb impression of Ghulam Rasool at any time from 2012 to 2017.

The accused official could not give any satisfactory explanation. They only said that they were ignorant of the mistake and came to know it when the court issued decree.

During cross examination the accused officials stated that as there were large number of mutations the tehsildar had to attest in Jalsa-e-Aam. so not obtaining thumb impression of the applicant Ghulam Rasool was just a mistake/human error.

To ascertain this point the applicant (Ghulam Rasool) and tehsil office Kannungo with relevant record of relevant time were summoned for 08/02/2018. The charge of office kannungo is with Girdawar Ghulam Jan (one of accused official) he and son of applicant namely Mr. Ajmal R/O Lakki Marwat attended the office on 08/02/2018.

Mr. Ajmal recorded his statement wherein he claimed that his father owns immovable/ landed property in Mouza Marmandi Lakki Marwat and his uncle's son Ismail with connivance of his (Ismail) brother Munnawar, who is a property dealer and revenue officials fraudulently transferred 7 kanal 16 marla of their land in 2012, without their knowledge. He further said that they planned wedding of their brother in 2015 for which expenditure they wanted to sell their land and came to know from Patwari that their land had already been sold in 2012. He stated that on knowing this, they requested Patwari and Tehsildar for reversal of their land fraudulently transferred but in vain, thus they filed suit in civil court, and in 2017 by the order of the civil court they got their land transferred in their name which was fraudulently transferred by Ismail/Munnawar and revenue officials. Statement of Ajmal is annexed as (Annexure-1)

(5) 17

The Office Kannungo also Girdawar accused Mr. Ghulam Jan and the incumbent Patwari mauza Marmandi Mr. Ashfaq Ahmad also attended this office on 08/02/2018 with relevant record.

From the perusal of record and queries from the office kannungo and Patwar halqa it was known that mouza Marmandi is part of the Patwar circle Zafar Mamakhel which has total 13 mouzas with Marmandi as major mouza. In this Patwar circle every month the Tehsildar schedules one tour (Jalsa-e-aam) and sometimes one special tour is also paid. Every month about 50 to 60 mutations are attested which was confirmed by girdawar/office kannungo.

From all this it is evident that attesting 50 to 60 mutations a month is not a big task or burdened work as was claimed by tehsildar in cross examination.

FINDINGS

From the written replies of accused officials, Ajmal (Son of applicant) and perusal of record the undersigned infers that the share of Ghulam Rasool measuring 7 kanals 12 marlas in Khatta No. 264 Khatat No. 48 was fraudulently transferred vide mutation No.2255 dated 14.11.2012.

It is very astonishing that the major co-owner/ co-sharer in the impugned property was Mr. Ghulam Rasool and still the Patwari and tehsildar forgotten to take his thumb impression. As per law/rules and procedure in vogue a Tehsildar, his reader and Patwari concerned are present at the time of attestation of mutation in Jalsa-e-Aam, to check and satisfy themselves of each and every entry of mutation register. Hence it is inferred that Tehsildar, his reader and Patwari are involved in corruption and corrupt practices in respect of impugned mutation.

The Girdawar is rarely present at time of attestation of mutation hence his chances of involvement in the impugned mutation are apparently narrow.

INFERENCE

Foregoing above:

1. The charges levelled against ex-tehsildar Mr. Abdul Ghaffar Khan and ex-Patwari halqa Mr. Abdullah Khan stand proved.
2. Though not charge sheeted, yet reader to tehsildar is also equally responsible.
3. In the prevailing practice the role of girdawar is usually limited to the partial/examination of entries of Patwari with record before submitting it to tehsildar for attestation, hence his involvement chances are narrow and may be exonerated.

Submitted please.


(MURAMMAD ASIF) 21.2.18
INQUIRY OFFICER
DIRECTOR LAND RECORDS



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 06/06/2018

ORDER.

No.Estt:I/PF/Abdul Ghaffar/ 24362. **WHEREAS;** Mr. Abdullah Khan the then Patwari halqa Marmandi Azim Tehsil Naurang was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the Charge Sheet.

AND WHEREAS; Mr. Muhammad Asif Director Land Records was appointed as Inquiry Officer to probe into the charges leveled against the said official and submit finding/ recommendations.

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.

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

NOW THEREFORE, I as Competent Authority in exercise of powers conferred by Rule 4 (b) (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 impose major penalty of removal from service upon Mr. Abdullah Khan the then Patwari office of the Deputy Commissioner Lakki Marwat with immediate effect.

By order of
Senior Member

No.Estt:I/PF /Abdul Ghaffar/ 24363-67

Copy forwarded to the:-

1. Commissioner, Bannu Division, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. District Accounts Officer Lakki Marwat.
4. Official concerned.
5. Office order file.


Assistant Secretary (Estt:)

O/c R



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.
Facebook ID: www.facebook.com/bor.kpk92
Twitter ID: [@RevenucBoardkp](https://twitter.com/RevenucBoardkp)
Fax No: [091.9213989](tel:091.9213989)

No. Estt:/PF/Abdul Ghaffar/ 62
Peshawar dated the 01 /01/2019.

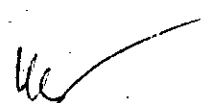
To

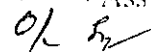
Mr. Abdullah Khan,
Ex-Patwari, Halqa Mouza
Marmandi Azim Tehsil Sarai Naurang,
District Lakki Marwat.

Through: Deputy Commissioner, Lakki Marwat.

SUBJECT: REMOVAL FROM SERVICE ORDER NO. 24363-67 DATED 06.06.2018.

Your Departmental Appeal dated 23.06.2018 has been examined and rejected by the Appellate Authority (i.e Chief Secretary).


Assistant Secretary (Estt.)



BEFORE THE KPK, SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1180/2018

Abdullah Khan

VS

Revenue Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-4) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the deptt: as service record is already in the custody of respondent deptt:.
- 2 The contention of respondent department is incorrect. while para-2 of the appeal is correct as mentioned in the main appeal of the appellant is correct. Moreover, the appellant properly did everything according law and procedure.
- 3 Incorrect hence denied. While para-3 of the appeal is correct. Moreover, the inquiry was not conducted according to rules. No cross examination has been provided to the appellant. Nothing has been proved against the appellant.

Further it is added that inquiry report also not provided to the appellant with show cause which is illegal. Further it is added that in first inquiry the appellant was exonerated and tehsildar has been held guilty and in second inquiry the appellant and Tehsildar held guilty and equally responsible but quite astonishingly on depts appeal the penalty order of the tehsildar has been withdrawn vide order dated 20.12.2018. which is discriminatory. **copy of order is attached as annexure-R.**

- 4 Incorrect and misconceived. While para-4 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover the reply of the appellant was satisfactory but not considered. Further it is added that no proper procedure was adopted while imposing major penalty.
- 5 Incorrect. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover no proper inquiry was conducted.
- 6 Incorrect and misconceived. While para-6 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover no opportunity of personal hearing was provided to the appellant so impugned order is void.
- 7 Not replied accordingly to para-7 and also incorrect hence denied. While para-7 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the rejection order is not speaking one, without any reasons which is not tenable in eyes of law.

GROUNDS:

- A) Incorrect. The orders of the respondents are against the law, rules and norms of justice therefore not tenable and liable to be set aside.
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.

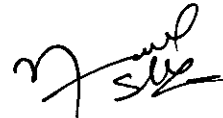
- C) Incorrect. Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant.
- E) Incorrect. Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant. Moreover in second inquiry at start stated that the appellant takes illegal gratification of I lakh but this is not mentioned in the charge sheet not proved in the inquiry its mean the appellant is made only scape goat.
- F) Incorrect. Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant. Moreover the appellant is discriminated and make scape goat.
- H) Incorrect. Incorrect. While para-H of the appeal is correct as mentioned in the main appeal of the appellant
- I) Incorrect. Incorrect. While para-I of the appeal is correct as mentioned in the main appeal of the appellant.
- J) Incorrect. Incorrect. While para-J of the appeal is correct as mentioned in the main appeal of the appellant.
- K) Incorrect. Incorrect. While para-K of the appeal is correct as mentioned in the main appeal of the appellant.
- L) Incorrect. Incorrect. While para-L of the appeal is correct as mentioned in the main appeal of the appellant.

- M) Incorrect. Incorrect. While para-M of the appeal is correct as mentioned in the main appeal of the appellant. Moreover no personal hearing was provided to the appellant.
- N) Incorrect and misconceived. The inquiry report was not provided to appellant with show cause.
- O) Incorrect. Incorrect. While para-O of the appeal is correct as mentioned in the main appeal of the appellant.
- P) Incorrect. Incorrect. While para-P of the appeal is correct as mentioned in the main appeal of the appellant.
- Q) Legal.

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

APPELLANT

Through:



SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



Attested
DEPONENT 

11-09-2019



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,

REVENUE & ESTATE DEPARTMENT

Facebook ID: www.facebook.com/bor.kpk92

Twitter ID: @RevenueBoardkp

Fax No: 091.9213989

Peshawar dated the 26/12/2018.

NOTIFICATION:


No. Esst:/PF/Abdul Ghaffar/ _____ In pursuance of order dated 26.11.2018 passed by Appellate Authority (Chief Secretary) in Departmental Appeal filed by Mr. Abdul Ghaffar Tehsildar, this Department order bearing No. Esst:/PF/Abdul Ghaffar 24369-74 dated 06.06.2018 is hereby cancelled/withdrawn.

By order of
Competent Authority

No. Esst:/PF/Abdul Ghaffar/ 40015-21

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
3. Commissioner Bannu Division, Bannu.
4. District Accounts Officer, Lakki Marwat.
5. Bill Assistant Board of Revenue.
6. Mr. Abdul Ghaffar Tehsildar Naurang Lakki Marwat.
7. Personal file.


Assistant Secretary (Estt.)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No. 1180/2018.

