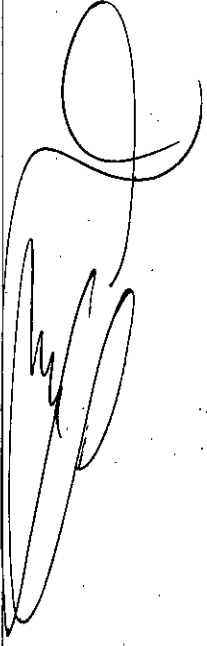



Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	20.11.2015 	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Service Appeal No. 1099/2014 Kifayatullah Versus The Chief Secretary, Khyber Pakhtunkhwa, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Muhammad Asif Yousafzai, Advocate) and Government Pleader(Mr. Muhammad Jan) with Mukhtiar Ali, Supdt. for the respondents present.</p> <p>2. According to appellant, he was appointed as Naib Tehsildar in the Revenue Department in the year, 2009 after recommendation of Public Service Commission. He was removed from service vide impugned order dated 26.5.2014. His departmental appeal was not responded for the reason that as service appeal of the appellant was pending before this Tribunal. Appellant's this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 is for setting aside of the impugned order with prayer of back benefits.</p> <p>3. The charge sheet & statement of allegations was issued to the appellant and he was put to face a regular enquiry through Commissioner, Peshawar on the basis of the following charges:-</p>

- (a) That you were called to record your statement in an inquiry initiated on complaint of Ms. Qurat-ul-Ain Alam, Advocate, Peshawar High Court on 20.01.2014 to explain your position with regard to the allegation leveled against you before Assistant Commissioner, Charsadda.
- (b) Instead of furnishing your response, you deliberately humiliated the complainant (a female) at 1430 hours on 20.,01.2014 in the office of Assistant Commissioner Charsadda by insulting her using abusive language and kicked her in the belly in presence of the staff of Assistant Commissioner Charsadda and general public.”



The Enquiry Officer, vide his report dated 21.04.2014 found the appellant guilty and recommended him for major penalty of removal from service. In the memo: of appeal, the appellant has asserted that disciplinary proceedings against him are based on malafide and due to personal grudges of the then Senior Member Board of Revenue with the appellant. The respondent-department in its replies though has denied any such personal grudges but has stated about unruly behavior of the appellant with Member-II of the Revenue Board which shows that truly the appellant had strained relation with his high-ups. Rejoinder of the appellant is also available on the file.

4. In the meanwhile, a lady Advocate Ms. Qurtulain (Advocate, Peshawar High Court Peshawar) made a

personal complaint against the appellant. The record shows that this personal complaint for the purpose of preliminary enquiry was in the office of Assistant Commissioner, Charsadda. Unfortunately the appellant as well as the complainant lady came face to face in the said office in that enquiry proceedings. The Presiding Officer was not present. According to complainant lady the appellant hurled abuses at her and also kicked her in her stomach. Though this verbatim allegation has been denied by the appellant, however, Deputy Commissioner, Charsadda referred the matter to then SMBR for disciplinary proceedings against the appellant. Resultantly, the appellant was served with charge sheet and statement of allegations. This enquiry was conducted by the Commissioner, Peshawar Division, Peshawar.

5. Arguments heard and record perused.

6. The learned counsel for the appellant submitted that the appellant and the said lady were on intimate terms, therefore, any such acrimony between the two did not ask for any departmental action against the appellant but as the high ups were already against the appellant, therefore, the petty issue was blown out of proportion. It was further submitted that the complainant lady for her personal private reason had made so many other complaints as well against the appellant to various authorities which aspect of

the matter was not taken into account by the departmental authorities that the lady complainant was trying to damage the appellant by any means. That in the process of the Writ Petition of the appellant, it is on record that once SMBR had also been summoned by the hon'ble High Court in person which was taken as insulting in the minds of the high-ups. Thus, the situation was ripe and the appellant was victimized, evident from the fact that the penalty imposed upon the appellant is too harsh in the circumstances. He requested that the impugned order may be set aside and the appellant may be reinstated into service with all back benefits.

7. The learned Government Pleader resisted the appeal on the ground that all the codal formalities have been fulfilled; that opportunity of defence and personal hearing has been provided to the appellant and the appeal is liable to be dismissed.

