

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1161/2018

Date of Institution ... 18.09.2018

Date of Decision ... 09.05.2019

Mr. Mohammad Taj, Ex: Tehsildar (BPS-16) Tehsil Dargai, District Malakand.
... (Appellant)

VERSUS

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

MR. RIZWANULLAH,
MR. NOOR MOHAMMAD KHATTAK,
Advocate --- For appellant.

MR. ZIAULLAH
Deputy District Attorney --- For respondents.

MR. AHMAD HASSAN, --- MEMBER(Executive)
MR. HAMID FAROOQ DURRANI --- CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER:-

This judgment shall dispose of the instant service appeal as well as
connected service appeal no. 1162/2018 titled Waheed Akhtar, Ex-Kanungo,
Mansehra, awarded major punishment of compulsory retirement and no. 1179/2018
titled Farrukh Mehmood, Patwari on whom major penalty of removal from service
was imposed, as similar question of law and facts are involved therein.

2. Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS

3. Learned counsel for the appellant argued that on the allegations of attesting
inheritance mutation no. 9344 on 18.02.2015 in Revenue Estate Sandesar
Mansehra without proper verification, disciplinary proceedings were initiated

against him/two other officials and upon culmination major penalty of compulsory retirement was imposed on him vide impugned order dated 13.08.2018. He preferred departmental appeal on 17.08.2018, which was rejected on 11.09.2018, hence, the present service appeal. The appellant denied the charges leveled against him in reply to the charge sheet/statement of allegations. He stated that the circle Patwari, after registering Mad no. 289 and fulfillment of legal formalities registered mutation no. 344. That thereafter the said mutation was verified by the Circle Girdawar through witness namely Asim Jadoon s/o Ghulam Mustafa relative of the owner and Shabir Khan(Ex-Nazim/councilor) and Muhammad Farooq in favour of legal heirs of the deceased/owner on 21.01.2015 and was submitted to the appellant for attestation. The appellant further mentioned that previously a fact finding enquiry was conducted into the matter and was exonerated of the charges. This issue was also probed by the Anti-Corruption Establishment before the mutation was cancelled. After proper investigation the complaint was filed as no loss was caused to the government exchequer. Neither statements of witnesses were recorded nor opportunity of cross examination was afforded to the appellant. He was also denied the opportunity of personal hearing. In these circumstances, enquiry was not conducted in the mode and manner prescribed in the rules. Reliance was placed on case law reported as 2011 PLC (C.S) 1111, PLJ 2008 (SC) 85, 1997 SCMR 1543, 2014 SCMR 1263, 2012 PLC (C.S) 728 and 2002 PLC (C.S) 503.

4. On the other hand learned Deputy District Attorney argued that on the allegations of attestation of Inheritance mutation of a person residing abroad without proper verification disciplinary proceedings were initiated against the appellant. After completion of required formalities major penalty of compulsory

retirement was awarded to him vide impugned order dated 13.08.2018. All codal formalities were observed before passing the impugned order.

CONCLUSION

5. In the appeal in hand, departmental proceedings were conducted against the appellant and two other officials of the Revenue Department for showing laxity in attestation of inheritance mutation no. 9344 on 18.02.2015 in Revenue Estate Sandesar. The appellant (the then Tehsildar, Mansehra) in his reply to the charge sheet and statement of allegations served on him categorically stated that his role was ceremonial/supervisory in nature. Entire burden pertaining to the verification/checking lie on the shoulders of Patwari Halqa and Girdawar circle. While going through the written defense offered by the two other accused an effort was made to shift responsibility on one another by resorting to blame game. Keeping in view the peculiar nature of the present controversy, the only option available with the enquiry officer was to strictly follow procedure laid down in Sub-rule-(1) and (4) of Rule-11 of E&D Rules-2011. He was required to record statements of the accused and also provide opportunity of cross examination, so as to dig out real facts and fix responsibility on the concerned. However, it is regretted that this vital part of the process was deliberately overlooked by the enquiry officer. As a result of which subsequent proceedings lost the backing of law. Opportunity of fair trial was not afforded to them. Hence, it could be held that principle and procedure of due process of law and fair trial had not been followed which were against the principle of natural justice(2016 SCMR 108, 2008 SCMR 1406).

6. In addition to above no chance of personal hearing was extended to the appellant. Letter issued by the respondents directing the appellant to appear for personal hearing was received on 17.07.2018, whereas 13.07.2018 was fixed for

personal hearing. Show cause notice served on the appellant was not according to the standard format and copy of enquiry report was also not appended with the same. This was also a serious departure from the laid down procedure and sufficient for declaring the entire process as illegal.

7. His departmental appeal was rejected vide order dated 11.09.2018. The respondents failed to pass a well reasoned speaking order, as such Rule-24-A of the General Clauses Act, 1897 was violated (2011 SCMR-1). It can be safely held that due to lacunae/shortcomings referred to above proper enquiry as envisaged in E&D Rules 2011 was not conducted by the respondents.

8. This issue was also probed by the Anti-Corruption Establishment, Mansehra and filed after fulfillment of required formalities. The appellants might be guilty of gross negligence but no loss was caused to the government exchequer or concerned, hence, penalty awarded to them appears to be quite harsh.

9. As a sequel to above, the appeal is accepted, impugned order dated 13.08.2018 and 11.09.2018 are set aside and the appellants are reinstated in service. The respondents are directed to conduct de-novo enquiry within a period of ninety days after the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROOQ DURRANI)
CHAIRMAN



(AHMAD HASSAN)
MEMBER

ANNOUNCED
09.05.2019

Order

09.05.2019 Counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Muhammad Arif, Supdt present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is accepted, impugned order dated 13.08.2018 and 11.09.2018 are set aside and the appellants^{are} reinstated in service. The respondents are directed to conduct de-novo enquiry within a period of ninety days after the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own cost. File be consigned to the record room.

Announced:
09.05.2019



(Hamid Farooq Durrani)
Chairman



(Ahmad Hassan)
Member

1161/2018

13.03.2019

Mr. Ghulam Mohy-ud-Din Malik, Advocate for appellant and Mr. Ziaullah, DDA alongwith Muhammad Arif, Superintendent for the respondents present.

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

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


Member


Chairman

29.04.2019

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

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


Member


Chairman

25.01.2019

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



(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

06.02.2019

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


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

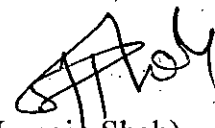
13.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 18.12.2018 before D.B.


Reader

18.12.2018

Counsel for the appellant Mr. Ghulam Mohy-ud-Din Malik present and submitted Vakalat Nama on behalf of the appellant. Vakalat Nama is placed on record. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Javed Iqbal, Senior Clerk for the respondents present. Newly engaged learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 10.01.2019 before D.B.



(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

A.C.A

10.01.2019

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


MEMBER


MEMBER

03.10.2018

Counsel for the appellant Muhammad Taj present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Revenue Department as Tehsildar. It was further contended that the appellant was imposed major penalty of compulsory retirement vide impugned order dated 13.08.2018 on the allegation of attesting of inheritance mutation blindly without proper verification. It was further contended that the appellant filed departmental appeal but the same was rejected hence, the present service appeal. It was further contended that neither proper inquiry was conducted nor any show-cause notice was issued to the appellant before imposing major penalty therefore, the impugned order is illegal and liable to be set-aside.

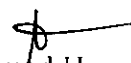
The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter, notice be issued to the respondents for written reply/comments for 17.10.2018 before S.B.

Appellant Deposited
Security Process Fee


(Muhammad Amin Khan Kundi)
Member

17.10.2018



Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply submitted which is placed on file. Case to come up for rejoinder and arguments on 13.11.2018 before D.B.


(Ahmad Hassan)
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1161/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/09/2018	<p>The appeal of Mr. Muhammad Taj presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p>
2-	22-9-18	<p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03-10-18</u>.</p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1161 /2018

MUHAMMAD TAJ

VS

SMBR & OTHERS

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	...	1- 4.
2	Charge sheet & statement of allegation	A & B	5- 8.
3.	Reply	C	9- 16.
4.	Impugned Notification	D	17.
5.	Departmental appeal	E	18- 19.
6.	Rejection order	F	20.
7.	Letter	G	21- 24.
8.	Vakalat nama	...	25.