Abdullah Ex-PatwariAppellant

VERSUS

Senior Member Board of Revenue and others.....Respondents

INDEX

S. No	Description of documents	Annexure
1.	Comments	-
2.	Affidavit	-
3.	Complaint of land owner	A
4.	Inquiry report of Mr. Bakhtiar Khan the then Deputy Commissioner Lakki Marwat.	B
5.	Inquiry report of Mr. Muhammad Asif the then Director Land Records	C
6.	Order of major penalty of removal from service	D
7.	Rejection of Departmental Appeal of the appellant	E
8.	Show cause notice	F
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11.	Reversion of Mr. Abdul Ghaffar Tehsildar	I
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Assistant Secretary (Lit-I)
Board of Revenue KPK

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Amended Service Appeal in Appeal No. 1180/2018.

Abdullah Khan Ex-Patwari Appellant.

VERSUS

Senior Member Board of Revenue and others..... Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 & 2.

RESPECTFULL 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.

ON FACTS.

1. No comments pertains to record.
2. Correct to the extent that the appellant was posted as Patwari and entered a bogus mutation No.2255 in khata No. 264 Mouza Marmandi for land measuring 7 kanal 16 marla in the name of Latif Ur Rehamn from Ghulam Rasool Khan son Baitullah without thumb impression of the actual land owner.
3. Incorrect. On receipt of complaint of the real land owner (Annexure-A) an enquiry was conducted through Mr. Bakhtair Khan, the then Deputy Commissioner Lakki Marwat (Annexure-B) but not satisfied with the recommendation of Inquiry Officer another enquiry was conducted through Mr. Muhammad Asif, the then Director Land Records by the Competent Authority and on the basis of his recommendation (Annexure-C), the Competent Authority imposed major penalty of removal from service upon the appellant (Annexure-D). The appellant filed two departmental appeals before the appellate authority i.e. Chief Secretary, which were examined and rejected by the appellate authority (Annexure-E).
4. Correct to the extent that Charge Sheet and statement of allegation were served upon the appellant and disciplinary proceedings were conducted under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 through Mr. Muhammad Asif, the then Director Land Records and on the basis of his recommendation, the Competent Authority imposed major penalty of removal from service upon the appellant.
5. As in Para 3 above.
6. As in Para 3 & 4 above.

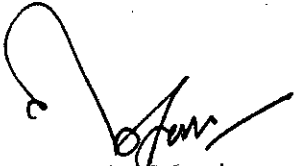
7. Incorrect. Show Cause notice was served upon the appellant and proper opportunity of personal hearing was given to the appellant on 10.04.2018 vide Show cause notice dated 03.04.2018 (Annexure-F). The appellant filed his second Departmental Appeal (Annexure-G) which was examined and filed by the appellate authority (Chief Secretary) and the appellant was informed accordingly (Annexure-H).

GROUND.

- A. Incorrect. Order dated 22.06.2018 and Departmental proceedings against the appellant are strictly in accordance with law/rules and facts, norms of justice and material of record.
- B. Incorrect. In the 2nd enquiry the Inquiry Officer recommended that the charges against Tehsildar and Patwari stand proved. Therefore major penalty of reversion to lower post of Naib Tehsildar was imposed upon Mr. Abdul Ghaffar Tehsildar for a period of three years (Annexure-I) and major penalty of removal from service was imposed upon Mr. Abdullah Patwari (Annexure-J). Aggrieved with the same they filed Departmental Appeal before appellate authority (Chief Secretary). The appellate authority (Chief Secretary) under Rule 17(2)(b) of Government Servants (Efficiency & Discipline) Rules, 2011 set aside the reversion order of Mr. Abdul Ghaffar Tehsildar to the post of Naib Tehsildar with the direction to initiate fresh enquiry in the instant case under the relevant rules (Annexure-K). Therefore Additional Deputy Commissioner Bannu was entrusted the said enquiry who in his report suggested that no further action may be taken against Mr. Abdul Ghaffar Tehsildar (Annexure-L). The Competent Authority imposed minor penalty of one increment for a period of 02 years upon Mr. Abdul Ghaffar Tehsildar (Annexure-M). The Departmental Appeal of the appellant (Abdullah) was examined & rejected by the appellant authority i.e. Chief Secretary and the appellant was informed on 01.01.2019. The appellant filed his 2nd Departmental Appeal which was also examined and filed by the appellate authority and he was informed on 28.02.2019 (Annexure-H).
- C. Incorrect. As explained in Para 2, 3 of the facts.
- D. Incorrect. As in Para 2 & 3 of the facts
- E. Incorrect. As in Para 2 of the facts
- F. No discrimination has been done as per report of Inquiry Officer with the appellant.
- G. Incorrect. The appellant entered a wrong mutation No.2255 in khata No. 264 Mouza Marmand for land measuring 7 kanal 16 marla in the name of Latif Ur Rehman from Ghulam Rasool Khar son of Baitullah the original land owner without his thumb impression.
- H. As in para 2 & 3 of the facts
- I. Incorrect. As in Para-G.
- J. Incorrect. As in Para-B above.
- K. Incorrect. As in Para-G.
- L. Incorrect. As in Para-3 of the facts and Para-G of the Grounds.

- M. Incorrect. As in Para-G above.
- N. Incorrect. Show cause notice was served upon the appellant and opportunity of personal hearing was given to the appellant on 10.04.2018. His reply is at (Annexure-N).
- O. Incorrect. As the appellant annexed inquiry report as Annexure-D in first Service Appeal which shows that he has already been provided the requisite inquiry report.
- P. Incorrect. As in Para-G above.
- Q. Incorrect. As in Para-B above.
- R. All the proceedings have been done strictly in accordance with law/rules.
- S. The respondent will also submit additional grounds at the time of arguments.

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



Senior Member,
Board of Revenue
Respondent No. 1, & 2

خدمت جناب محترم سیکرٹری ممبر بورڈ آف رونیو
ضلع کوٹلی خواہ پشاور۔

PS/SMBR
Dy No. 4876
Date 28/8/19
Govt. of Khyber Pakhtunkhwa

درخواست دربارہ قانونی حکمانہ کارروائی بر خلاف

AS-Admn.

- 1- غفار خان سابق تحصیلدار سرٹھ ٹوڑیا ضلع کوٹلی در حال پوسٹل تحصیلدار الف۔ آر۔ ٹی گروت۔
- 2- غلام خان سردار حال در اور سرکل تحصیل
- 3- عبداللہ جان سابقہ پٹواری موضع فریدی ٹوڑیا ضلع کوٹلی گروت۔

Sajid

جنہوں نے بذریعہ پوسٹ و جعلی انتقال 2255
حصہ 2012-11-14 کے ذریعے سائل کی قیمتیں اراچی
بحوالہ کھاتا نمبر 264 قسط 48 تدارک 07 سال
16 مہرے واقع موضع فریدی ٹوڑیا ضلع کوٹلی
محکمہ حاجی لطیف الرحمن ولد عبدالرحمن سکنہ
مالی سرکمیٹیل وزیر ضلع بنوں منتقل کیے گئے
مذکورہ انتقال پر سائل کا دستخط یا نشان انحصار
تک ثبت نہیں ہے۔ سارے کارروائی فرارڈ پر مبنی ہے۔

SMR
28/8/19

سائل ذیل عرض کرتا ہے

- 1- یہ کہ میں سائل موضع فریدی تحصیل سرٹھ ٹوڑیا ضلع کوٹلی
بحوالہ کھاتا نمبر 264 قسط 48 میں 16-07
کا مال۔ وقایف ہوں۔ نقل فرد مجبندی سال
12-2011 سے 6 لکھ میں۔

(2) یہ کہ کھاتہ خد امین آئی۔ (دوسرے شخص اسماعیل ولد عبدالرحمن صبیح
 نے اپنی اراچی حاجی لطیف الرحمن مذکورہ پر فروخت کر دیا۔ ملہ
 یہ انتقال پر 2255 مذکور اپنی جانب سے اور من سائل کی
 لڑکی میں من سائل کی جانب سے حق لطیف الرحمن مذکور
 در 2 ولصدقہ کر دیا ہے۔ جو کہ مذکورہ انتقال پر 2255
 پر من سائل کا دستخط یا نشان انگوٹھا ثبت نہیں ہے۔
 نقل انتقال مذکورہ پورا لکھ ہے۔

(3) یہ کہ مذکورہ انتقال (جو کہ انتقال) کا سب سے پیرزادہ کن
 بات یہ ہے کہ اس پر خود سافہ گواہ دلاور خان ولد عبدالرحمن
 کے ساتھ جو شناختی کارڈ نمبر 6748399-11201-2 ہے وہ
 دراصل من سائل کا شناختی کارڈ نمبر ہے۔ جبکہ انتقال
 مذکورہ کے دوسرے خود سافہ گواہ نور خان ولد عبدالرحمن
 کے ساتھ جو شناختی کارڈ نمبر 6744118-5-11201-2 ہے
 وہ نارائیس کے مطابق منور خان ولد عبدالرحمن منند
 فرقدی عظیم کے ذریعے توثیق کی گئی ہے جس کا
 واضح مطلب یہ ہے کہ مذکورہ انتقال خود سافہ
 یعنی اور صینی پر دعوتہ دی ہے۔ جس میں مذکورہ
 مالد کھیلدار غفار خان، غلام حسان، کرم پور اور
 پٹواری حلقہ عید اللہ خان سرتانا پاؤں ملوت ہیں
 مذکورہ حاجی لطیف الرحمن وزیر سابقہ صوبائی
 وزیر شیعہ المظہم خان کا بھائی اور موجودہ MPA
 فخر المظہم وزیر کا چچا ہے۔ جو مذکورہ جو کہ
 انتقال پر 2255 کے اندر 2 اور تصدیق
 میں سیاسی اثر و رسوخ کا بھی استعمال ہوا ہے۔