8. From perusal of the record it transpired that a lady complainant Ms. Quratulain Advocate having intimate terms with the appellant, turned out against the appellant and had requested so many authorities to take action against the appellant. On the day of incident, she had come to Assistant Commissioner office Charsadda in such like a complaint against the appellant. The two came face to face but unfortunately the Presiding Officer was not present in

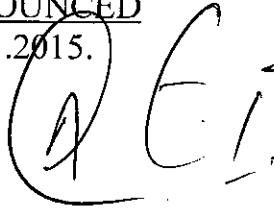
the office. According to the lady complainant, the appellant hurled abuses and also kicked her in her stomach. According to the appellant, he never hurled abuses nor kicked the lady, though furious words had exchanged between the two. Steno and Reader of the court were the eye witnesses but their statements have not been appended by either party. The crucial point for decision of this incident would be as to how the issue reached to this height on that day and who was responsible for that unhappy peak? Since a graphic scene cannot be visualized from the available record which is necessary in view of persistent complaint of the lady against the appellant, and her wish to degrade him as well as the strained relations of the appellant with his high-ups as established on record, therefore, major penalty of removal from service in these circumstances convey to be too harsh. The appellant was recruited as Naib Tehsildar on the recommendations of the Public Service Commission. A long life career was before him. In the light of the foregoing reasons the Tribunal is of the considered view that the penalty imposed on the appellant is disproportionate and the enquiry report lacks depth on the point of true wish and intention of the lady complainant as to whether she wanted to take matter to this height or the appellant only is truly culpable for this misconduct. As such, the Tribunal is inclined to accept the appeal. Hence, the impugned order dated 26.5.2014 is set



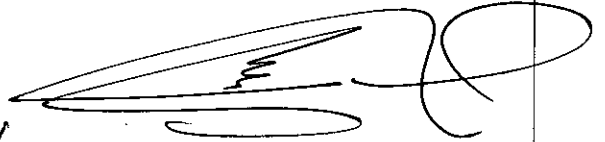
aside and the appellant is reinstated into service. The interval span of the appellant be treated as his leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

20.11.2015.



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

21.09.2015

Appellant with counsel and Mr. Muhammad Jan, GP with Mukhtiar Ahmad, Supdt. for the respondents present. The relevant record was not produced and the learned GP requested for time. The same be produced on the next date. To come up for record and further arguments on 21-10-15.


MEMBER


MEMBER

21.10.2015

Appellant with counsel and Mr. Muhammad Jan, GP alongwith Mr. Mukhtiar Ali, Supdt. for respondents present. Photocopy of inquiry report against Kifayat Ullah, Naib Tehsildar submitted, which is placed on record. To come up for order on 20-11-15.


MEMBER


MEMBER

21.09.2015

4.3.2015

Appellant with counsel and Addl. AG with Mukhtiar Ali, Supdt. for the respondents present. Rejoinder received. To come up for arguments on 12.6.2015.


MEMBER

12.06.2015

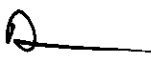
Appellant present in person and Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. for the respondents present. Appellant informed that due to medical check-up of his father, his counsel is not available to-day. Therefore, case is adjourned to 20.08.2015 for arguments.



MEMBER


MEMBER

20.08.2015

Appellant with counsel (Mr. Muhammad Asif Yousafzai, Advocate) and Mr. Muhammad Jan, GP with Naeem Khan, Assistant for the respondents present. Arguments partly heard. Representative of the respondent department is directed to produce complaint (in original) on the basis of which proceedings against the appellant have been initiated. To come up for such record and further arguments on 21-09-2015.


Member


Member

26.1.2015

Appellant with counsel and Mr. Ziaullah, GP with Mukhtiar Ali, Supdt. for the respondents present. The Tribunal is incomplete. To come up for the same on 26.1.2015.


MEMBER

26.1.2015

Appellant with counsel and Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary for the respondents present. Counsel for the appellant submitted that he does not press stay application, if the respondents submitted written reply on main appeal. Representative of the respondents submitted that written reply prepared and placed before the respondents for signature. He requested for short adjournment. Therefore, case to come up for written reply on main appeal on 17.2.2015.


MEMBER

17.2.2015

Appellant with counsel and Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary for the respondents present and reply filed. Copy whereof is handed over to counsel for the appellant. To come up for rejoinder on 4.3.2015.