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK,
ADVOCATE

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1161 /2018

Taj
Mr. Taj Mohammad, Ex: Tehsildar (BPS-16),
Tehsil Dargai, District Malakand

Khyber Pakhtunkhwa
Service Tribunal
APPELLANT

VERSUS

Diary No. 1456

Dated 18/9/2018

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

..... **RESPONDENTS**

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

PRAYER:

That on acceptance of this appeal the impugned Notification dated 13.8.2018 and impugned appellate order dated 11.9.2018 may very kindly be set aside and the appellant may kindly be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R.SHEWETH:

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

- Filed to-day
Registrar
18/9/18
- 1- That appellant is the employee of the respondent Department and had served the respondent Department as Tehsildar quite efficiently and up to the entire satisfaction of his superiors.
 - 2- That while posted as Tehsildar, Tehsil Dargai, District Malakand the appellant received charge sheet along with statement of allegations issued vide dated 19.6.2018 wherein it was alleged that the appellant while posted as Tehsildar Mansehra, "**attested inheritance Mutation No.9344 on 18.2.2015 in Revenue Estate Sandesar Mansehra blindly without proper verification about the deceased and his legal heirs. The said mutation was wrongly**

attested by you as the original owners are residing in Indonesia".

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

- 3- That in response to the said charge sheet and statement of allegations the appellant submitted his detailed reply and denied the allegation. That in the said reply the appellant has clearly stated that the Circle patwari, after registering the Mad No.289 and fulfilling all the legal formalities, registered mutation No.9344. That thereafter the said mutation was verified by the Circle Girdawar through witness namely Asim Jadoon S/O Ghulam Mustafa Jadoon relative of the owner among others namely Shabir Khan (Ex-Nazim/Councilor) and Muhammad Farooq in favour of legal heirs of deceased/owner on 21/01/2015 and the same was submitted before the appellant for attestation. The appellant further stated that after fulfilling all the codal formalities and satisfaction through witnesses the appellant attested the said mutation as per law and rules. That appellant further stated in his reply that after his transfer from Mansehra it was brought into his notice by the concerned officials that the deceased/owner to whom inheritance mutation No.9344 relates is alive and working abroad as such the Circle Patwari took notice of the fact and reported the matter to Deputy Commissioner, District Mansehra. The Deputy Commissioner conducted preliminary inquiry into the matter and declared witnesses responsible while the appellant and officials of the concerned circle were exonerated. Copy of the reply is attached as annexure **C.**
- 4- That astonishingly the respondent No.3 without adopting the legal procedure as mentioned in the Khyber Pakhtunkhwa Government Servants E&D Rules 2011 issued the impugned Notification dated 13.8.2018 whereby major punishment of compulsory retirement was imposed on the appellant. Copy of the impugned Notification is attached as annexure **D.**
- 5- That it is pertinent to mention that the issue on which the appellant was awarded major punishment of compulsory retirement is pending before the competent Court of law and the same has not been reach to the logical end but inspite of that the respondents punished the appellant in a hurry manner.
- 6- That feeling aggrieved from the impugned Notification dated 13.8.2018 the appellant preferred Departmental appeal before the respondent No.1 but vide impugned appellate order dated 11.9.2018 the said Departmental appeal was rejected on no good grounds and in violation of clause 24(A) of the General Clauses Act 1897. Copies of the Departmental appeal and rejection order are attached as annexure **E and F.**
- 7- That appellant having no other remedy prefer the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned Notification dated 13.8.2018 and impugned appellate order dated 11.9.2018 issued by the respondent No.1 & 3 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondent No.1 & 2 acted in arbitrary and malafide manner while issuing the impugned Notification dated 13.8.2018 and impugned appellate order dated 11.9.2018.
- D- That no chance of personal hearing/ defense has been given to the appellant before issuing the impugned Notification dated 13.8.2018 and impugned appellate order dated 11.9.2018.
- E- That no regular Departmental has been conducted by the respondents before issuing the impugned Notification dated 13.8.2018 against the appellant which is as per Supreme Court Judgments is necessary in punitive actions against the civil servant.
- F- That the anti corruption Department also initiated inquiry upon complainant is also filed by the Department before the mutation was cancelled, thus putting at rest all the matter and as such the impugned Notification dated 13.8.2018 is not tenable and liable to be set aside. Copy of the Letter is attached as annexure**G**.
- G- That not loss has been caused to the Government Exchequer nor to the other parties, therefore the impugned Notification is not tenable and liable to be set aside.
- H- That in the fact finding inquiry conducted by the Deputy Commissioner the appellant including kanungo of the concerned circle were exonerated while the patwari and witnesses were held responsible for the mentioned issue.
- I- That the inquiry officer who conducted the inquiry was biased because of the fact that the said inquiry is belonging to District Mansehra and as such his role was partial, therefore the impugned Notification is void ab initio on this score alone.
- J- That it is pertinent to mention that the issue on which the appellant was awarded major punishment of compulsory retirement is pending before the competent Court of law and the same has not been reach to the logical end but inspite of that the respondents punished the appellant in a hurry manner.

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

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

Dated: 14.9.2018

APPELLANT


 **MOHAMMAD TAJ**

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**



**OFFICE OF THE DEPUTY COMMISSIONER
MALAKAND**

No: 9832 /1/29/Estt:

Dated: 19/6 /2018.

To

✓
The Assistant Commissioner,
Dargai.

A - (5)

Subject: - **DISCIPLINARY ACTION AGAINST OFFICER / OFFICIAL.**

Memo: -

I am directed to enclose herewith a copy of letter No.Estt:I/PF/Muhammad Taj Dated 08.06.2018 alongwith its enclosures, received from the Assistant Secretary (Estt), Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa, Peshawar, the contents of which are self-explanatory on the subject noted above.

2. The Charge Sheet and Statement of Allegations may be served upon the said officer under proper acknowledgement and a duplicate copy of the same be returned to this office for onward submission to the quarter concerned.

Encl: As above.


ADDITIONAL DEPUTY COMMISSIONER,
MALAKAND.

Endst: No. 9833-34 /1/13/Estt:

Copy for information is forwarded to: -

1. The Deputy Commissioner, Malakand please.
2. The Assistant Secretary (Estt), Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa, Peshawar with reference to his office communique cited above.


ADDITIONAL DEPUTY COMMISSIONER,
MALAKAND.

ATTESTED


c the

Estt)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No. Estt: I/PF/Muhammad Taj/
Peshawar dated the 08/06/2018

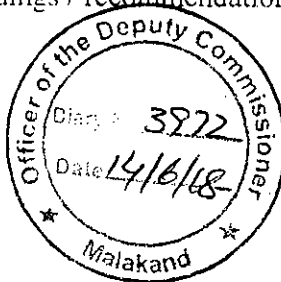
Mr. Saif ul Islam,
Additional Deputy Commissioner,
Haripur.

SUBJECT:- DISCIPLINARY ACTION AGAINST OFFICER / OFFICIAL.

I am directed to refer to the captioned subject and to state that the Competent Authority has been pleased to approve initiation of disciplinary proceedings against the following officer / official under Government Servant (Efficiency & Discipline) Rules, 2011.

1. Mr. Muhammad Taj the then Tehsildar District Manshira.
2. Mr. Waheed Akhtar Kanungo District Manshira.
3. Mr. Farrukh Mehmood Patwari Halqa Sandesar District Manshira.

Consequently, the Competent Authority has pleased to appoint you as Inquiry Officer to investigate the Charges / conduct inquiry under the provision of the said Rules against the aforesaid officer/ official in light of the attached charge sheets / statement of allegation with the request to submit your findings / recommendations / report within a period of twenty (20) days positively.



No. Estt: I/PF/Muhammad Taj / *24687-88*

ATTESTED

Copy forwarded to the:-

1. Deputy Commissioner Manshira (copy of charge sheets in respect of Mr. Waheed Akhtar Kanungo and Farrukh Mehmood Patwari halqa Sandesar District Manshira are enclosed) with the request to depute a representative of your office to join the proceedings on the date, time and place fixed by Inquiry Officer.
2. Deputy Commissioner Malakand (copy of charges sheets / statement of allegations in respect of Muhammad Taj Tehsildar Dargai is enclosed) with the request to serve the same upon the accused official please.