(5) یہ کہ مذکورہ انتقال 2255 کو سائل نے عوالق دیوالی میں بھی دعویٰ دیوالی پر 82/01 سال 2015ء کے ذریعے چیلنج کیا۔ جو من سائل کے حق میں مورخہ (30-06-01) کو بطور مذکورہ پیر ڈکریا کو تہہ انتقال مذکورہ خارج کرنے کا حکم صادر فرمایا گیا ہے نیز مذکورہ دعویٰ کی سماعت کے دوران پٹواری صلحہ اور مالڈنگو نے اپنے اپنے بیانات میں یہ تسلیم کیا ہے کہ انتقال نمبر 2255 مذکورہ پر من سائل کا دستخط یا نشان رٹلو کا ثبت نہیں ہے۔ نیز یہاں اس پر قیمت اراقی پر ہے نغول عدلی دعویٰ، بیانات گورہان اور ضمیمہ علالق صباب سول جج صاحب نے سہرائے تورتا کے مندرجہ ذیل جملہ نقل پر یہ ڈکریا ملاحظہ فرمائی۔

(6) یہ کہ سول جج صاحب نے غفار خان تحصیلدار و دیگر نے قانون اور ریونیو رولز کی صحتی خلاف ورزی کرنے کے ساتھ ساتھ اپنے اختیارات کے باہر استعمال کے بھی مرتکب ہوئے ہیں۔ جن کے خلاف مذکورہ مالہ دستاویزی ثبوت یا علالق وصف کے ریکارڈ پر موجود ہیں اور محکمہ مال کے ریکارڈ میں بھی موجود ہیں۔

لقد استدعا جیکہ مذکورہ تحصیلدار و دیگر محکمہ مال کے مذکورہ ریکارڈ کے خلاف الضابطی

کارروائی عمل میں لائی جا کر مذکورہ ایپیکراران کو
 قلمدرستی سے فی الفور معطل کر دینے اور ان کے خلاف
 کئی اطمینان دہانہ آفر کے ذریعے ان کو اٹھایا کر دینے اور
 جرم ثابت ہونے پر قلمدرستی سے برخواستہ
 کرنے کا حکم ہمارے درجہ کیا جاوے تاکہ آئندہ
 کے لئے کوئی ریونیو آفیسر یا ایپیکرار کے قلم
 پر نام نہ لگے نہ ڈال سکے اور کسی کو اپنی
 اراچی سے مشورہ نہ کیا جائے۔ اور نہ ہی اس
 طرح کے دعوے دیے پر مبنی اقدامات کی وجہ سے
 فونڈ ریز مناد یا منادات و مقدمہ بازی سے
 بچا جائے۔ من سائل نے جو عرض کیا تھا وہ
 عرض نہ کیا۔ آئے آئے آفر ان پائلڈ کارخانے
 من سائل الصاف کا طلبہ خود
 من سائل دعاور ہوئے۔

صفحہ - 168267

سائل۔ غلام رسول قانونی لبر بیٹے اللہ علیہ رحمۃ اللہ علیہ
 تحصیل کراچی فورنگ ضلع ملکی کروٹ
 399-7 6788 11201

دعا برائے رقم 0344-7814148

کاپی لبرائے اطلاع و ضروری کارروائی۔

- 1۔ صاحب کشتہ صاحب بنوں ڈویژن بنوں۔
- 2۔ جناب ڈپٹی کشتہ صاحب ملکی کروٹ۔



OFFICE OF THE
DEPUTY COMMISSIONER
 LAKKI MARWAT (KHYBER PAKHTUNKHWA) Ph# 0969-538330-31 Fax# 538333
 email: dclakkimarwat@hotmail.com facebook: www.facebook.com/dclakkimarwat website: www.lakkimarwat.gkp.pk

No. 4160

Dated: 21/12 2017

To
 As-Adm.

The Senior Member
 Board of Revenue Khyber Pakhtunkhwa, Peshawar

PS/SMBR
 Dy No 30
 Date 21/12/17
 Govt of Khyber Pakhtun Khwa

Subject:

**INQUIRY REPORT AGAINST (1) MR.ABDULA GHAFAR KHAN
 EX.TEHSILDAR SARAI NAURANG NOW POLITICAL TEHSILDAR FR
 BANNU (2) GHULAM JAN GIRDAWAR CIRCLE MAMA KHEL TEHSIL
 SARAI NAURANG (3) ABDULLAH JAN EX-PATWARI MOUZA
 MARMANDI NOW HALQA PATWARI NAWAR KHEL DISTRICT LAKKI
 MARWAT.**

CO
S-y
2/11

Memo:

Reference your office letter No. No.Ad:IV/Ghulam Rasool/
 L.Marwat/27156-57 dated 24th November 2017 and enclosed find herewith the inquiry
 report for further necessary action please.

Sept

(Signature)
 Deputy Commissioner
 Lakki Marwat

RI Pawan
2/11

(Signature)
2/11/17

253

OFFICE OF THE
DEPUTY COMMISSIONER

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email: dclakkimarwat@hotmail.com facebook: www.facebook.com/dclakkimarwat website: www.lakkimarwat.gkp.pk

No. _____ / _____ / _____

Dated: _____ / _____ / 2017

INQUIRY REPORT

General:

The undersigned was appointed as Inquiry Officer by the Senior Member Board of Revenue Khyber Pakhtunkhwa, the competent authority, conveyed vide Board of Revenue Khyber Pakhtunkhwa letter No.Ad:IV/Ghulam Rasool/L.Marwat/27156-57 dated 24th November 2017 to inquire into charges leveled against Mr. Abdul Ghafar Khan Gandpur Tehsildar, Mr. Ghulam Jan , Girdawar Circle and Mr. Abdullah Khan , Patwari Halqa in the charge sheet.

II. Charges against the accused officials

- a. The charge against the accused official Tehsildar Abdul Ghafar, presently posted as PT FR Bannu, is that while posted as Tehsildar Naurang, he attested a bogus mutation No.2255 in Khata No. 264, Ketat No. 48, Moza Marmandi , for land measuring 7 Kanal & 16 Marlas in the name of Haji Latif-ur-Rehman from Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim without thumb impression of the actual land owner (vendor).
- b. The charge against Mr. Ghulam Jan, Girdawar Circle, is that while posted as Girdawar Circle Mama Khel Tehsil Sarai Naurang , he did not check / compared the revenue record properly and a bogus mutation no.2255 in Khata No.264 Ketat No.48 for land measuring 7Kanal & 16 Marla in favour of Mr. Haji Latif-ur-Rehman from Mr. Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim, while the actual land owner was Mr. Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim.
- c. The charge against Mr. Abdullah Khan, Patwari is that while posted as Patwari halqa Moza Marmandi he entered a bogus mutation no.2255 in Khata No.264 Ketat No.48 for land measuring 7Kanal & 16 Marla in the name of Haji Latif-ur-Rehman from Mr. Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim, while the actual owner was Mr. Ghulam Rasool Khan s/o Baitullah r/o Marmandi Azim.

III. Hearing and Proceedings of Inquiry:

The accused officials were directed vide this office letter No.29-11-2017 to submit their written defence and to attend this office along with relevant record on 4th December 2017. They turned up and furnished written defence, which are placed on file. The Mutation No.2255 whereupon the allegations are based, has been taken on record and placed on file. Another mutation bearing No.2904 attested on 29-8-2017 whereby the land measuring 7Kanal & 16 Marla was transferred back from Haji Latif-ur-Rehman to the name of Haji Ghulam Rasool s/o Baitullah r/o Marmandi Azim in pursuance of Civil Court Sarai Naurang Order dated 30-6-2017, also taken on record and placed on file. Record of Khata No.264 in the Periodical Record 2008-09 Moza Marmandi, whereupon the mutation no.2255 is based upon, has also been examined.

IV. Background of the Inquiry:

- i. A mutation no.2255 Moza Marmandi involving transfer of land measuring 10 kanal & 2 Marla in Khata No.264 from vendors Ismail Khan Khan s/o Abdur Rahim and Mr. Ghulam Rasool s/o Baitullah r/o Marmandi (Azim) in favour of Haji Latif-ur-Rehman s/o Abdur Rehman in lieu of consideration money of Rs.



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Dated: _____ / _____ / 2017

One lak and ten thousands, was entered by the accused Patwari Abdullah Khan on 27-8-2012, mutation entries with revenue record compared and certified as correct by the accused Girdawar Circle Ghulam Jan under his signature on 14-11-2012 and attested by the accused Tehsildar Abdul Ghafar Khan Gandapur on 14-11-2012 in Jalsa-e-Aam.

- ii. Thumb impressions of the witness are affixed on the mutation as required under the law.
- iii. Thumb impression of one vendor namely Ismail Khan Khan s/o Abdur Rahim is affixed on the mutation, while there is neither affixed signature nor thumb impression of the other vendor namely Mr, Ghulam Rasool s/o Baitullah r/o Marmandi Azim on the mutation.
- iv. The mutation order made by the accused official Abdul Ghafar Tehsildar involves transfer of land from both vendors namely Ismail Khan and Ghulam Rasool (whose thumb impression or signature is not affixed on the mutation). As such, land measuring 7 Kanal & 16 Marla from Ghulam Rasool has been transferred without obtaining his thumb impression or signature.

V. Responsibilities of the accused official regarding mutation under the law /rules and discharge of responsibilities by them in case of Mutation No.2255 Moza Marmandi.

a) Patwari Abdullah Khan.

Patwari is required to make entry in the register of the mutation every report made to him either by the person acquiring any rights in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation under the section 42 of the Land Revenue Act 1967 read with Para 7.4(i) of Land Records Manual. He shall draw up mutation in accordance with the contents of the revenue record of the moza.