MEMBER

29.10.2014

Appellant in person and Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. for the respondents present and reply on stay application filed. Copy handed over to appellant. Due to general strike of the Bar, counsel for the appellant is not available. To come up for arguments on stay application and written reply on main appeal on 18.11.2014.


MEMBER

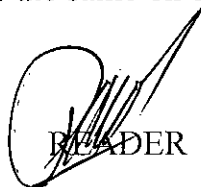
18.11.2014

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Mukhtiar Ali, Supdt. for the respondents present. The Tribunal is incomplete. To come up for the same on 03.12.2014.


READER

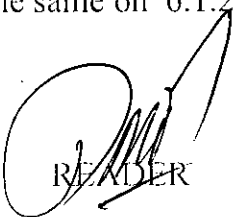
3.12.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. for the respondents present. The Tribunal is incomplete. To come up for the same on 17.12.2014.


READER

17.12.2014

Appellant in person and Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary for the respondents present. The Tribunal is incomplete. To come up for the same on 6.1.2015.


READER

Appeal No. 1999/2014
Mr. Kibajutullah

29.09.2014

Counsel for the appellant present and filed an application for early hearing. Case file requisition. Application allowed. To come up for preliminary hearing on 13.10.2014 instead of 24.11.2014.



Member

13.10.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Rule-19 of the E&D Rules 2011, the appellant has impugned order dated 26.05.2014, vide which the appellant has been removed from service. Against the above referred impugned order appellant filed departmental appeal which was not responded within the statutory period of 60 days, hence the instant appeal on 02.09.2014. Counsel for the appellant also filed an application for suspending the operation of impugned order dated 26.05.2014. Notice of application should also be issued to the respondents for reply/arguments.

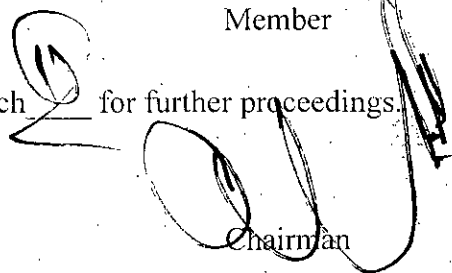
Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on main appeal on 17.12.2014 as well as reply/arguments on application on 29.10.2014.



Member

13.10.2014

This case be put before the Final Bench for further proceedings.


Chairman


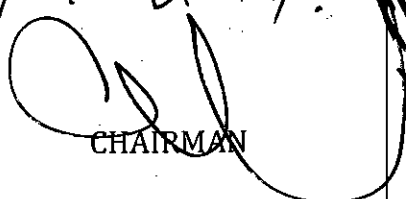
Appellant deposited
Process fee Security
As 2500/- Bank Receipt
attached with file.

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1099/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/09/2014	<p>The appeal of Mr. Kifayatullah presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	3-9-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on 24-11-2014.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1099 /2014.

Kifayatullah, Ex- N.T.

VS

Revenue Deptt:

INDEX.

S.NO	DOCUMENTS	ANNEXURE	PAGE
1-	Memo of appeal.	----	1 – 5
2-	Letter dt. 4.4.2013	A	6
3-	Letter dt. 5.4.2013	B	7
4-	Duty assignment.	C	8
5-	Transfer order dt. 16.4.2013	D	9
6-	Letter dt. 24.4.2013	E	10
7-	Explanation dt. 22.5.2013	F	11
8-	Reply to explanation.	G	12
9-	Arrival report.	H	13
10-	Fact finding inquiry.	I	14
11-	Reply to fact finding committee	J	15
12-	Court's order 4.6.2013	K	16 – 17
13-	Appellate order dt. 20.6.2013.	L	18
14-	Charge sheet. 1.8.2013	M	19
15-	Statement of allegation.	N	20
16-	Enquiry report 26.8.2013	O	21 – 25
17-	Show cause notice 30.8.2013	P	26
18-	Application for changing I/O.	Q	27
19-	Memo of writ petition 2238/13	R	28 – 31
20-	Court's order 3.9.13	S	32
21-	Court's order 9.10.2013.	T	33 – 36
22-	Complaint.	U	37 – 38
23-	Reply to complaint.	V	39
24-	Letter of D.C Charsadda 23.1.2014.	W	40
25-	Complaint.	X	41 – 42
26-	Complaint.	Y	43 – 44
27-	Charge sheet. 19.2.2014	Z	45 – 47
29-	Reply to charge sheet.	AA	48 – 50
30-	Enquiry report.	BB	51 – 52
31-	Show cause notice. 28.4.2014	CC	53

32-	Penalty order 26.5.2014.	DD	54
33-	Appeal.	EE	55 - 58
34-	Vakalat nama.	----	59.