ADDC

23/06/18

Assistant Secretary (Estt)

2

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

B-7

CHARGE SHEET

I, Zafar Iqbal Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, hereby charge you Mr. Muhammad Taj the then Tehsildar District Mansehra as follows:

That you while posted as Tehsildar Mansehra committed the following irregularities:-

1. That you attested inheritance mutation No. 9344 on 18.02.2018 in Revenue estate Sandesar Mansehra blindly without proper verification about the deceased and his legal heirs. The said mutation was wrongly attested by you as the original owners are residing in Indonesia.
2. Your this act tantamount to misconduct and liable you to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

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

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

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

6. Statement of allegations is enclosed.

ATTESTED




Senior Member

3

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

8

DISCIPLINARY ACTION

1. Zafar Iqbal, Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Muhammad Taj the then Tehsilat Manshra has rendered himself liable to be proceeded against, as he committed the following acts / omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS


1. That you attested inheritance mutation No. 9344 on 18.02.2015 in Revenue estate Sandesar Manshra blindly without interrogation about the deceased and his legal heirs. The said mutation was wrongly attested by you as the original owners are residing in Indonesia.
2. Your this act tantamount to misconduct and liable you to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

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

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

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

ATTESTED



- ۱۔ انتقال نمبر 9344 موضع سانڈے سر تحصیل مانسہرہ پٹواری حلقہ کی طرف سے مورخہ 12.01.2015 کو درج رجسٹر ہونے پر گرداور سرکل کی پڑتال کے بعد بغرض تصدیق جلسہ عام مورخہ 18.02.2015 کو پیش ہوا۔ انتقال مذکور کے متوفی خانی زمان ولد ارسلاہ قوم سواتی کی سکونت ساکنہ دیہہ درج تھی۔ متوفی مذکور کے پتہ و سکونت میں بیرون ملک، بیرون شہر پٹواری حلقہ کی طرف سے کوئی اندراج نہیں تھا۔ بنیادی ریکارڈ پٹواری حلقہ کی تحویل میں ہوتا ہے جس کی پڑتال کا 100% گرداور سرکل ذمہ دار ہوتا ہے، مالکان وغیرہ کی سکونت یا دیگر حالات کی بابت بخوبی جانتا ہے۔ انتقال مذکور کا درج کنندہ پٹواری حلقہ عرصہ دراز سے حلقہ سانڈے سر یعنی دیہہ مذکور پر تعینات تھا۔ ریونیو آفیسر بنیادی طور پر کسی بھی انتقال کے بائعہ یا مشتری کے علاوہ متوفی یا اس کے وارثان کو ذاتی طور پر نہیں جانتا بلکہ گواہان کی شناخت پر بائع/مشتری اور متوفی کے وارثان وغیرہ کی تصدیق کی جاتی ہے۔
- ۲۔ انتقال مذکور کی تصدیق کے دوران بحیثیت ریونیو آفیسر جملہ قانونی تقاضے لینڈ ریونیو ایکٹ 1967 کی دفعہ 42 کے تحت پورا کرتے ہوئے بحسلہ عام جملہ حلقہ کی عوام کے روبرو متوفی کے وارثان کی تصدیق بذریعہ عاصم جدون ولد غلام مصطفیٰ جدون رشتہ متوفی، بشیر خان کونسلر، محمد فاروق خان ولد فضل خان کی شناخت پر انتقال مذکور تصدیق کیا گیا۔ لینڈ ریونیو ایکٹ 1967 کی دفعہ 42 مذکور کی کارروائی سرسری نوعیت کی ہوتی ہے۔ انتقال وراثت کی تصدیق کا دارو مدار گواہان کی تصدیق پر ہوتا ہے۔ پھر بھی میں نے بحیثیت ریونیو آفیسر تسلی کے بعد انتقال مذکور کی تصدیق میں جملہ قانونی تقاضے پورے کرتے ہوئے بغیر کسی بددیانتی کے محض اپنے فرائض منصبی کو مدنظر رکھتے ہوئے اللہ تعالیٰ کو حاضر و ناظر جان کر نیک نیتی سے تصدیق کیا ہے۔ ایسی کارروائی کی بابت لینڈ ریونیو ایکٹ 1967 کی دفعہ 181 کے تحت ہر قسم کی کارروائی سے ریونیو آفیسر کو بری الذمہ قرار دیا گیا ہے۔
- ۳۔ انتقال نمبر 9344 کی تصدیق کے بعد ریاست وغیرہ پسران غلام ربانی جو کہ انتقال مذکور کے اعتراضی تھے نے انتقال مذکور پر عدالت دیوانی سول جج - IX مانسہرہ کی عدالت میں دعویٰ دائر کیا اور انتقال مذکور کے علاوہ 1979 میں تصدیق شدہ متوفی خانی زمان کے والد ارسلاہ کی وراثت کو بھی چیلنج کیا ہے۔ انتقال نمبر 4044 وراثت ارسلاہ اور انتقال نمبر 9344 مذکور کی بابت تاحال عدالت دیوانی میں مقدمہ زیر سماعت ہے۔
- ۴۔ انتقال نمبر 9344 کے متوفی کو ارسلاہ ولد احمد جی کی وراثت بذریعہ انتقال نمبر 4044 مورخہ 06.01.1979 کو ملی اور اسکے بعد متوفی خانی زمان مذکور تاحال کاغذات مال میں مالک موجود ہے۔
- ۵۔ موضع کی عام بازگشت کہ انتقال نمبر 9344 کے متوفی کی حیثیت مشکوک ہونے کی بنیاد پر پٹواری حلقہ، ریونیو سٹاف کی رپورٹ کی روشنی میں جناب ڈپٹی کمشنر/کلکٹر صاحب مانسہرہ کی منظوری سے انتقال مذکور مورخہ 20.04.2017 کو نظر ثانی ہو کر خارج ہو چکا ہے۔ نقل حکم جناب DC صاحب مانسہرہ لف ہے اور خانی زمان

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مذکور اپنی اصلی حالت میں کاغذات مال میں بحال ہو چکا ہے۔ نقل انتقال لف ہے۔

۶۔ انتقال مذکور کی بابت کمپلیٹ نمبر ACE-6542 مورخہ 18.04.2017 کے تحت محکمہ اینٹی کرپشن کی طرف سے انکوائری کی گئی جو کہ اصل صورتحال کاغذات مال بحال ہونے کی بناء پر مورخہ 25.09.2017 کو داخل دفتر ہوئی۔ نقل لف ہے۔

۷۔ انتقال مذکور کی ابتدائی انکوائری جناب ڈپٹی کمشنر صاحب مانسہرہ کی منظوری مورخہ 27.04.2017 کے تحت پیرا نمبر 12 کے مطابق تحصیلدار ریونیو آفیسر سرکل کو انتقال مذکور کی تصدیق کی بابت بری الذمہ قرار دیا گیا ہے جبکہ گواہان و پٹواری حلقہ کے خلاف انکوائری کی بابت اسسٹنٹ کمشنر مانسہرہ کو احکامات جاری ہوئے۔ نقل حکم DC صاحب مانسہرہ مورخہ 27.04.2017 لف ہے۔