As per relevant revenue record namely Khata No.264 in the Periodical Record 2008-09 Moza Marmandi, the mutation No.225 has correctly been entered with no fictitious or bogus entries therein. Therefore, the charge of bogus mutation against the accused official is not valid. Had he made fictitious and incorrect entries, then the charge of bogus mutation would have been correct.

Besides, if more than one vendors are entered in a single mutation and their shares are also correctly entered in accordance with the revenue record by a Patwari and at the time of attestation of mutation one of vendors appears before the Revenue officer and admits to have sold the land and the other one does not appear but the Revenue Officer records transfer of land from his name also in his order, it does not imply that the Patwari has entered bogus mutation.

b) Kanungo Ghulam Jan:

Under Par 7.4(ii) of Land Records Manual, responsibility of the Field Kanungo with reference to mutation is to personally examine and compare all the entries made by the Patwari in the foil and counterfoil of the mutation and with current revenue record and certify correctness thereof under his signature.

The relevant revenue record i.e. Khata No.264 in Periodical Record 2008-09 Moza Marmandi was checked and examined. The entries in the mutation no.2255 are in accordance with the revenue record and correct and certified as correct by the



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accused official Ghulam Jan under his signature dated 14-11-2017 on the mutation. He has discharged his duty correctly as required under the law and rules. Therefore the charge that he did not check / compared the revenue record properly does not get proved.

c) Tehsildar Abdul Ghafar Gandapur:

As per rules and admitted practice, signatures or thumb impressions of the vendors and witnesses, who identify the vendors, are got affixed on the mutation by the RO. The share of those vendors is transferred who admit sale of land in favour of vendee and affix their thumb impression or signature on the mutation, while the shares of those vendors, if any, who do not admit the sale transaction or do not turn up before the Revenue Officer, is reserved by the Revenue Officer and order on the mutation is recorded accordingly.

Names of two vendors have been entered in the mutation No.2255 by the Patwari. Thumb impression of one vendor namely Ismail Khan Khan s/o Abdur Rahim is affixed on mutation while there is neither signature nor thumb impression of the other vendor namely Ghulam Rasool s/o Baitullah. But the accused official Tehsildar has recorded in his order transfer of land from both the vendors in favour of the vendee namely Haji Latif-ur-Rehman. He was required to have recorded in his order the share of vendor Ismail Khan as transferred in favour of Haji Latif-ur-Rehman-ur-Rehan s/o Abdur Rehman (vendee) while the share of the other vendor namely Ghulam Rasool as reserved/ not transferred. Part of the order involving transfer of land by vendor Ismail Khan is valid and the part of order involving of transfer of land of Ghulam Rasool illegal. Therefore, the order is partly legal and partly illegal.

The accused Tehsildar has stated in written defence (placed on file) that the name of the vendor Ghulam Rasool was inadvertently got incorporated in his order and not by design or intentionally. It would be too rigid approach to altogether brush aside the defence taken by the accused official if viewed from the following aspects:

- i. As Khata of the land is the same i.e Khata no. 264 and, therefore, names of the vendors written in close proximity, one after another, name of Gulam Rasool having got incorporated in the order inadvertently cannot be ruled out.
- ii. No fake thumb impression or signature of the vendor Ghulam Rasool have been inserted/got affixed on the mutation till date. It lends credence to presumption that the accused Tehsildar had no designs to effect fraudulent transfer of land from vendor Ghulam Rasool in favour of the vendee.
- iii. No impersonation has been done for transfer of land from Ghulam Rasool.

Besides, land measuring 7 Kanal & 16 Marla transferred from Ghulam Rasool s/o Baitullah vide mutation no. 2255 has already been restored / transferred back to him vide mutation bearing no.2904 attested on 29-8-2017 in pursuance of Civil Court Sarai Naurang Order dated 30-6-2017.

However, had he been careful and cautious, which he should have remained while dealing with an important document like mutation, he could have avoided it.



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VI. Conclusion / Findings and Recommendation:

On the basis of what has been elaborated under Para V of the report, my finds and recommendations are as under:

- i. Charge against the Patwari Abdullah Khan not proved.
- ii. Charge against Kanungo Ghulam Jan not proved.
- iii. Lapse on the part of accused Tehsildar Abdul Ghafar Gandapur was seems not found though by design but due to carelessness on his part and that the land has been transferred back to the owner and no loss occurred to the government exchequer or individual.
- iv. Keeping in view the above facts, minor penalty of withholding one annual increment for the period of one year is recommended.

(Mohammad Bakhtiar Khan)
Inquiry Officer /
Deputy Commissioner
Lakki Marwat



GOVERNMENT OF KHYBER PAKHTUNKHWA
 LAND RECORDS & COLONIZATION
 REVENUE AND ESTATE DEPARTMENT

CONFIDENTIAL

No. Inquiry/Abdul-Ghaffar/Tehsildar/LakkiMarwat/ 1834-35

Peshawar dated the 21 Feb, 2018

To,

The Senior Member Board of Revenue,
 Revenue & Estate Department,
 Khyber Pakhtunkhwa.

PS/SMBR
 Div No. 257
 Date 22/2/18
 Govt. of Khyber Pakhtunkhwa

SUBJECT: INQUIRY REPORT REGARDING 1. MR. ABDULGHAFFAR KHAN, EX-TEHSILDAR, SARAI NOURANG NOW POLITICAL TEHSILDAR FR-BANNU, 2. GHULAM JAN GIRDAWAR CIRCLE MAMA KHEL TEHSIL, SARAI NOURANG, 3. ABDULLAH JAN EX-PATWARI MOUZA MARMUNDI NOW HALQA PATWARI NAWAR KHEL DISTRICT LAKKI MARWAT.

Dear Sir,

Kindly refer to Assistant Secretary (Admin), Board of Revenue letter No. Ad:IV/GhulamRasool/LakkiMarwat/3193 dated 23.01.2018 wherein the undersigned has been nominated as Inquiry Officer.

Subject inquiry report comprising of 05 pages along with its enclosures (14 pages) is enclosed herewith for further necessary action please.

Encl: As Above

(MUSHAMMAD ASYD) 21.2.18
 INQUIRY OFFICER/
 DIRECTOR LAND RECORDS,
 KHYBER PAKHTUNKHWA

Encl: No. & date above

Copy forwarded to the Secretary - I Board of Revenue Khyber Pakhtunkhwa for information please.

Signature
 22/2/18

Signature
 21.2.18
 DIRECTOR LAND RECORDS

As (8/844)
 CC
 22/2

C/E
 Signature
 22/2/18

INQUIRY REPORT:

Accused Officials:

1. Mr. Abdul Ghaffar Khan (Ex-Tehsildar)
2. Mr. Ghulam Jan, Kannungo
3. Mr. Abdullah Khan, Patwari

HISTORY

A Mutation No. 2255 Mouza Marmandi involving transfer of land measuring 10 kanals and 02 marlas in Khata No. 264 from vendors Ismail Khan S/O Abdur Rahim and Mr. Ghulam Rasool S/O Bait Ullah Khan R/O Marmandi (Azim) in favour of Haji Latif-ur-Rehman S/O Abdur Rehman in lieu of consideration money of Rs. One Lakh and Ten Thousands, was entered by the accused Patwari Abdullah Khan on 27/08/2012, mutation entries with revenue record compared and certified as correct by the accused Girdawar Circle Ghulam Jan under his signature on 14/11/2012 and attested by the accused Tehsildar Abdul Ghaffar Khan Gandapur on 14/11/2012 in Jalsa-e-Aam. Through instant mutation total 10 Kanals and 02 Marlas land was transferred. From the total land (10 Kanals and 02 Marlas) so transferred 07 Kanals and 16 Marlas was owned by Mr. Ghulam Rasool; the thumb impression of one vendor Mr. Ismail and witnesses had been affixed on the mutation No. 2255 but neither the thumb impression nor the signature of other vendor, Mr. Ghulam Rasool was affixed on the impugned mutation.

To get their transferred share back, Mr. Ghulam Rasool agitated civil court in 2015 and got his share transferred back on his name through court decree vide mutation No. 2904.

BACKGROUND OF THIS INQUIRY

A fact finding/ preliminary inquiry was conducted in the above matter and on the failure of the accused officials to remove the charges, the accused officials were served upon with the charge sheets by the competent authority and Deputy Commissioner Lakki Marwat Mr. Muhammad Bakhtiar Khan was appointed as inquiry officer. (Charge Sheet is annexed as **(Annexure-A)**). The inquiry officer submitted his inquiry report to the competent authority but the competent authority was not satisfied with the inquiry report and thus appointed the undersigned to conduct the inquiry afresh vide letter No. Ad:IV/GhulamRasool/LakkiMarwat/3193 dated 23/01/2018 (**Annexure-B**).

PROCEEDINGS

The accused officials were summoned for 01/02/2018 at 1200 hours through Deputy Commissioner Bannu and Deputy Commissioner Lakki-Marwat vide this office letters (**Annexure-C & D**). The accused officials attended the office of the undersigned on the given date (their attendance are annexed as **Annexure-E**) and recorded their statements. Their written statements / replies are annexed as:-

Statement of Abdul Ghaffar Ex-Tehsildar

(Annexure-F)

Statement of Ghulam Jan Girdawar

(Annexure-G)

Statement of Abdullah Khan Patwari

(Annexure-H)

All the three officials relied upon the written statements they had earlier submitted to Deputy Commissioner Lakki-Marwat during proceedings of the enquiry conducted by him, the gist of their written replies is produced as under:

Statement of Abdul Ghaffar Ex-Tehsildar:

The Ex-Tehsildar stated:—

- That he attested the impugned mutation [No. 2255] in Jalsa-e-Aam (Assembly of villagers).
- That he took thumb impressions of 02 witnesses and one vendor namely Ismail on mutation.
- That he did not take thumb impression of the co-owner (2nd Seller) Mr. Ghulam Rasool on register mutation, which was not his intentional act rather that was a human error.
- That the share of Ghulam Rasool, transferred by the mutation No. 2255 was reversed in his name vide mutation no. 2904 dated 28/08/2017, on the Court directions.
- That his omission may be considered as human error and he may be exonerated.