APPELLANT

KIFAYATULLAH

THROUGH:



M.ASIF YOUSAFZAI

ADVOCATE



TAIMUR ALI KAHN

ADVOCATE

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1099 /2014.

KPK SERVICE TRIBUNAL PESHAWAR
1124
02/09/2014

Kifayatullah, Ex- N.T,

Land Acquisition Charsadda.....Appellant.

VERSUS

- 1- The Chief Secretary KPk Peshawar.
- 2- The SMBR, KPK Peshawar.....Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 READ WITH RULE-19 OF THE E&D RULES 2011 AGAINST THE ORDER DATED. 26.5.2014 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD.

[Signature]
2/9/14
PRAYER:

That on acceptance of this appeal the order dated. 26.5.2014 may be set-aside and the appellant may be re-instated with all back and consequential benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

R.SHEWETH.

1. That the appellant joined the Revenue Deptt: as Naib Tehsildar after proper recommendations of the KPK Public Service Commission in the year 2009. The appellant never remained involved in any corruption ca
2. That the appellant has been punished for no fault on his part and the punishment is based on malafide of the respondent No.2 who used the lady advocate against him, which is clear from the coming paras.
3. That in the year 2013, in the month of April, the appellant was engaged with the election process and was attached with the Distt: & Sessions Judge/ Distt: Returning Officer Peshawar on his request. The Distt: Returning Officer also assigned duties to the appellant on 10.4.2013. Copies of letters are attached as Annexure – A,B,C.
4. That on 16.4.2013, the appellant was posted as HVC (R) Peshawar and in response to that the Distt: Returning Officer was informed about the continuation of duty of appellant with him on 24.4.2013. Copies of order and letter are attached as Annexure – D&E.
5. That on 22.5.2013 an explanation was issued to appellant for not complying with the order dated. 16.4.2013 which was properly replied by appellant by showing his arrival report dated. 16.5.2013 as he was on election duty till 14.5.2013, but despite that a fact finding inquiry was conducted on flimsy grounds of back dating the arrival report. The appellant also replied to fact finding inquiry committee. Copies of explanation, reply. Arrival report, fact finding inquiry and reply to fact finding inquiry committee are attached as Annexure – F,G,H,I,J
6. That in mean time the famous case of Khawaja Asif was decided by the Hon'able Supreme Court whereby the posting/transfer orders issued by the care taker Govt: were declared null and void, and therefore keeping in view that position the appellant also filed writ petition no. 1407/2013 and the august High Court directed the departmental authorities to revisit the

matter and resolve the issue. Thereafter , the then SMBR set-aside the order dated. 16.4.2013 through an appellate order. Copies of the court's order and appellate order are attached as Annexure – K&L.

7. That despite of appellate order dated. 20.6.2013, the respondent no.2 issued charge sheet for not complying with the order dated. 16.4.2013 and back dating of arrival report and inquiry was conducted and in pursuance of which show Cause notice was also issued to the appellant, despite the fact that the appellant requested for changing the inquiry officer. But the respondent no.2 was bent upon the appellant to penalize him, so the appellant was constrained to file a writ petition no. 2238/13 in the august Peshawar High Court. The august Court allowed interim relief and also directed respondent no.2 to appear in person for next date. That order of the court turned the respondent no.2 violent towards the appellant as to why he has been personally called for by the court. However, on 9.10.2013, the court directed the respondent no.2 to re-inquire the matter through member-II of BOR with full opportunity of defence to the appellant. Copies of charge sheet, statement of allegation, inquiry report, show cause notice, application, W.P, Court's order and final order of Court are attached as Annexure – M,N,O,P,Q,R,S,T.
8. That as there were also personal clashes between a lady advocate and appellant in progress as evident from different letters and when the appellant was posted in Charsadda, the said lady advocate also wrote a complaint to D.C Charsadda which was properly replied by appellant and the D.C Charsadda clearly responded that such like personal hearing can not be settled in his office. Copies of complaint, reply and letters are attached as Annexure – U,V,W,X,Y.
9. That as the respondent no.2 was having grudges towards appellant, therefore he used the personal clashes as a base for taking departmental action against the appellant and issued charge sheet and stamen of allegation to appellant. The appellant properly replied but despite that inquiry was conducted in a slipshod manner and in pursuant to that report show cause notice was issued to appellant on 28.4.2014 and then penalty order on 26.5.2014 and that too without giving chance of defense to appellant for submitting his reply to show cause notice through his office