۸۔ انتقال نمبر 9344 کی تصدیق کے بعد وارثان خانی زمان کی طرف سے درج شدہ انتقال پر تنویر شہزاد تحصیلدار بندوبست اہل کمیشن مقرر ہوا جس نے وارثان خانی زمان کے گھر جا کر وارثان کی تصدیق کے بعد رپورٹ کمیشن پیش کی جس کی رو سے انتقال تصدیق ہوئے۔ انتقال کمیشن شدہ بعد ازاں نظر ثانی ہو کر خارج شدہ قابل ملاحظہ ہے۔ انتقال مذکور پر انتقال نمبر 9344 کا حوالہ موجود تھا کوئی بھی انتقال درج و تصدیق و کمیشن کرتے وقت انتقال زیر تجویز یا حوالہ شدہ انتقال جس کی رو سے انتقال درج کیا گیا ہو اس کی تسلی ضروری ہے۔ اس طرح تنویر شہزاد تحصیلدار بندوبست مانسہرہ اہل کمیشن نے خانی زمان کی وراثت کے انتقال نمبر 9344 کو درست تسلیم و تصدیق کی صورت میں وارثان خانی زمان کی طرف سے بطور کمیشن رپورٹ کی جب کسی انتقال کا حوالہ، انتقال زیر تجویز میں موجود ہو اہل کمیشن گھر جا کر وارثان کو درست قرار دے ایسی صورت میں جلسہ عام میں تصدیق کرنے والے ریونیو آفیسر سے اہل کمیشن پر زائد ذمہ داری عائد ہوتی ہے۔

جناب عالی! ابتدائی انکوائری میں محکمہ جناب ڈپٹی کمشنر صاحب مانسہرہ ریونیو آفیسر سرکل کو بری الذمہ قرار دینے، محکمہ اینٹی کرپشن کی طرف سے باضابطہ انکوائری ہو کر داخل دفتر ہونے، انتقال مذکور کی نظر ثانی ہو کر کاغذات میں اصل پوزیشن بحال ہونے، عدالت دیوانی میں انتقال مذکور کی بابت تاحال فیصلہ صادر نہ ہونے، اہل کمیشن کی رپورٹ کمیشن ملاحظہ نہ ہونے، انکوائری مذکورہ میں انتقال مذکور کے متوفی خانی زمان یا اس کے کسی وارث کی طرف سے کوئی عذر اعتراض تحریری طور پر شامل انکوائری نہ ہونے کی بناء پر سائل بری الذمہ قرار دینے کی استدعا کرتا ہے۔

محمد تاج خان سابقہ تحصیلدار مانسہرہ
مورخہ 17-06-2018

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بسم الله الرحمن الرحيم
الحمد لله رب العالمين
والصلاة والسلام على
سيدنا محمد وآله الطيبين
الطاهرين

محمد طارق خان
المرتب

آدم دور مستحق فاضل محمد خان مان حله بموجب ضمان
آدم دور مستحق فاضل محمد خان مان حله بموجب ضمان
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آدم دور مستحق فاضل محمد خان مان حله بموجب ضمان

289
موت

محمد طارق خان ولد بموجب ضمان

آدم دور مستحق فاضل محمد خان مان حله بموجب ضمان
آدم دور مستحق فاضل محمد خان مان حله بموجب ضمان
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آدم دور مستحق فاضل محمد خان مان حله بموجب ضمان

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موت

Settlement Office
Mansehra
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محمد طارق خان ولد بموجب ضمان

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روزنامه خراسان

تاریخ انتشار

محل انتشار

مدیریت

نوع خدمت

نام کارفرما

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روزنامه خراسان

مشهد

روزانه

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روزنامه خراسان

روزنامه خراسان

روزنامه خراسان

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9/8/16
26/9/16

21/01/2015

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بحوالہ پیرا نمبر 07505

نمبر 10. | انتقالات نمبر 9344، 9450، 9478، 9479، 9506، 9507، 9508، 9544، 9571، 9610 کی قانونی کارروائی کے لیے تحصیلدار بندوبست (I) مانسہرہ کو مورخہ 18.04.2017 لکھا گیا ہے۔

نمبر 11. | مزید عرض ہے کہ انتقال نمبر 9344 مصدقہ 18.02.2015 موضع سانڈہ سر پٹواری حلقہ نے بروئے ریٹ روزنامہ واقعاتی نمبر 289 مورخہ 12.01.2015 درج رجسٹر کیا جس پر گراؤر سرکل نے مورخہ 21.01.2015 کو اپنا پڑتال نوٹ تحریر کیا ہے "کہ بعد تصدیق وارثان بجلہ عام قابل تصفیہ ہے"۔ جو کہ سابقہ تحصیلدار (تاج محمد) نے بجلہ عام مورخہ 18.02.2015 حسب تصدیق عاصم جدون ولد غلام مصطفیٰ جدون رشتہ دار متوفی و گواہان شبیر خان سابقہ کونسلر و محمد فاروق خان ولد فضل خان بحق مسماة بی بی رشیدہ وغیرہ وارثان خانیزمان تصدیق کیا ہے۔

نمبر 12. | انتقال درج و تصدیق کرنے کا ذمہ دار پٹواری حلقہ فرخ محمود و عاصم جدون رشتہ دار متوفی اور گواہان شبیر خان - محمد فاروق ذمہ داران ہیں۔ جبکہ گراؤر سرکل اور تحصیلدار / ریویو افسر سرکل ذمہ دار نہ ہیں۔

نمبر 13. | مندرجہ بالا حالات کی روشنی میں اگر آپ مناسب خیال فرمائیں تو اسٹنٹ کمشنر مانسہرہ سے معاملہ ہذا کی ابتدائی انکوائری کرائی جا کر انکوائری افسر کی سفارشات کی روشنی میں مزید کارروائی جملہ ذمہ داران کے خلاف عمل میں حسب ضابطہ لائی جائے۔ برائے مناسب حکم پیش ہے۔

ڈسٹرکٹ قانونی مامانہ
18-04-2017

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As proposed

7/10/2017

نمبر 14. جناب ایڈیشنل ڈپٹی کمشنر صاحب

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رپورٹ پٹواری!

جناب عالی! موضع کی عام بازگشت سے معلوم ہوا کہ مسی خانیزمان ولد ارسلا کے وارثان بذریعہ انتقال نمبر 9344 مورخہ 18.02.2015 غلط تصدیق ہو چکی ہے جس پر کاغذات مال ملاحظہ کئے۔ جس سے معلوم ہوا کہ انتقال نمبر 9344 دراشت صدقہ 18.02.2015 کہ مالک خانیزمان ولد ارسلا مالک متولی بنام رشیدہ (9) حصہ بیوہ، محمد صادق، محمد زرین، محمد رشید بصرہ (24) حصہ پسران، و مسما تان جمیلہ، رسیلہ، جن بی بی بکھہ (21) حصہ دختران خانیزمان مورخہ 12.01.2015 کو درج ہو کر مورخہ 18.02.2015 کو بجلسہ عام تصدیق ہوا۔ مابعد انتقال نمبر 9450 بیج ملکیت منجانب علی زمان بنام محمد فایون ولد محمد ہایون مورخہ 12.10.2015 کو درج ہو کر مورخہ 12.01.2016 کو بجلسہ عام تصدیق ہوا۔ اس طرح انتقال نمبر 9478 بیج ملکیت منجانب مسکین خان وغیرہ بنام محمد فایون مذکورہ مورخہ 01.12.2015 کو درج ہو کر مورخہ 22.02.2016 کو بجلسہ عام تصدیق ہوا۔ اس طرح انتقال نمبر 9479 بیج ملکیت منجانب مسکین خان وغیرہ بنام شاہنواز خان ولد محمد یوسف خان مورخہ 01.12.2015 کو درج ہو کر مورخہ 12.01.2016 کو بجلسہ عام تصدیق ہوا۔ اس طرح انتقال نمبر 9506 بیج ملکیت منجانب جہانگیر خان وغیرہ بنام عبدالرؤف ولد محمد یونس مورخہ 02.02.2016 کو درج ہو کر مورخہ 13.04.2016 کو بجلسہ عام تصدیق ہوا ہے اور انتقال نمبر 9507 بیج ملکیت منجانب جہانگیر خان وغیرہ بنام محمد فایون مورخہ 02.02.2016 کو درج ہوا۔ مورخہ 13.04.2016 کو تصدیق ہوا۔ انتقال نمبر 9508 بیج ملکیت منجانب جہانگیر خان وغیرہ بنام محبوب حسین ولد محمد یونس مورخہ 02.02.2016 کو درج ہو کر مورخہ 13.04.2016 کو تصدیق ہوا۔ اس طرح انتقال نمبر 9544 بیج ملکیت منجانب مسما بی بی رشیدہ وغیرہ بنام محمد فایون ولد محمد ہایون مشتری مورخہ 03.03.2016 کو درج ہو کر مورخہ 13.04.2016 کو بجلسہ عام تصدیق ہوا۔ انتقال نمبر 9571 بیج ملکیت منجانب محبوب حسین ولد محمد یونس بنام مسما مہناز بی بی زوجہ فضل الرحمان مورخہ 20.04.2016 کو درج ہو کر مورخہ 25.07.2016 کو منظور ہوا اور مابعد انتقال نمبر 9610 بیج ملکیت منجانب محمد فایون وغیرہ بنام محمد رینق وغیرہ مورخہ

باقی صفحہ نمبر 2- پر

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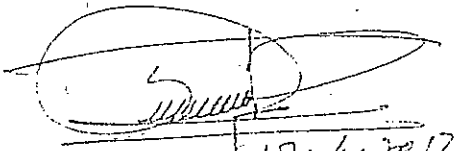
Inheritance mutation was attested wrongly. Review case submitted by field staff is submitted for lawful action along with disciplinary action against the revenue officials concerned.