Statement of Ghulam Jan, Girdawar Circle:

The Girdawar Circle in his statement claimed that as per rules it is the duty of girdawar to check and authenticate the entries of the mutation made by Patwari, both in foil and counterfoil. So he performed his duty by ascertaining the entries in impugned mutations. He examined khasras No, Khata No, Shares of vendors, which were found correct and thus certified by him. He further stated that during attestation of mutations the shares of the vendor(s) is/are transferred to extent of share intended to be so transferred and rest of the share(s) is kept reserved at the time of passing final order of attestation of the revenue officer. He stated that his responsibility is just to examine and authenticate entries of mutations, which he rightly did and had no role in attestation of mutation.

The Girdawar prayed that the instant complaint might be filed.

Statement of Ex-Patwari:

The gist of the statement of Patwari is that as per rules a Patwari is required to enter mutation both in foil and counterfoil, whenever any person having certain right in the landed property comes to him and ask for entering mutation. He further said that on the request of co-owner (Mr. Ismail) he entered the mutation with due care and diligence. He reiterated that all the entries made by him were correct and he had nothing to do with the process of the attestation of mutation.

ATTESTATION OF THE MUTATION

From the statements of the accused officials and complaint/charge sheet, the following questions emanated to be answered.

1. What is rules/ regulation and procedure of attestation of mutation?
2. What is practice in vogue regarding mutations?
3. What is responsibility, as per law, of Patwari, Girdawar and Tehsildar during the process of mutation from entry to attestation?

The answers to the above queries are given as below:--

Q1. Procedure of mutation as per law?

Section 42 of Land Revenue Act 1967, and Para 7.4 of Land Record Manual deals with the attestation of mutation.

As per procedure given in law, a Patwari is bound to enter mutation (foil and counterfoil) on the request of any right holder in the land intended to be transferred. The Patwari requires to fill all the columns carefully and correctly.

The Girdawar Circle then examine the entries made by Patwari and tally them with record and certify with his signature all the entries.

The mutation is then submitted to revenue circle office (Tehsildar) for attestation. The tehsildar is required to attest the mutation in Jalsa-e-Aam. He is required to satisfy himself in all respects. He is required to ascertain in Jalse-e-Aam (crowd) of mouza, the vendor(s), vendee(s), their respective share to be transferred, value of mutation, tax to be levied, affixing thumb impression of the parties and witnesses.

He is further required to enquire about transfer of possession/right from vendor to vendee as the purpose of mutation is transfer of rights/possession. The reader of the tehsildar is key person to assist tehsildar in all the above steps. After being satisfied in all aspects in Jalsa-e-Aam, the tehsildar then passes order of attestation. Patwari halqa is present and he assists the tehsildar in discharge of his duty.

Q2. What is practice in vogue regarding mutations?

It is common practice across the province that a Patwari enters a mutation on the application of any interested party. Girdawar does his partal. To save time or whatever purpose, the Patwari usually get thumb impressions of the parties and witnesses in his Patwar khana before putting the same for order of the revenue circle officer. The reader of tehsildar than writes order on the mutation and tehsildar attests the same usually, without or sometime going into the jalsa-e-Aam. Patwari concerned is always present with record while a mutation is being attested by the tehsildar.

Q3. What is responsibility as per law, of Patwari, Girdawar and Tehsildar during the process of mutation from entry to attestation?

The role and responsibility of the Patwari, Girdawar and tehsildar has been elaborated above while answering the Question No. 1 and 2.

CROSS EXAMINATION

To dig out the facts the accused officials were cross examined. The tehsildar and Patwari were asked whether the impugned land measuring 7 kanals & 16 marlas owned by the applicant Ghulam Rasool was transferred with his approval and whether he came to Patwari or tehsildar in connection with his property to be transferred.

The Patwari told that only the co-sharer Mr. Ismail, came to him for entering impugned mutation and Ghulam Rasool did not come.

The tehsildar replied that Ghulam Rasool was present in Jalsa-e-Aam but due to mistake his thumb impression could not be taken but he failed to bring proof in support of his claim.

Vide impugned mutation the share transferred of Mr. Ismail was 2 Kanal 16 Marla and that of Ghulam Rasool was 7 Kanal 16 marla, almost three times of the share of the Ismail.

The accused officials were asked that why care was not taken in transferring the share of major vendor (Mr. Ghulam Rasool). Despite of possessing lion share, the thumb impression of the major vendor (share-holder) was not taken?

Other than having said of human error/mistake the accused officials (Tehsildar & Patwari) failed to give a satisfactory reply.

The impugned mutation was attested in 2012 and the share of Ghulam Rasool was reversed in 2017 vide mutation no. 2904. The accused officials were asked that if thumb impression of the applicant Ghulam Rasool was not taken mistakenly and if his property share was rightly transferred then why the mistake was not tried to be rectified by having taken the thumb impression of Ghulam Rasool at any time from 2012 to 2017.

The accused official could not give any satisfactory explanation. They only said that they were ignorant of the mistake and came to know it when the court issued decree.

During cross examination the accused officials stated that as there were large number of mutations the tehsildar had to attest in Jalsa-e-Aam, so not obtaining thumb impression of the applicant Ghulam Rasool was just a mistake/human error.

To ascertain this point the applicant (Ghulam Rasool) and tehsil office Kannungo with relevant record of relevant time were summoned for 08/02/2018. The charge of office kannungo is with Girdawar Ghulam Jan (one of accused official) he and son of applicant namely Mr. Ajmal R/O Lakki Marwat attended the office on 08/02/2018.

Mr. Ajmal recorded his statement wherein he claimed that his father owns immovable/landed property in Mouza Marmandi Lakki Marwat and his uncle's son Ismail with connivance of his (Ismail) brother Munnawar, who is a property dealer and revenue officials fraudulently transferred 7 kanal 16 marla of their land in 2012, without their knowledge. He further said that they planned wedding of their brother in 2015 for which expenditure they wanted to sell their land and came to know from Patwari that their land had already been sold in 2012. He stated that on knowing this, they requested Patwari and Tehsildar for reversal of their land fraudulently transferred but in vain, thus they filed suit in civil court, and in 2017 by the order of the civil court they got their land transferred in their name which was fraudulently transferred by Ismail/Munnawar and revenue officials. Statement of Ajmal is annexed as (Annexure-D)

(5)

The Office Kannungo also Girdawar accused Mr. Ghulam Jan and the incumbent Patwari mauza Marmandi Mr. Ashfaq Ahmad also attended this office on 08/02/2018 with relevant record.

From the perusal of record and queries from the office kannungo and Patwar halqa it was known that mouza Marmandi is part of the Patwar circle Zafar Mamakhel which has total 13 mouzas with Marmandi as major mouza. In this Patwar circle every month the Tehsildar schedules one tour (Jalsa-e-aam) and sometimes one special tour is also paid. Every month about 50 to 60 mutations are attested which was confirmed by girdawar/office kannungo.

From all this it is evident that attesting 50 to 60 mutations a month is not a big task or burdened work as was claimed by tehsildar in cross examination.

FINDINGS

From the written replies of accused officials, Ajmal (Son of applicant) and perusal of record the undersigned infers that the share of Ghulam Rasool measuring 7 kanals 12 marlas in Khatta No. 264 Khatat No. 48 was fraudulently transferred vide mutation No.2255 dated 14.11.2012.

It is very astonishing that the major co-owner/ co-sharer in the impugned property was Mr. Ghulam Rasool and still the Patwari and tehsildar forgotten to take his thumb impression. As per law/rules and procedure in vogue a Tehsildar, his reader and Patwari concerned are present at the time of attestation of mutation in Jalsa-e-Aam, to check and satisfy themselves of each and every entry of mutation register. Hence it is inferred that Tehsildar, his reader and Patwari are involved in corruption and corrupt practices in respect of impugned mutation.

The Girdawar is rarely present at time of attestation of mutation hence his chances of involvement in the impugned mutation are apparently narrow.

INFERENCE

Foregoing above:

1. The charges levelled against ex-tehsildar Mr. Abdul Ghaffar Khan and ex-Patwari halqa Mr. Abdullah Khan stand proved.
2. Though not charge sheeted, yet reader to tehsildar is also equally responsible.
3. In the prevailing practice the role of girdawar is usually limited to the partial/examination of entries of Patwari with record before submitting it to tehsildar for attestation, hence his involvement chances are narrow and may be exonerated.

Submitted please.


(MUBAMMAD ASIF) 21.2.18
INQUIRY OFFICER
DIRECTOR LAND RECORDS



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 06/06/2018

ORDER.

No.Estt:I/PF/Abdul Ghaffar/ 24362. **WHEREAS;** Mr. Abdullah Khan the then Patwari halqa Marmandi Azim Tehsil Naurang was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the Charge Sheet.

AND WHEREAS; Mr. Muhammad Asif Director Land Records was appointed as Inquiry Officer to probe into the charges leveled against the said official and submit finding/ recommendations.

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.

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

NOW THEREFORE, I as Competent Authority in exercise of powers conferred by Rule 4 (b) (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 impose major penalty of removal from service upon Mr. Abdullah Khan the then Patwari office of the Deputy Commissioner Lakki Marwat with immediate effect.

By order of
Senior Member

No.Estt:I/PF /Abdul Ghaffar/ 24363-67

Copy forwarded to the:-

1. Commissioner, Bannu Division, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. District Accounts Officer Lakki Marwat.
4. Official concerned.
5. Office order file.


Assistant Secretary (Estt.)

O/c
Dr



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.
Facebook ID: www.facebook.com/bor.kpk92
Twitter ID: [@RevenueBoardkp](https://twitter.com/RevenueBoardkp)
Fax No: 091.9213989

No. Estt: I/PF/Abdul Ghaffar/ 62
Peshawar dated the 01 /01/2019.