tactics. Copies of charge sheet, reply, inquiry report, show cause notice and penalty order are attached as Annexure – Z, AA, BB, CC, DD,

10. That the appellant filed departmental appeal on 5.6.2014 before the respondent no.1 and waited for statutory period but the same has not been decided so far. Hence the present appeal on the following grounds amongst the others. Copy of appeal is attached as Annexure – EE.

GROUND:

- A- That the order dated. 26.5.2014. is against the law facts norms of justice and material on record, therefore, not tenable and liable to be set-aside.
- B- That the appellant has been condemned unheard because the appellant was not given chance to file his reply to the show cause notice through respondent no.2 tactics and such act on his part is totally against the principles of fair play.
- C- That the impugned penalty order is based on personal grudges of respondent no.2 as explained in above paras of fact who got annoyed due to filing of writ petition and personally summoning by the august High Court.
- D- That the clash with the lady advocate was a personal matter which cannot be based for awarding penalty and especially when there is no evidence of corruption against the appellant during performance of his official duty.
- E- That the basis of the penalty order is out side the mandate given in the E&D Rules to the authorities, therefore , the impugned order is liable to be set-aside.
- F- That even the respondents are failed to decided the appeal of the appellant within the statutory period as given in Rule-19 of E&D Rules 2011 which proves malafide on the part of respondents.

- G- That the appellant has not been treated according to law and rules and was not permitted to defend himself properly.
- H- That the 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 be accepted as prayed for.

APPELLANT

KIFAYATULLAH

THROUGH:

M.ASIF YOUSAFZAI

ADVOCATE

TAIMUR ALI KAHN

ADVOCATE

A 63
A

OFFICE OF THE DISTRICT & SESSIONS JUDGE, PESHAWAR.

No. 250 /DSJ/Election Cell Peshawar

Dated 04/04/2013.

To,

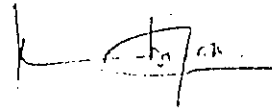
The Deputy Commissioner,
Peshawar.

Subject: **FACILITATION IN THE PROCESS OF GENERAL ELECTIONS 2013**

Memo:

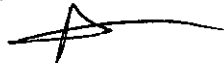
Pursuant to organizing the process of forthcoming general elections 2013, two officers, not below the rank of Naib Tehsildar, are required to District Judiciary for arrangement of vehicles/transportation of election materials and other allied task which would be assigned to them whenever required.

You are therefore, asked to place required officers at the disposal of the Undersigned, till the completion of the process of elections, please.



(Shaiber Khan)
District & Sessions Judge/
District Returning Officer,
Peshawar.

ATTESTED





B
⑦
⑧

**OFFICE OF
DEPUTY COMMISSIONER
PESHAWAR**

No. 57854 /ADC(P)EA
Dated Pesh: the 05/04/2013

To

The District & Sessions Judge/
District Returning Officer,
Peshawar.

Subject: FACILITATION IN THE PROCESS OF GENERAL ELECTIONS 2013.

Reference your letter No. 2601/DSJ/Election Cell Peshawar,
dated 04.04.2013 on the subject cited above.

The following Nib Tehsildars are placed at your disposal till the
completion of election process please.

- ✓ 1. Mr. Kifayatullah, Naib Tehsildar Mohmand.
✓ 2. Mr. Adil Waseem, Naib Tehsildar Qasba.

Additional Deputy Commissioner
Peshawar.

Encl. No. 5785-86 /ADC(P)EA

Copy forwarded to the:

1. Commissioner Peshawar Division Peshawar for information.
2. Naib Tehsildars concerned for information and with the directions to report to District & Sessions Judge / District Returning Officer Peshawar immediately.

Additional Deputy Commissioner
Peshawar.