For
18/4/2017

- 6 DC(M) Process/proceed on per Law 18/4
- 7 ADC(M) For 18/4
- 8 Dk

I. Subramanian

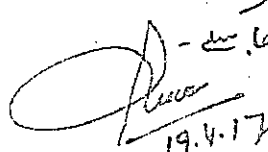
طابق سیرانز 6 حسب ضابطہ طاقات قانون قواعد و ضوابط کارروائی کرے


 D.K. 18.4.2017
 No 1066
 18.4.2017

ATTESTED

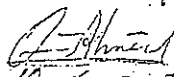



آفس ٹائٹلوں کے ساتھ:

مذکورہ استقلالات نذر و نذر اور سرکل ارسال کر میں تاکہ عملہ استقلالات کے لئے اقدام کرے
 ایڈیشنل سیکریٹری (نظم و ضبط) - حاکمیت

 19.4.17

01.06.2016 کو درج ہو کر مورخہ 25.07.2016 کو بجلسہ عام تصدیق ہوا۔
 چونکہ ابتدائی انتقال نمبر 9344 وراثت خانیزمان متوفی عرصہ دراز سے بیرون ملک اور
 مسماۃ اربیبہ وغیرہ وارثان ارسلسہ خان بھی عرصہ دراز سے بیرون ملک مقیم ہے اور انتقال
 نمبر 9344 وراثت غلط طور پر فرضی اشخاص کے نام درج کرا کر تصدیق کروا کر مابعد
 انتقالات 9344، 9450، 9478، 9479، 9506، 9507، 9508، 9544،
 9571، 9610 کے ذریعہ جملہ رقبہ غلط طور پر درج کروا کر تصدیق کروا دیئے ہیں اور
 جملہ انتقالات فرضی، غلط بائعان بجلسہ عام پیش کر کے تصدیق ہو چکے ہیں۔ چونکہ


اصلی مالکان انڈونیشیا میں مقیم ہیں۔ لہذا استدعا ہے کہ مندرجہ بالا تصدیق شدہ و مندرجہ ذیل خارجی کرنے
 کا حکم بخشا جاوے لہذا رپورٹ بمقام مناسب حکم ارسال خدمت ہے۔


 قیصر احمد پٹواری
 18-06-2017

2
 جا عالی - روبرٹا پٹواری محصل

 14/06/2017

3
 رپورٹ کا تو گلو مال سبرہ

رپورٹ گزار سکران و میوزی ملکہ منصل ہے۔ عطایان لندین رپورٹ رپورٹ
 سکشن 163 مندرجہ بالا استقالات کو نظر ثانی کرنے کے خارج کرنے کا حکم بخشا جائے


 14.4.17



4
 جناب عالی!

رپورٹ سوری علیہ سکران و خدیوہ سند دولت اکٹھہ جنم اسٹیل
 سوطی ہے۔ مطابق رپورٹ خدیوہ سند دولت اکٹھہ سند دولت
 قرائد و منوال نظر سند دولت مذکورہ سوطی سند دولت - تو مناسب سے رپورٹ سوری سند دولت
 14.4.2017



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اندرج ذیل پورے قریب تمام کی جا رہی ہے۔

اندرج ذیل پورے قریب تمام کی جا رہی ہے۔

29/07/76 3/8/15 25/9/16	9344 10/4/17 18/4	18/15 17/15 18/15	نام مالک و احوال	نام مالک و احوال	نمبر پلاٹ و زمین	مسالہ داران	نمبر پلاٹ و زمین	نمبر پلاٹ و زمین	نمبر پلاٹ و زمین	نمبر پلاٹ و زمین	نمبر پلاٹ و زمین	نمبر پلاٹ و زمین	نمبر پلاٹ و زمین	نمبر پلاٹ و زمین	نمبر پلاٹ و زمین
خانم لکھ و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال	خانم ناز و احوال

ATTESTED

دفعہ ۱۴ کے تحت درج ذیل پلاٹوں کے بارے میں رجسٹرڈ ہے اور اس کے بارے میں کوئی اعتراض نہیں ہے۔

12/11/2015

رجسٹرڈ ہے اور اس کے بارے میں کوئی اعتراض نہیں ہے۔

21/01/2015

Certified to be true copy
Attesting Officer
Date
Witnessed by U.S. 76 Pakistan
Witnessed by Ad

2/3/17

J.D. No. 1042
Date 2-5-17
Court Fee
Urgent Fee
Total Fee
Name of Counsel
Date of Completion
Date of Delay
Date of Delivery

Annex D

16

2/3/17

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
Peshawar dated the 17/08/2018

D - (17)

NOTIFICATION.

No.Estt:I/PF/Muhammad Taj/ 30018 WHEREAS; Mr. Muhammad Taj the then Tehsildar Mansehra now Tehsildar Dargai District Malakand, was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the Charge Sheet.

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

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

4. AND WHEREAS, the Competent Authority, is of the view that the accused office is inefficient and has committed misconduct / slackness and criminal negligence by attestation of inheritance mutation of an alive person, living abroad; based upon the fake information provided by an irrelevant person and subsequently alienation of the property to another person through attestation of numerous mutation unlawfully, illegally and against the will and consent of the land owner living abroad.

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

By order of
Senior Member

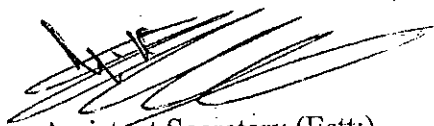
No.Estt:I/PF /Muhammad Taj/ 30019.24

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. Commissioners, Hazara and Malakand Division.
3. Deputy Commissioners, Mansehra and Malakand.
4. District Accounts Officers, Mansehra & Malakand.
5. Officer concerned.
6. Office order file.

ATTESTED




Assistant Secretary (Estt.)

To

E - (18)

The Chief Secretary Khyber Pakhtunkhwa,
Khyber Pakhtunkhwa, Peshawar.

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

Respected Sir,

With most respect it is stated that the appellant is the employee of the Revenue Department and had served the Department as Tehsildar quite efficiently and up to the entire satisfaction of his superiors. That while posted as Tehsildar, Tehsil Dargai, District Malakand the appellant received charge sheet along with statement of allegations issued vide dated 19.6.2018 wherein it was alleged that the appellant while posted as Tehsildar Mansehra, **"attested inheritance Mutation No.9344 on 18.2.2015 in Revenue Estate Sandesar Mansehra blindly without proper verification about the deceased and his legal heirs. The said mutation was wrongly attested by you as the original owners are residing in Indonesia"**.

That in response to the said charge sheet and statement of allegations the appellant submitted his detailed reply and denied the allegation. That in the said reply the appellant has clearly stated that the Circle patwari, after registering the Mad No.289 and fulfilling all the legal formalities, registered mutation No.9344. That thereafter the said mutation was verified by the Circle Girdawar through witness namely Asim Jadoon S/O Ghulam Mustafa Jadoon relative of the owner among others namely Shabir Khan (Ex-Nazim/Councilor) and Muhammad Farooq in favour of legal heirs of deceased/owner on 21/01/2015 and the same was submitted before the appellant for attestation. The appellant further stated that after fulfilling all the codal formalities and satisfaction through witnesses the appellant attested the said mutation as per law and rules. That appellant further stated in his reply that after his transfer from Mansehra it was brought into his notice by the concerned officials that the deceased/owner to whom inheritance mutation No.9344 relates is alive and working abroad as such the Circle Patwari took notice of the fact and reported the matter to Deputy Commissioner, District Mansehra. The Deputy Commissioner conducted preliminary inquiry into the matter and declared witnesses responsible while the appellant and officials of the concerned circle were exonerated.