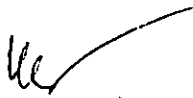
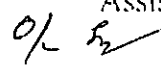
To

Mr. Abdullah Khan,
Ex-Patwari, Halqa Mouza
Marmandi Azim Tehsil Sarai Naurang,
District Lakki Marwat.

Through: Deputy Commissioner, Lakki Marwat.

SUBJECT: REMOVAL FROM SERVICE ORDER NO. 24363-67 DATED 06.06.2018.

Your Departmental Appeal dated 23.06.2018 has been examined and rejected by the Appellate Authority (i.e Chief Secretary).


Assistant Secretary (Est)
O/K 

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated 03/04/2018

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 upon you Mr. Abdullah Jan. Ex-Patwari Mouza Marmandi now Patwari Halqa Nawar Khel District Lakki Marwat, Show Cause Notice that:-

That while posting as Patwari Halqa mouza marmandi, you entered a bogus mutation No.2255 in Kata No. 264, Katta No. 48, for land measuring 7 kanal and 16 marla in the name of Haji Latif-Ur-Rehman from Mr. Ghulam Rasool (Chan S/O Batiullah R/O Marmandi (Azim)) while the actual owner was Mr. Ghulam Rasool S/O Batiullah R/O marmandi (Azim).

That during the fact finding/preliminary inquiry, you failed to remove the charge levelled against you before the inquiry officer during personal hearing.

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 not be imposed upon you. Furthermore: you are directed to appear on 10.04.2018 at 11:00AM 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. Est:J/P/Abdul Ghaffar:
Peshawar dated 03/04/2018.

16873

2/4/18

To:

The Chief Secretary,
Khyber Pakhtunkhwa

PS/S
778
Date 14/1/19
476018

Subject: REMOVAL FROM SERVICE ORDER NO 24363-67 DATED 06/06/2018

Respected Sir,

Respectfully, it is submitted that I was working as Patwari in District Larki Marwat. An inquiry was conducted on the order of Senior Member Board of Revenue Khyber Pakhtunkhwa. On the basis of said inquiry, the official was removed from service.

Aggrieved from the above order, the appellant filed a review petition to the Chief Secretary Khyber Pakhtunkhwa through proper channel, which was examined and rejected by the appellate authority i.e. Chief Secretary Khyber Pakhtunkhwa (Flag-A).

In the same inquiry, another accused, namely, Mr. Abdul Ghaffar Gandapur, was also demoted to the post of Naib Tehsildar, the order was later on cancelled/withdrawn after approval of the competent authority on 20-12-2018 (Flag-B).

As evident from preceding para, the above named officer was re-instated on the post of Tehsildar of whom de-novo inquiry was ordered in the same case. Unfortunately, the appeal of the undersigned has been rejected, which is against the spirit of justice and process of law.

In view of the above, it is humbly requested that order dated 20-12-2018 (Flag-C) may please be reviewed and de-novo enquiry may also be conducted against the applicant as was conducted against the other accused.

My whole family will pray for your long and prosperous life.

Your faithfully,

Abdullah Khan
(ABDULLAH KHAN)

Ex-Patwari, Halqa Mouza
Marmandi Azim, Tehsil Sarai Naurang
District Larki Marwat

Dated 14-1-2019

Seg-I

M

SMR
15/1/19

SMR

SMR
15/1/2019



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.
Facebook ID: www.facebook.com/bor.kpk92
Twitter ID: [@RevenueBoardkp](https://twitter.com/RevenueBoardkp)
Fax No: [091.9213989](tel:091.9213989)

No.Esst:I/PF/Abdul Ghaffar/ 5988

Peshawar dated the 28/02/2019.

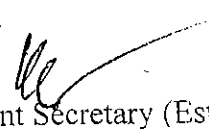
To

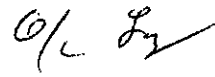
Mr. Abdullah Khan,
Ex-Patwari Halqa Mouza Marmandi Azim,
Tehsil Sarai Naurang District Lakki Marwat.

Through: Deputy Commissioner, Lakki Marwat.

SUBJECT: REMOVAL FROM SERVICE ORDER NO. 24363-67 DATED 06.06.2018.

Your Departmental appeal dated 14.01.2019 has been examined and rejected by the appellate authority.


Assistant Secretary (Estt)





GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 06/06/2018

ORDER.

No.Estt:I/PF/Abdul Ghaffar/_____ WHEREAS; Mr. Abdul Ghaffar the then Tehsildar Naurang was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the Charge Sheet.

AND WHEREAS; Mr. Muhammad Asif Director Land Records was appointed as Inquiry Officer to probe into the charges leveled against the said official and submit finding/ recommendations.

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.

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

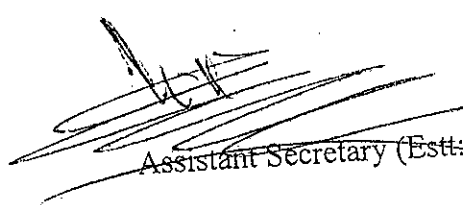
NOW THEREFORE, I as Competent Authority in exercise of powers conferred by Rule 4 (b) (i) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 impose major penalty of reversion to lower post of Naib Tehsildar upon Mr. Abdul Ghaffar the then Tehsildar Naurang with immediate effect for a period of three (03) years.

By order of
Senior Member

No.Estt:I/PF /Abdul Ghaffar/ 24369-74

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. Commissioner, Bannu Division. The services of the accused Mr. Abdur Ghaffar are hereby placed at your disposal for further posting as Naib Tehsildar in the Division.
3. Deputy Commissioner, Lakki Marwat.
4. District Accounts Officer Lakki Marwat.
5. Official concerned.
6. Office order file.


Assistant Secretary (Estt:)

(4) 5 (19)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 26/06/2018

ORDER.

No. Estt: I/PF/Abdul Ghaffar/ _____ WHEREAS; Mr. Abdullah Khan the then Patwari halqa Marmandi Azim Tehsil Naurang was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 for the charge mentioned in the Charge Sheet;

AND WHEREAS; Mr. Muhammad Asif Director Land Records 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 reply whereby the charges against the accused official stand proved.

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

NOW THEREFORE; as Competent Authority in exercise of powers conferred by Rule 4 (b) (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 impose major penalty of removal from service upon Mr. Abdullah Khan the then Patwari office of the Deputy Commissioner Lakki Marwat with immediate effect.

By order of
Senior Member

No. Estt: I/PF/Abdul Ghaffar/ 24363-67

Copy forwarded to the:-

1. Commissioner, Bannu Division, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. District Accounts Officer Lakki Marwat.
4. Official concerned.
5. Office order file.

عبدالرحمان پتواری حلقہ
نادرضیل سے جاری وصولی
عبدالرحمان کو فارغ کیا
22/6/18

RECEIVED	
No.	3042
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Assistant Secretary (Estt)

Handwritten notes and signatures on the right side of the page, including a large signature and various scribbles.



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 06/06/2018

ORDER.

No.Estt:I/PF/Abdul Ghaffar/ 24362. **WHEREAS;** Mr. Abdullah Khan the then Patwari halqa Marmandi Azim Tehsil Naurang was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the Charge Sheet.

AND WHEREAS; Mr. Muhammad Asif Director Land Records was appointed as Inquiry Officer to probe into the charges leveled against the said official and submit finding/recommendations.

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.

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

NOW THEREFORE, I as Competent Authority in exercise of powers conferred by Rule 4 (b) (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 impose major penalty of removal from service upon Mr. Abdullah Khan the then Patwari office of the Deputy Commissioner Lakki Marwat with immediate effect.

By order of
Senior Member

No.Estt:I/PF /Abdul Ghaffar/ 24363-67

Copy forwarded to the:-

1. Commissioner, Bannu Division, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. District Accounts Officer Lakki Marwat.
4. Official concerned.
5. Office order file.


Assistant Secretary (Estt:)



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.

NOTE FOR CHIEF SECRETARY

SUBJECT: REPRESENTATION OF ABDUL GHAFFAR KHAN GANDAPUR
EX-TEHSILDAR SERARI NAURANG DISTRICT LAKKI MARWAT, NOW,
NAIB TEHSILDAR REVERSED TO LOWER POST BY
THESMBR, COMPETENT AUTHORITY AFTER IMPOSING MAJOR
PENALTY AS RESULT OF INQUIRY CONDUCTED BY DIRECTOR LAND
RECORDS KHYBER PAKHTUNKHWA.

REVD-1279

Attention is requested to Departmental Appeal filed by Mr. Abdul Ghaffar
Ex-Tehsildar Serari Naurang now Naib Tehsildar in Commissioner Officer Bannu (Annexure-A)
against order whereby major penalty of reversion to lower post of Naib Tehsildar was imposed upon
him.

1-9 Reg-IV
BAGAD, Diary No. 533
Dated 23.07.18

Parawise reply are as under.

1. Pertains to record.
2. Incorrect. Mutation No. 2255 was entered by Patwari, and attested by the appellant as Revenue Officer Circle on 14.11.2012 whereby share of Ghulam Rasool (Complainant) to the extent of area of 7 kanal 16 marla was fraudulently transferred without his consent/thumb impression to another person.
3. Incorrect. As per provision of the rules, land cannot be transferred to another person without consent of the owner and affixation of thumb impression which has not been followed in the instant case and complainant has lost a valuable piece of land of 7 kanal 16 marla.
4. The provision of Section 163 of Land Revenue Act, 1967 does not apply in the instant case. The report of Inquiry Officer clearly shows direct collusion of Revenue Staff including the appellant that they transferred a piece of land of the land owner (Ghulam Rasool) to another person without affixation of thumb impression/consent.
5. The provision of Section 181 does not apply here as the concerned officials have transferred the valuable land of complainant with malafide.