ATTESTED

(15) (12) C
8

OFFICE OF THE DISTRICT & SESSIONS JUDGE, PESHAWAR.

10th April, 2013

Order:

Pursuant to getting hold of five vehicles out of eleven vehicles (remaining returned), at the same time as District Administration has promised to provide further fifteen vehicles for the purpose of conduct of the upcoming General Elections, 2013; Naib Tehsildar, Peshawar namely Mr. Kifayat Ullah and Adil Wasim are assigned the task of maintaining record of vehicles, names of drivers and concerned departments and the officers to whom the same have been allotted. They are further directed to look into the matters of vehicles placed on reserve pool and to remove deficiencies if any as well.

sd/-

(Shaiber Khan)
District & Sessions Judge/DRO,
Peshawar.

No. 29-30 /DSJ/Criminal-Justice, Peshawar dated: 10/04/2013.

Copy forwarded to:-

1. All the Returning Officers for information ✓
- ✓ 2. Mr. Kifayat Ullah (N/Tehsildar) and Adil Wasim (N/T) for compliance.



District & Sessions Judge/DRO
Peshawar.

ATTESTED





OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR.

Dated Peshawar the, 16/04/2013

OFFICE ORDER

No:2-2(AR)Vol.VI/2012.

The following posting/transfer amongst Naib Tehsildars in Peshawar Division is hereby ordered with immediate effect and in the interest of public service.

S.No	Name of Officials	From	To
1	Mr. Sultan Haider Naib Tehsildar (BPS-14)	Reader Commissioner Pesh.	Naib Tehsildar Circle Mohmand vice S.No. 2
2	Mr. Kifayat Khan Naib Tehsildar (BPS-14)	Naib Tehsildar Circle Mohmand	Head Clerk (Revenue) Peshawar.
3	Mr. Adil Wasim Naib Tehsildar (BPS-14)	Naib Tehsildar Circle Qasba.	District Peshawar Kanungo
4	Mr. Muhammad Ibrar Naib Tehsildar (ACB)	District Kanungo, Peshawar	Naib Tehsildar, Circle Qasba vice S.No. 3 above

-Sd-

COMMISSIONER
PESHAWAR DIVISION PESHAWAR

No: 3738-43 /2-2(AR)Vol.VI/2012

Copy forwarded to the:

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
2. Accountant General Khyber Pakhtunkhwa.
3. Deputy Commissioner, Peshawar.
4. Officials concerned for compliance.
5. Office order file.
6. Personal files.

(MUHAMMAD AMIN)
ASST. TO COMMISSIONER (REV./GA)
PESHAWAR DIVISION PESHAWAR.

ATTESTED



OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR.

No. 5999 /DC(P)AG-1/Elections
Dated Peshawar the 24/04 /2013

E (10) W

"A"

To,

The District & Session Judge/
District Returning Officer,
Peshawar.

SUBJECT: FACILITATION IN THE PROCESS OF GENERAL ELECTIONS 2013.

Kindly refer to your letter No.260/DSJ/Election Cell Peshawar, dated 04.04.2013 and this office letter No.5184/ADC(P)/AG-1, dated 05.04.2013 wherein two Naib Tehsildars Kifayatullah & Aadil Waseem were deputed/placed at the disposal of the District Returning Officer/District & Session Judge Peshawar for the forth-coming election duties.

The Election Commission of Pakistan has desired making of administrative changes at every level including the revenue staff. Postings/transfers of various officers were ordered by the competent authority wherein the above mentioned two Revenue Officers were transferred and posted in District Peshawar enabling them to continue their duties as assigned by the District Returning Officer/District & Session Judge, Peshawar. Both the Officers have been instructed/directed to continue their election duties with the District Returning Officer/District & Session Judge, Peshawar in the larger public interest.

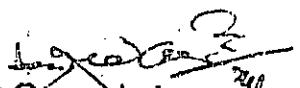

Deputy Commissioner, Peshawar. 11/3

No. 6000-02 /DC(P)/AG-1

Copy forwarded to the:-

1. Commissioner, Peshawar Division Peshawar.
2. Mr. Kifayatullah H.C Revenue, Commissioner's office Peshawar.
3. Mr. Aadil Wasim, District Kanungo, DC's Office Peshawar.

With the instructions to continue their duties as assigned by the District Returning Officer, Pesh.