That astonishingly the concerned authority without adopting the legal procedure as mentioned in the Khyber Pakhtunkhwa Government Servants E&D Rules 2011 issued the impugned

ATTESTED



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Notification dated 13.8.2018 whereby major punishment of compulsory retirement was imposed on the appellant.

That as the revenue officer don't know the owners and legal heirs personally but attest/verify mutation through witnesses similarly, the appellant attested mutation No.9344 bonafide in the presence of above mentioned witnesses and no malafide has been proved on the part of the appellant, therefore the impugned Notification is not tenable and liable to be set aside.

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

It is therefore, most humbly requested that on acceptance of this Departmental appeal the impugned Notification dated 13.02.2018 may please be set aside and the appellant may kindly be re-instated in to service with all back benefits.

Dated: 17.08.2018

Sincerely Your's



MOHAMMAD TAJ

Ex-Tehsildar Dargai, Malakand

ATTESTED



F - (20)

GOVERNMENT OF KHYBER PAKHTUNKHWA

BOARD OF REVENUE

REVENUE & ESTATE DEPARTMENT

No. Estt:I/PF/M.Taj/ 32007.

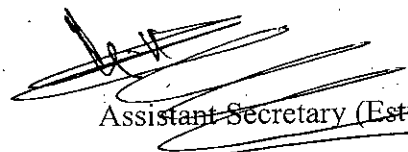
Peshawar dated the 11 /09/2018.

To

Mr. Muhammad Taj
Ex -Tehsildar Dargai.

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER
DATED 13.8.2018.

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


Assistant Secretary (Estt.)

ATTESTED





Anx "D" G-21

(19)

DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT
KHYBER PAKHTUNKHWA
PESHAWAR

No. 14440 Dated 25/09/2017.

To

The Assistant Director-Crimes,
Anti-Corruption Establishment,
Manshra.

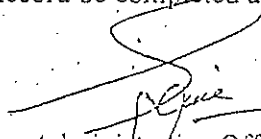
Subject:-

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

Reference your report dated 16.8.2017.

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

Encls: As above.



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

No. Dated /09/2017.

Copy to S.A., ACE, Peshawar.

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

ATTESTED



22



فلاح حالیہ

فائل رپورٹ برائے داخل دفتر

ACE طالعہ

حوالہ شکایت نمبر ACE/42/6542 مورخہ 18/4/17 حکم عدالت طالعہ
 بزرگوار علی زمان خان ولد ارسل خان مکہ بیرو ملک اندول شیخ
 نام۔ ایڈکاران حکم عدالت طالعہ و سٹوڈنٹس و غیرہ۔

خدا علی! حالت شکایت عنوان بالا ایس میں آمدی باقی نے ٹریڈ شکایت بدست
 ACE طالعہ کی حکم عدالت میں پاکستان آیا اور ریشتر راران سے معلوم
 پورا کہ اسکے والد ارسل خان کا جائیداد وراثت ایڈکاران طالعہ کی ملکیت ہے
 حوالہ استعمال نمبر 9344 مورخہ 18/4/15 بمقام خانیڑ خان ولد ارسل خان ٹھیکوٹی پھولی اور
 بعد اسکے جائیداد اور اسکے بھائیوں و غیرہ وراثت کی اڑھی مختلف لوگوں کو بھوسل
 سے بزرگوں انتقال منتقل کی گئی۔

شکایت میں درج الزامات کی رو سے حکم عدالت سے مطلوبہ ریکارڈز الفارڈ
 حاصل کی گئیں اور بیانات ایڈکاران حکم عدالت پھولی سے لیا گیا ہے۔ طالعہ
 کردہ ریکارڈز اور بیانات ایڈکاران حکم عدالت سے پایا گیا کہ شکایت کنندہ اور اس
 کیا و دیگر وراثت کا جو جائیداد بزرگوں انتقال منتقل کیا گیا تھا وہ انتقال بزرگوں
 اور اس نے راجو نیو ایڈ کے تحت بعد نظر ثانی خارج کر دیے ہیں۔ کھاتہ کنندہ
 اور اسکے دیگر وراثت کو کوئی نقصان اب نہیں ہے اُنکا عمل جائیداد انہی
 کے نام و ایس منتقل ہو چکا ہے جو نے حادثہ کا حکم راجو نیو کے ایڈکاران
 سے پھولی تھا وہ درست ہو چکا ہے۔

اسدنا ہیکہ شکایت خدا کو بعد راتے ADR/ACE سے داخل دفتر

مہیا جائے
 Co-ACE-MA
 16-08-2017

ATTESTED

A

23

23

No-233

14/9/17

Reference Attached.

R/Sir,

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

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

ATTESTED

[Handwritten signature]

[Handwritten signature]
 Assistant Director Crimes,
 Anti-Corruption Establishment
 Mansehra.
 14/9/17

ADR/ADL - I

صدر عالی

مقامی رپورٹ کا نقل انوائس ڈیوٹس سے
 سائل نے زیر اعتراض ریکارڈ انتقال شدہ گھرانے کی طرف سے
 درستگی ہو سکتی ہے۔ اس کا اعتراض اس لیے اعلیٰ حالت میں آئیے جس
 انڈر رپورٹ صدر قلم نواز احمد روتھی میں لکھا ہے۔ ADL - I کا نقل دستخط
 کرنے کی سہولت پیش کی جاتی ہے

15/9

ADL - I

VAKALATNAMA

Before the KP Service Tribunal Peshawar

APPEAL No. _____/2018

Muhammad Taj

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt: of KP & others

(RESPONDENT)
(DEFENDANT)

I/We *Muhammad Taj*

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

Dated. _____/_____/2018



CLIENT


ACCEPTED
NOOR MOHAMMAD KHATTAK


MUHAMMAD MAAZ MADNI
ADVOCATES

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141

Service Appeal No. 1161/2018

Mohammad Taj Tehsildar (CCB) Tehsil Dargai District Malakand.

VERSUS

Senior Member Board of Revenue and others.

PRELIMINARY OBJECTIONS.

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

PARAWISE COMMENTS OF RESPONDENT NO. 1,2&3 ARE AS UNDER.

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

GROUND.

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

Therefore based upon the above, it is humbly prayed that the appeal of the appellant may kindly be dismissed with cost having no good grounds.



Respondent No. 1, 2 & 3

1

A

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

Background:

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

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

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

Proceedings:

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

- 28/06/18
1. **Mr. Muhammad Taj, the then Tehsildar Mansehra** stated on oath that he remained posted as Tehsildar Mansehra from 15.07.2013 to 19.03.2015 and he attested mutation No. 9344, which was entered by Patwari Halqa on 18.02.2015 during Jalsa-e-Aam. Replying to a question, he stated that it was correct that he attested the said mutation being Revenue Officer, which was examined by Girdawar Circle concerned. His report was existing on the said mutation. Mr. Asim Jadoon s/o Ghulam Mustafa Jadoon identified himself as relative of the deceased Khani Zaman. Furthermore, on the witnesses of locals namely Shabbir Khan Councilor and Muhammad Farooq s/o Afzal Khan, the mutation was attested. Attestation of mutation is of summary nature, recording of details and checking is the responsibility of Patwari Halqa and Girdawar Circle. Replying to a question as to whether he satisfied himself that the witnesses of the mutation had complete information about the legal heirs of deceased, he replied that mutation No. 9344 was attested after completion of all codal formalities correctly and on the identification of witnesses. Replying to a question as to how he came to know that the mutation was suspect, he replied that after his transfer from Mansehra, Patwari Halqa reported the matter and in pursuance of which Deputy Commissioner / Collector, Mansehra ordered for cancellation of the inheritance mutation. Furthermore, a civil suit is pending in Civil Court pertaining to the said mutation. Anti Corruption also inquired into it and filed the complaint against him. The Deputy Commissioner / Collector, District Mansehra has also held the Revenue Officer exonerated of this charge (copies of cross examination are attached as **Annexure-F**).