PS/SMBR
Dy No 156
FTS/REVD. 1279
Date 23-7-2018
Govt. of Khyber Pakhtunkhwa

It is therefore requested that the Departmental Appeal of the appellant having no weight may be rejected please.

Ps / Saey (E) & AD
Dy No. 1358
Dated 23.7.18

Secretary Establishment

M. Jala
19/07
Senior Member
Senior Member
Board of Revenue
Khyber Pakhtunkhwa


NPP

3. The Note for Chief Secretary Khyber Pakhtunkhwa regarding Departmental appeal filed by Mr. Abdul Ghaffar, Ex-Tehsildar, Serai Naurang, has been examined.

4. It is observed that:

- i. Copy of impugned order/notification is not annexed with the case.
- ii. Administrative Department has not annexed copy of inquiry report conducted against the accused officer.
- iii. Copies of charge sheet / statement of allegation and show cause notice have not been added.

5. The Administrative Department should add all relevant documents to facilitate the appellate authority to reach a judicious decision in the matter. The Note is, therefore, returned to add complete record of the case.


(Arshad Majeed)
Secretary Establishment
July 31, 2018

SMBR

127-8
P. S. (E) & AD

1358

Dated 31-07-18

Para 4-5/N.

6. Copies of the desired documents added as per following detail:-

- i. Copy of impugned order dated 06.06.2018 is at (Annexure-B).
- ii. Copy of Inquiry Report conducted by Mr. Muhammad Asif, Director Land Records is at (Annexure-C).
- iii. Copies of charge sheet, statement of allegation and show cause notice are at (Annexure-D,E&F) respectively.

Secretary Establishment

M. Jala
06/08/18
Senior Member.
Senior Member
Board of Revenue
Khyber Pakhtunkhwa

576
09-08-18
Secy, D, Dirat No
Dated

Ps / Secy (E) & AD
1358
18-8-18
Duty No
Dated

1570770

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P. T. R

Reference Para-6 of the Note.

7. The case earlier returned to the Administrative Department to add supporting documents as mentioned at Para-4 ante. Now the Administrative Department has added all relevant documents as mentioned at para-6 of the Note.

8. It is observed that the nomination of an inquiry officer is made by inserting his name in relevant portion of the Statement of Allegations. However, in the instant case, inquiry has been conducted by Mr. Muhammad Asif, Director Land Record (**Annex-C**), while the Statement of Allegations reflects name of Mr. Muhammad Bakhtiar Khan, Deputy Commissioner, Lakki Marwat (**Annex-E**), which needs clarification.

9. Note is, therefore, returned to Administrative Department, for clarification.

(Arshad Majeed)
Secretary Establishment
August 7, 2018

~~SMER~~

Ps / Secy (E) & AD

Diary No. 358
Dated 14/8/18

Reg. IV

GAD, Diary No. 06
Dated

NPP

NPP

Para-8/N.

10. In the instant case, enquiry was conducted under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline), Rules 2011, through Mr. Muhammad Bakhtiar the then Deputy Commissioner Bannu. Not satisfied with the findings of the enquiry officer, the competent authority entrusted the said enquiry to Mr. Muhammad Asif, Director Land Records, on the basis of which major penalty of reversion to lower post of Naib Tehsildar was imposed upon the then Tehsildar Naurang for a period of three (03) years.

11. Para 2 is re-submitted for appropriate orders of the worthy Chief Secretary please.

Secretary Establishment

M. Zulau
31/08/18
Senior Member
Senior Member
Board of Revenue
Khyber Pakhtunkhwa

PS/SMBR
Dy No 156
FTS/REVD 1279
Date 5-9-2018
Govt. of Khyber Pakhtunkhwa

Per / e-mail / M. Zulau

633

Diary No
Dated 06-09-18


1358
6-9-18

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Del

Reference Para-10 of the Note.

12. The case was returned to the Administrative Department for clarification regarding inquiry conducted by Mr. Muhammad Asif, Director Land Record (**Annex-C**), while the Statement of Allegations reflects name of Mr. Muhammad Bakhtiar Khan, Deputy Commissioner, Lakki Marwat.

13. Therefore, the case is returned to Administrative Department for clarification as to whether fresh charge sheet/statement of allegation was issued to the accused officer by inserting the name of new inquiry officer or otherwise.


(Arshad Majeed)
Secretary Establishment
September 19, 2018

SMBR

PS / Secy (E) & AD
1358
PS / Secy (E) & AD
Diary No. 1358
Dated 19-9-18

Reference Para 12-13/N.

14. In the instant case, enquiry was conducted under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline), Rules 2011, through Mr. Muhammad Bakhtiar the then Deputy Commissioner Bannu. However the Competent Authority not satisfied with the findings of the Inquiry Officer, entrusted the said enquiry to Mr. Muhammad Asif, Director Land Records, with the same charge sheet / statement of allegations vide letter dated 23.01.2018 (Annexure-G). No fresh charge sheet / statement of allegations was framed, that is why the column of name of Inquiry Officer in the statement of allegation bears the same name. The name of new officer could not be inserted in the column of Inquiry Officer,

15. Para 2 is re-submitted for appropriate orders of the worthy Chief Secretary please.

M. J. Khan
16/11/2020

Senior Member
SMBR

Secretary Establishment

Ps / Secy (E) & AD
Diary No. 1358
Dated 19/11/20

80 Ref. IV
SAGAD, Diary No. 837
Dated 19/11/20

N.P.P.


Reference Para-14 of the Note

16. The case was earlier returned to the Administrative Department for clarification as to whether fresh charge sheet/statements of allegations were issued to the accused officer by inserting the name of new Inquiry Officer or otherwise. In response, the Administrative Department at Para-14 ante has clarified that since no fresh charge sheet/ statement of allegations were framed, therefore, name of new Inquiry Officer could not be inserted. It is observed that the Administrative Department has not completed codal formalities under the E&D Rules, 2011.

17. Rule-17(2) of the Government Servants (Efficiency & Discipline) Rules, 2011(Annex-H) stipulates that the authority shall call for the record of the case and comments on the points raised in the appeal from the concerned department or office and on consideration of the appeal or the review petition, as the case may be, by an order in writing:-

- (a) Uphold the order of penalty and rejection the appeal or review petition; or
- (b) Set aside the orders and exonerate the accused; or
- (c) Modify the orders or reduce the penalty.

18. Since codal formalities under Rule-5 & 10 of the ibid rules have not been completed, therefore, the Chief Secretary Khyber Pakhtunkhwa being appellate authority under Rule-17(2)(b) of the rules ibid may set aside the order with the direction to the Administrative Department to initiate fresh inquiry in the instant case under the E&D Rules, 2011.


(Arshad Majeed)
Secretary Establishment
26 November, 2018

19. Chief Secretary, Khyber Pakhtunkhwa

Para 18/N is approved.

Naik
24/11

M. J. Jaleel
27/11/2018

27/11/18
27/11

SM/B.R

Copy I

AS (S&H) *S/E*

Ps / Secy (E) & AD
Dy Secy No. 1358
Dated 26/11/18
Offc. S. Khyber Pakhtunkhwa
No. 4223
Date 26/11/18

20



General Diary
Dy: No. 2213
Date 17-4-19
Revenue & Estate
Khyber Pakhtunkhwa

THE ADDITIONAL DEPUTY COMMISSIONER BANNU
Tel: 0928-9270437, Fax: 0928-9270079

Dated 15/04/2019.

No. 24 /ADC
To,

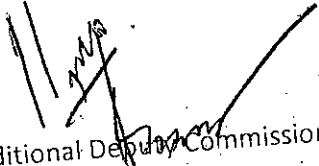
The Assistant Secretary (Estt)
Board of Revenue,
Revenue & Estate, Department, Peshawar.

Subject:- DISCIPLINARY ACTION AGAINST MR. ABDUL GHAFFAR TEHSILDAR SERAI
NAURANG DISTRICT LAKKI MARWAT.

Memo:

Refer to your office letter No: Estab:I/PF/Abdul Ghaffar 4488 dated 18/02/2019.

Enclosed find herewith fresh enquiry report regarding Mr. Abdul Ghaffar Tehsildar Serai Naurang District Lakki Marwat for information and further appropriate action as desired, please.


Additional Deputy Commissioner,
Bannu.

S/E
12/4/19

... NO. 2255 was cancelled to the extent of
plaintiff's shares. As such, his share was transferred back to him vide
mutation No. 2904.

**THE ADDITIONAL DEPUTY COMMISSIONER/ INQUIRY
OFFICER, BANNU**

**INQUIRY REPORT AGAINST MR. ABDUL GHAFAR KHAN,
EX: TEHSILDAR, SARAI NAURANG, DISTT: LAKKI MARWAT.**

General Diary
Dy: No. 2076
Date 5.4.19
Revenue & Estate
Khyber Pakhtunkhwa

STATEMENT OF ALLEGATIONS

- a. That while posting as Tehsildar Sarai Naurag, he attested a bogus mutation No. 2255 in Khata No. 264, Mouza Marmandi, Khata No. 48 for land measuring 07 Kanals 16 Marlas in the name of Haji Latif-Ur-Rehman from Ghulam Rasool Khan son of Baitullah resident of Marmandi (Azeem) without the thumb impression of the actual land owner (vendor).
- b. His this act tantamount to misconduct and liable him to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011:

Facts:

Facts of the case are that sale mutation No. 2255 of village Marmandi Azeem regarding transfer of land measuring 10 Kanals & 02 Marlas in Khata No. 264 from vendors Ismail Khan S/O Abdur Rahim and Mr. Ghulam Rasool S/O Bait Ullah Khan R/O Marmandi (Azim) in favour of Haji Latif-Ur-Rehman S/O Abdur Rehman in lieu of consideration of money of Rs. One lac & Ten thousand was entered by Patwari Abdullah Khan on 27/08/2012. The Girdawar Circle, Mr. Ghulam Jan compared the entries of the mutation with revenue record and certified its correctness under his signature on 14.11.2012. The accused/official, Tehsildar Abdul Ghafar Khan Gandapur attested the said mutation on 14.11.2012 in Jalsa-e-Aam. Out of the land in question, Mr. Ghulam Rasool, complainant was owner to the extent of 7 Kanal and 16 Marlas. At the time of attestation of the mutation in question, a thumb impression of one vendor namely Ismail and witnesses were affixed on the mutation whereas, no thumb impression or signature of the complainant was obtained. Later on, the complainant instituted a Civil Suit No. 82/1 on 21.12.2015 against Haji Latif-Ur-Rehman and Ismail Khan, which was decreed in favour of complainant, Ghulam Rasool by Civil Judge Sarai Naurag-II on 30.06.2017. In the light of said judgment, mutation No. 2255 was cancelled to the extent of plaintiff's shares. As such, his share was transferred back to him vide mutation No. 2904.