Deputy Commissioner, Peshawar. 20/11/13



F (11)

**OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR**

No. 6/2/EA/II
Dated: 22.05.2013 / 5280

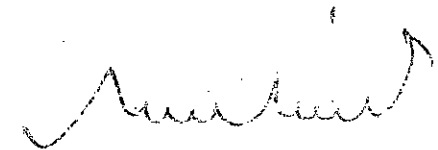
To

Mr. Kifayatullah,
Head Clerk Revenue,
Peshawar.

Subject: **EXPLANATION.**

It has been reported by Deputy Commissioner Peshawar that you have not so far complied with office order No.3738-43/2-2(AR)/Vol-VI/2012 dated 16.04.2013. Competent authority has taken serious notice of this negligence towards official duty.

You are, therefore hereby directed to explain your position that for such carelessness and disobedience, why disciplinary action be not taken against you under the Govt. of Khyber Pakhtunkhwa Servants Efficiency & Disciplinary Rules 2011. Your written reply should reach to this office within three days of receipt of this letter.

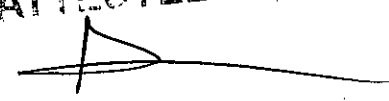

**Assistant to Commissioner (R/GA)
Peshawar Division Peshawar**

No. 6/2/EA/II / 5282-84

Copy forwarded to

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
2. Deputy Commissioner Peshawar w/r to his letter No.6740/DC(P)/EA dated 16.05.2013.
3. PS to Commissioner Peshawar Division.


**Assistant to Commissioner (R/GA)
Peshawar Division Peshawar**

ATTESTED


9
12

To

The Commissioner
Peshawar Division, Peshawar.

Subject.

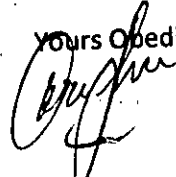
REPLY OF EXPLANATION

Kindly refer to your explanation letter No.6/2/EA/II A/5280 dated 22.5.2013.

It is humbly submitted that as per order of the Deputy Commissioner Peshawar the undersigned remained attached with District Returning Officer Peshawar in election duty till 14th May. On completion of duty, the undersigned assumed the charge of his new office vide No.822-26/ADC/DK dated 16.04.2013 under intimation to your good office and all concerned (copy attached for ready reference).

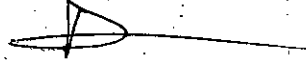
In view of above submissions it is prayed that the explanation may kindly be filed.

Yours Obediently



(Kifayatullah)
Naib Tehsildar, HCR
Peshawar.

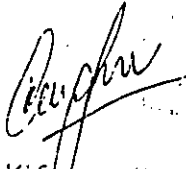
ATTESTED



ASSUMPTION OF CHARGE.

H
13

In pursuance of Commissioner Peshawar Division Peshawar order No.3738-43/2-2(AR)Vol-VI/2012, dated 16th April,2013, I hereby assumed the charge of the post of HCR today the 16th May, 2013 (F.Noon)



(Kifayatullah Khan)
HCR DC Office Peshawar

No. 222-26/100/13

Dated Peshawar, the 16 /05/2013

Copy forwarded for information to :

1. Commissioner Peshawar Division Peshawar for information w/r to his letter quoted above.
2. Deputy Commissioner Peshawar.
3. Additional Deputy Commissioner Peshawar.
4. Assistant Commissioner Peshawar.
5. Tehsildar Peshawar.


(Kifayatullah Khan)
HCR DC Office Peshawar

ATTESTED





OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR

I
14

No. 6/7/EA/11
Dated: 30.05.2013

To

The Deputy Commissioner,
Peshawar.

Subject: FACT FINDING INQUIRY AGAINST NAIB TEHSILDARS M/S
KIFAYATULLAH & ADIL WASEEM.