2. **Mr. Waheed Akhter, Kanungo, District Mansehra** stated on oath that he remained posted as Girdawar Circle Labarkot from 2014 to 25.10.2017 and he examined inheritance mutation No. 9344 which was entered by Patwari Halqa on 21.01.2015 as deceased Khani Zaman s/o Arsala was land owner. He was asked as to whether during examination of the mutation he inquired about Mr. Fiaz Khan s/o Mehboob Ali r/o Chitta Batta (Naib Nazim VC Sandesar) as who was him and in which capacity asked the Patwari Halqa to prepare inheritance mutation? He replied as since the deceased was the land owner and verification of Shajra was the responsibility of Patwari Halqa during preparation of mutation and entering it in Roznamcha Waqiyati. The Revenue Officer has to verify a mutation in the presence of witnesses. He further stated that responsibility of the Girdawar Circle was to compare the entries of the mutation with register Haqdarain-e-Zameen for examination. Buyers and Sellers appear before the Revenue Officer during the Jalsa-e-Aam and not before the Girdawar during the examination process. He also stated that he performed his duty satisfactorily during the examination of the mutation entered by the Patwari on 21.01.2015 (copies of cross examination are attached as **Annexure-G**).
3. **Mr. Farrukh Mehmood, Patwari Halqa Sandesar, District Mansehra** stated on oath that he remained posted as Patwari Halqa Sandesar from 19.10.2012 to 31.08.2016 and entered / prepared inheritance mutation No. 9344 in the name of legal heirs of deceased Khani Zaman s/o Arsala caste Swati on the oral request of Fiaz Khan s/o Mehboob Ali r/o Chitta Batta (Naib Nazim VC Sandesar) under rapat No. 289 dated 21.01.2015 and signature of Mr. Fiaz Khan are existing the same. He was asked as to whether he inquired from Mr. Fiaz Khan as in which capacity he was asking to enter the said mutation? He replied that yes he asked him who replied that he shall be responsible for any legal complications, therefore, I entered the mutation. He was asked that in his written statement dated 13.06.2018 he stated that the mutation under reference was entered on the oral request of Mr. Fiaz Khan whereas Mr. Asim Jadoon s/o Ghulam Mustafa r/o Village Rerh Tehsil & District Mansehra, the said mutation was entered on the request of Mr. Zahid and Abdur Rashid presently residents of Karachi, what do you want to say in this regard? He replied that the said mutation was entered through Mr. Fiaz Khan and there is no mention of Mr. Zahid and Abdur Rashid etc in his written statement dated 13.06.2018. He was further asked as to whether it was not his responsibility to verify the credentials of all concerned and whether they have complete knowledge about the legal heirs of deceased and whether it was not his responsibility to inquire about the legal heirs of the deceased. What do you want to say in this regard? He replied that it was correct that it was his responsibility to enquire about the rights of the legal heirs of the deceased and satisfy himself before entering a mutation but since the whole responsibility was taken by said Fiaz Khan who signed rapat No. 289 of mutation No. 9344 (copies of cross examination are attached as **Annexure-H**).

Findings and Recommendations:

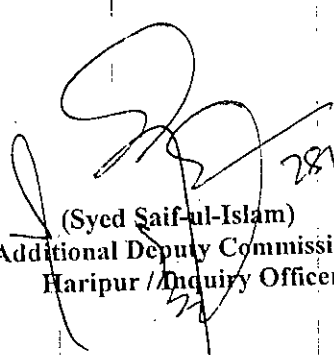
From the perusal of record produced before the undersigned, written statements and cross examination etc. it transpires that all the officials who remained posted as Tehsildar, Girdawar Circle and Patwari Halqa were bound to perform their duties in accordance with relevant rules / regulations as they were found totally naïve and casual to their prime responsibility / job-description. All the accused officials were required to investigate about the deceased and his legal heirs through prominent locals of the area before entering / processing of inheritance mutation No. 9344 but they did not do so. resultantly the said inheritance mutation was wrongly attested by the Revenue Officer. It was the foremost responsibility /

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

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

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

Submitted please.


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

28/06/18

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated 06/07/2018

B

SHOW CAUSE NOTICE

I, Dr. Fakhro Alam, Senior Member, Board of Revenue, as Competent Authority, under the Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) Rules, 2011, do hereby serve you Mr. Muhammad Taj, Ex-Tehsildar Mansehra now Tehsildar Dargai District MKD as follow :-

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

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

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

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


Senior Member

No. Estt: I/PF/Muhammad Taj/ 26981
Peshawar dated 6/07/2018.

وضاحت/جواب بابت چارج شیٹ

جناب عالی!

۱۔ انتقال نمبر 9344 موضع سانڈے سر تحصیل مانسہرہ پنواری حلقہ کی طرف سے مورخہ 12.01.2015 کو درج رجسٹر ہونے پر گرداور سرکل کی پڑتال کے بعد بغرض تصدیق جلسہ عام مورخہ 18.02.2015 کو پیش ہوا۔ انتقال مذکور کے متوفی خانی زمان ولد ارسلاہ قوم سواتی کی سکونت ساکنہ دیہہ درج تھی۔ متوفی مذکور کے پتہ و سکونت میں بیرون ملک، بیرون شہر پنواری حلقہ کی طرف سے کوئی اندراج نہیں تھا۔ بنیادی ریکارڈ پنواری حلقہ کی تحویل میں ہوتا ہے جس کی پڑتال کا 100% گرداور سرکل ذمہ دار ہوتا ہے، مالکان وغیرہ کی سکونت یا دیگر حالات کی بابت بخوبی جانتا ہے۔ انتقال مذکور کا درج کنندہ پنواری حلقہ عرصہ دراز سے حلقہ سانڈے سر یعنی دیہہ مذکور پر تعینات تھا۔ ریونیو آفیسر بنیادی طور پر کسی بھی انتقال کے بائع یا مشتری کے علاوہ متوفی یا اس کے وارثان کو ذاتی طور پر نہیں جانتا بلکہ گواہان کی شناخت پر بائع/مشتری اور متوفی کے وارثان وغیرہ کی تصدیق کی جاتی ہے۔

۲۔ انتقال مذکور کی تصدیق کے دوران بحیثیت ریونیو آفیسر جملہ قانونی تقاضے لینڈ ریونیو ایکٹ 1967 کی دفعہ 42 کے تحت پورا کرتے ہوئے بحسلہ عام جملہ حلقہ کی عوام کے روبرو متوفی کے وارثان کی تصدیق بذریعہ عاصم جدون ولد غلام مصطفیٰ جدون رشتہ متوفی، شبیر خان کونسلر، محمد فاروق خان ولد فضل خان کی شناخت پر انتقال مذکور تصدیق کیا گیا۔ لینڈ ریونیو ایکٹ 1967 کی دفعہ 42 مذکور کی کارروائی سرسری نوعیت کی ہوتی ہے۔ انتقال وراثت کی تصدیق کا دار و مدار گواہان کی تصدیق پر ہوتا ہے۔ پھر بھی میں نے بحیثیت ریونیو آفیسر تسلی کے بعد انتقال مذکور کی تصدیق میں جملہ قانونی تقاضے پورے کرتے ہوئے بغیر کسی بدیانتی کے محض اپنے فرائض منصبی کو مدنظر رکھتے ہوئے اللہ تعالیٰ کو حاضر و ناظر جان کر نیک نیتی سے تصدیق کیا ہے۔ ایسی کارروائی کی بابت لینڈ ریونیو ایکٹ 1967 کی دفعہ 181 کے تحت ہر قسم کی کارروائی سے ریونیو آفیسر کو بری الذمہ قرار دیا گیا ہے۔