✓
S/R
M/S

Khan

Proceedings:

In pursuance of Board of Revenue, Peshawar letter No. Estt:I/PF/Abdul Ghafar/40022-23 dated 20.12.2018, the proceedings of inquiry was initiated.

The complainant namely, Ghulam Rasool, accused/official Mr. Abdul Ghafar Khan, Tehsildar, Patwari Halqa Zafar Mama Khel, Anwar Kamal, Office Kanungo Tehsil Sarai Naurang and Latif-Ur-Rehman S/O Abdur Rehman R/O Kotka Sher Azam Wazir Sarki Khel P/O Kotka Muhammad Khan Tehsil Domel, District Bannu were summoned. The complainant appeared and stated that he rely on his application dated 16.08.2017 submitted to the Senior Member Board of Revenue, Peshawar. Similarly, the accused/official Abdul Ghafar Tehsildar also placed his reliance on previous written statement submitted to the Deputy Commissioner, Lakki Marwat. He submitted copy of the said statement. Copy enclosed as annexure "A".

Statement of Complainant:

According to the application of complainant, the Patwari Abdullah Jan, had entered bogus mutation from his name, which was attested in his absence without his thumb impression or signature. The witnesses of the mutation No. 2255 and their CNIC numbers are contradictory as the same are not their identity card. He challenged the said mutation in the Civil Court where ex-ex-parte decree was passed in his favour and the mutation No. 2255 was cancelled his share of land was transferred to him back. He had requested for disciplinary action against the revenue staff involved in the instant case.

Through instant mutation total 10 Kanals and 02 Marlas land was transferred. From the total land 10 Kanals and 02 Marlas so transferred 07 Kanals and 16 Marlas was owned by Mr. Ghulam Rasool; the thumb impression of one vendor Mr. Ismail and witnesses had been affixed on the mutation No. 2255 but neither the thumb impression nor signature of other vendor. Mr. Ghulam Rasool was affixed on the impugned mutation.

Statement of Abdul Ghafar, Tehsildar:

The gist of the statement of Tehsildar is that he had attested the mutation in question in Jalsa-e-Aam and took thumb impression of the two witnesses as well as vendor Ismail on the mutation, however, he had not taken the thumb impression of co-sharer of Ghulam Rasool erroneously which was not his intentional act. However, the grievance of complainant has been resolved by the Civil Court and his share has been returned to him vide mutation No. 2904 attested on 28.08.2017. He requested that omission may be considered as human error and he may be exonerated.

Statement of Latif-Ur-Rahman S/O Abdur Rahman R/O Kotka Sher Azam Wazir Sarki Khel P/O Kotka Muhammad Khan Tehsil Domel, District Bannu (purchaser of land vide mutation 2255):

He stated that he had purchased the land through Munawar Khan and later on sold the said land through Munawar Khan. After some time heard that there is dispute between Munawar Khan and Ghulam Rasool on the said land now they have patched the matter. Furthermore, neither he had gone to Patwar Khan nor Tehsil Office because he had dealt through Munawar Khan.

Statement of Ishfaq Ahmad present Patwari Tehsil Sarai Naurang Lakki Marwat:

He stated that vide sale mutation 2255, from Ismail s/o Abdur Rahim 56 share and Ghulam Rasool 156 shares were transferred in the name of Haji Latif Ullah s/o Abdur Rahman in the lieu of one Rs.1,10,000/- (one lac and ten thousand) on 14.11.2012, however, shares of Ghulam Rasool measuring 07 Kanal 16 Marlas have been returned to him vide mutation No. 2904 attested on 28.08.2017.

Statement of Anwar Kamal, Office Kanungo Tehsil Sarai Naurang District Lakki Marwat:

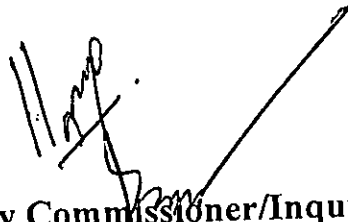
The official concerned produced Perth-Sarkar of mutation No.2255 attested on 14.11.2012 and mutation 2903 & 2904 of village Marmandi (Azim) attested on 29.08.2017.

Recommendations:

From perusal of record and statement of the parties recorded during the inquiry proceedings and their hearing, I reached to the conclusion that the accused/official Abdul Ghafar, Tehsildar had carelessly attested the mutation in question i.e. 2255 on 14.11.2012, however, the Civil Court has granted relief to the complainant and his share has been re-transfer to him. The act of the accused/official is not intentionally but is erroneously.

In view of the above, I am of the opinion that the accused/official Abdul Ghafar, Tehsildar has already suffered mental torture and faced the inquiry proceedings at various forums, Consequently demoted from the post of Tehsildar to Naib Tehsildar and the Patwari was dismissed.

Keeping in view the above facts, the undersigned agree with the inference put forward by DLR in previous inquiry and suggested that no further action may be taken against accused/official Abdul Ghafar, Tehsildar, apart from the actions suggested by the DLR in previous inquiry.



**Add: Deputy Commissioner/Inquiry Officer
Bannu**



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.
Facebook ID: www.facebook.com/bor.kpk92
Twitter ID: [@RevenueBoardkp](https://twitter.com/RevenueBoardkp)
Fax No: 091.9213989

Peshawar dated the 28/06/2019.

NOTIFICATION.

No.Estt:1/PF/Abdul Ghaffar/ 22465. WHEREAS; Mr. Abdul Ghaffar the then Tehsildar Naurang Lakki Marwat was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges mentioned in the Charge Sheet & Statement of Allegations.

AND WHEREAS; Mr. Kamran Khan Additional Deputy Commissioner, Bannu was appointed as Inquiry Officer to probe into the charges leveled against the said officer and submit findings.

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 have partially been proved.

NOW THEREFORE, I, Dr. Fakhre Alam Senior Member Board of Revenue being Competent Authority under Rule-14 of Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) Rules, 2011, having examined the charges, evidence produced, statement of accused official before the Inquiry Officer and after hearing the accused concurred with the findings of Inquiry Officer minor penalty of withholding of one increment for period of two years under Rule 4 (1)(a)(ii) of the rules ibid is imposed upon Mr. Abdul Ghaffar Tehsildar with immediate effect.

Sd/-
Senior Member

No.Estt:1/PF/Abdul Ghaffar/ 22466-70

Copy forwarded to the:-

1. Commissioner, Bannu Division, Bannu.
2. Deputy Commissioners, Lakki Marwat.
3. District Account Officer Lakki Marwat.
4. Officer concerned.
5. Office order file.

Assistant Secretary (Estt)

To: The Senior Member,
Board of Revenue, Khyber Pakhtunkhwa
(Competent Authority)

Subject: REPLY TO SHOW CAUSE NOTICE IN RESPECT OF MR ABDULLAH KHAN EX
PATWARI HALQA MARMANDI AZIM TEHSIL SERAI NAURANG IN
CONNECTION WITH SALE MUTATION NO. 2555 DATED 14.1.2012 MOUZA
MARMANDI AZIM

Respected Sir,

With reference to show cause notice bearing No. Etc/PF/Abdul
Ghaffar/ 16873 dated 03.04.2018.

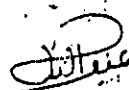
1. As per the provision of section 42 of the Land Revenue Act read with para (i) 7.4 of the Land Record Manual, the Patwari Halqa shall enter in his register of mutations every report made to him either by the person acquiring any rights in the landed property or on the information of any other person having charge of the property intended to be transferred through mutation.
2. The mutation in question has been correctly prepared by me in the light of the contents of the Revenue Record of the mouza concerned. There exists no mistake or irregularity either in the factum of the sale transaction reported to me or the contents of the sheet of the subject mutation, all the columns of both the foil and counterfoil have correctly been filled by me exactly in accordance with the nature of the transaction as well as the nature of the landed property i.e. Khata Number, Khasra Number, name of land owner/vendors and vendee.
3. The subject mutation has been prepared by me on the report of the interested parties and not a single word/figure has been added by me on my own. It is further added here that the Patwari Halqa has got no role in the final attestation of mutations.

Keeping in view the aforementioned points, it is hereby requested that I am innocent and may please be exonerated from the charges leveled against me in the instant complaint and as such may please be filed without any further proceedings, for no direct and solid proof is available for incriminating me as a patwari Halqa in the instant complaint.

Thanking You-Sir,

Yours Most Obedient Servant

Dated: 10 /04/2018


Abdullah Khan
Ex Patwari Halqa Marmandi Azim
Tehsil Naurang District Lakki Marwat.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1001 /ST

Dated 16 /06/ 2021

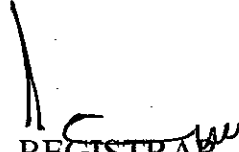
To

The Senior Member Board of Revenue,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 1180/2018, MR. ABDULLAH KHAN.

I am directed to forward herewith a certified copy of Judgement dated 31.05.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.