۳۔ انتقال نمبر 9344 کی تصدیق کے بعد ریاست وغیرہ پسران غلام ربانی جو کہ انتقال مذکور کے اعتراضی تھے نے انتقال مذکور پر عدالت دیوانی سول جج - IX مانسہرہ کی عدالت میں دعویٰ دائر کیا اور انتقال مذکور کے علاوہ 1979 میں تصدیق شدہ متوفی خانی زمان کے والد ارسلاہ کی وراثت کو بھی چیلنج کیا ہے۔ انتقال نمبر 4044 وراثت ارسلاہ اور انتقال نمبر 9344 مذکور کی بابت تاحال عدالت، دیوانی میں مقدمہ زیر سماعت ہے۔

۴۔ انتقال نمبر 9344 کے متوفی کو ارسلاہ ولد احمد جی کی وراثت بذریعہ انتقال نمبر 4044 مورخہ 06.01.1979 کو ملی اور اسکے بعد متوفی خانی زمان مذکور تاحال کاغذات مال میں مالک موجود ہے۔

۵۔ موضع کی عام بازگشت کہ انتقال نمبر 9344 کے متوفی کی حیثیت مشکوک ہونے کی بنیاد پر پنواری حلقہ، ریونیو سٹاف کی رپورٹ کی روشنی میں جناب ڈپٹی کمشنر/کلکٹر صاحب مانسہرہ کی منظوری سے انتقال مذکور مورخہ 20.04.2017 کو نظر ثانی ہو کر خارج ہو چکا ہے۔ نقل حکم جناب DC صاحب مانسہرہ لف ہے اور خانی زمان

مذکور اپنی اصلی حالت میں کاغذات مال میں بحال ہو چکا ہے۔ نقل انتقال لف ہے۔

۶۔ انتقال مذکور کی بابت کمپلیٹ نمبر ACE-6542 مورخہ 18.04.2017 کے تحت محکمہ اینٹی کرپشن کی طرف سے انکوآری کی گئی جو کہ اصل صورت حال کاغذات مال بحال ہونے کی بناء پر مورخہ 25.09.2017 کو داخل دفتر ہوئی۔ نقل لف ہے۔

۷۔ انتقال مذکور کی ابتدائی انکوآری جناب ڈپٹی کمشنر صاحب مانسہرہ کی منظوری مورخہ 27.04.2017 کے تحت پیرا نمبر 12 کے مطابق تحصیلدار ریونیو آفیسر سرکل کو انتقال مذکور کی تصدیق کی بابت بری الذمہ قرار دیا گیا ہے جبکہ گواہان و پٹواری حلقہ کے خلاف انکوآری کی بابت اسسٹنٹ کمشنر مانسہرہ کو احکامات جاری ہوئے۔ نقل حکم DC صاحب مانسہرہ مورخہ 27.04.2017 لف ہے۔

۸۔ انتقال نمبر 9344 کی تصدیق کے بعد وارثان خانی زمان کی طرف سے درج شدہ انتقال پر تنویر شہزاد تحصیلدار بندوبست اہل کمیشن مقرر ہوا جس نے وارثان خانی زمان کے گھر جا کر وارثان کی تصدیق کے بعد رپورٹ کمیشن پیش کی جس کی رو سے انتقال تصدیق ہوئے۔ انتقال کمیشن شدہ بعد ازاں نظر ثانی ہو کر خارج شدہ قابل ملاحظہ ہے۔ انتقال مذکور پر انتقال نمبر 9344 کا حوالہ موجود تھا کوئی بھی انتقال درج و تصدیق و کمیشن کرتے وقت انتقال زیر تجویز یا حوالہ شدہ انتقال جس کی رو سے انتقال درج کیا گیا ہو اس کی تسلی ضروری ہے۔ اس طرح تنویر شہزاد تحصیلدار بندوبست مانسہرہ اہل کمیشن نے خانی زمان کی وراثت کے انتقال نمبر 9344 کو درست تسلیم و تصدیق کی صورت میں وارثان خانی زمان کی طرف سے بطور کمیشن رپورٹ کی جب کسی انتقال کا حوالہ، انتقال زیر تجویز میں موجود ہو اہل کمیشن گھر جا کر وارثان کو درست قرار دے ایسی صورت میں جلسہ عام میں تصدیق کرنے والے ریونیو آفیسر سے اہل کمیشن پر زائد ذمہ داری عائد ہوتی ہے۔

جناب عالی! ابتدائی انکوآری میں بحکم جناب ڈپٹی کمشنر صاحب مانسہرہ ریونیو آفیسر سرکل کو بری الذمہ قرار دینے، محکمہ انٹی کرپشن کی طرف سے باضابطہ انکوآری ہو کر داخل دفتر ہونے، انتقال مذکور کی نظر ثانی ہو کر کاغذات میں اصل پوزیشن بحال ہونے، عدالت دیوانی میں انتقال مذکور کی بابت تاحال فیصلہ صادر نہ ہونے، اہل کمیشن کی رپورٹ کمیشن ملاحظہ نہ ہونے، انکوآری مذکورہ میں انتقال مذکور کے متوفی خانی زمان یا اس کے کسی وارث کی طرف سے کوئی عذر اعتراض تحریری طور پر شامل انکوآری نہ ہونے کی بناء پر مسائل بری الذمہ قرار دینے کی استدعا کرتا ہے۔

17/06/18

محمد تاج خان سابقہ تحصیلدار مانسہرہ
مورخہ 12-06-2018

D/1

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

CHARGE SHEET

I, Zafar Iqbal Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, hereby charge you Mr. Muhammad Taj the then Tehsildar District Manshara as follows:

That you while posted as Tehsildar Manshara committed the following irregularities:-

1. That you attested inheritance mutation No. 9344 on 18.02.2015 in Revenue estate Sandesar Manshara blindly without proper verification about the deceased and his legal heirs. The said mutation was wrongly attested by you as the original owners are residing in Indonesia.
2. Your this act tantamount to misconduct and liable you to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

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

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

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

6. Statement of allegations is enclosed.


Senior Member

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

DISCIPLINARY ACTION

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

STATEMENT OF ALLEGATIONS

1. That you attested inheritance mutation No. 9344 on 18.02.2015 in Revenue estate Sandesar Manshra blindly without interrogation about the deceased and his legal heirs. The said mutation was wrongly attested by you as the original owners are residing in Indonesia.
2. Your this act tantamount to misconduct and liable you to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

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

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

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

وکالت نامہ

بعدالت ضماں کسروں ٹریڈنگ کمپنی اور

محمدناج خان نام SMBR ضلع

منجانب اپیلانٹ دعویٰ اجرم S.A. /

تھانہ ایف آئی آر تاریخ 18-12-18

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام () کے لئے

غلام محی الدین ملک ایڈووکیٹ سپریم کورٹ آف پاکستان

اینڈ محمد فاروق ملک ایڈووکیٹ ہائی کورٹ کو بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص

رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کرونگا اگر پیشی پر

من مظہر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ

دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بزور تعطیل

پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بزور تعطیل یا کچہری کے

اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا

مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختم صاحب موصوف مثل کردہ ذات خود

منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی

درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے

اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور

بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کٹرفہ درخواست حکم امتناعی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرا

ادائیگی علیحدہ مختار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو

کی کاروائی کے واسطے یا بصورت اپیل، اہیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں۔ اور ایسے

مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو

کچھ ہر جانہ التواء پڑے گا۔ وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا

تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے

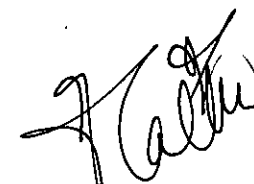
برخلاف نہیں ہوگا۔ لہذا یہ مختار نامہ لکھ دیا کہ سند ہے مورخہ 18/12/18 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ

لیا ہے اور منظور ہے۔

ATTESTED & ACCEPTED:


Ghulam Mohy-ud-Din Malik
Advocate

Supreme Court of Pakistan.


Muhammad Farooq Malik
Advocate Peshawar,

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1016 /ST

Dated 23-5-2019

To


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

Subject: -

JUDGMENT IN APPEAL NO. 1161/2018, MR. MUHAMMAD TAJ & OTHER.

I am directed to forward herewith a certified copy of Judgement dated 09.05.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.