I am directed to refer to the subject cited above and to state that M/S Kifayatullah Khan & Adil Waseem Naib Tehsildars were transferred vide this office endorsement No.3738-43/2-2(AR)Vol-VI/2012 dated 16.04.2013. Both the officials preferred an appeal in the Civil Court against the said order and also approached Peshawar High Court Peshawar but their appeals were dismissed in the preliminary hearing. This office inquired about their assumption of charge of their respective assignments and was informed by your office vide letter No.6740/DC(P)/EA dated 16.05.2013 that both the officials had not yet submitted their arrival report. This office thereafter called explanations from both the above named Naib Tehsildars vide No.6/2/EA/II/5280 & 5281 dated 22.05.2013 (copies enclosed for ready reference). On 24.05.2013 charge assumption report in respect of Mr. Kifayatullah Khan bearing endorsement No.822-26/ADC/DK dated 16.05.2013 and No.827-31/ADC/DK dated 16.05.2013 in respect of Mr. Adil Waseem were received in the office. Both the reports seem to be fake / bogus & back dated therefore, the dispatch clerk along with dispatch register of the Additional Deputy Commissioner Peshawar was called to this office and his statement regarding issuance of charge assumption report was recorded who categorically stated that the said dispatch numbers have not been entered by him. Photocopies of the dispatch register were also obtained which are sent herewith. Moreover, Additional Deputy Commissioner office Peshawar also telephonically confirmed that charge reports of both the officials are not available on the record of their office.

Keeping in view the above, I am, therefore, directed to ask you that a fact finding enquiry into the matter may please be conducted through Mr. Muhammad Fawad, Additional Assistant Commissioner-VII, Peshawar District who should submit his findings / report / recommendations to this office by 06.06.2013 positively for the perusal of worthy Commissioner.

*Muhammad Fawad Forward AAC-VII
A Conduct Enquiry and furnish report with in the period as directed. Myr 03/6/13.*

766 No.6/7/EA/11
30/5
PS.

IMMEDIATE

ASSISTANT to COMMISSIONER (Rev/ GA)
PESHAWAR DIVISION PESHAWAR

As desired the issue be pushed, and Enquiry Report be finalised within stipulated period.

- Copy forwarded
1. Secretary Board of Revenue, Khyber Pakhtunkhwa.
 2. PS to Commissioner Peshawar Division

[Signature]
ASSISTANT to COMMISSIONER (Rev/ GA)
PESHAWAR DIVISION PESHAWAR

ADC	
AS	
DO (F&P)	
APA	
AO	
PS	

ATTESTED

J
15

To

The Additional Commissioner-VII
Peshawar.

Subject: REPLY OF SUMMON IN FACT FINDING INQUIRY.

I am directed to refer to your summon No:7528 dated 04/06/2013. It is submitted that the undersigned was busy in Election duty 2013 till 14th May. On 15th May the undersigned came to his new office for assumption of charge of his new post. The officials i.e the clerical staff said that as the salary of the undersigned is not disturbed as written assumption is often required for salary purpose, but as the posting of the undersigned is within the same domain that is in Deputy Commissioner Office therefore, there is no need in writing for assuming the charge. But when the undersigned came to know that Additional Deputy Commissioner has replied in writing to Commissioner Peshawar that the undersigned and his colleague has not yet assumed their respective charges.

The undersigned asked the above mentioned staff about assuming of their charges, the said staff was witness of assuming their charge therefore, they prepared charge assumption report in 16th May instead of 15th because of written reply of Additional Deputy Commissioner on 16th May, and issued the same to the concerned high ups on the same day.



Kirayatullah
Naib Tehsildar Peshawar

ATTESTED



K
13
16

~~Handwritten~~

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

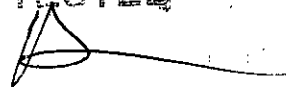
Court of.....

Case No.....of.....

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
04.06.2013	<p><u>W.P.No. 1407-P/2013.</u></p> <p>Present: Mr. Babar Khan Yousafzai, Advocate, for the petitioner..</p> <p>Mr. Naveed Akhtar, AAG, for the official respondents.</p> <p style="text-align: center;">***</p> <p><u>DOST MUHAMMAD KHAN, C.J.-</u> Grievance of the petitioner is that he was untimely transferred not in the public interest but for consideration other than that, which is clear violation of the service law & rules and because his transfer order was passed by the caretaker government, which was having no mandate to make posting & transfer as held by the Hon'ble Apex Court in the recent judgment, therefore, this petition is disposed of with the observations that the Departmental Appellate</p>

Authority

ATTESTED



(17)

(17)

(17)

petitioner shall revisit the matter, if not already decided,
and grievance of the petitioner in light of the Supreme
Court judgment, mentioned above, but positively within
fifteen (15) days.

~~_____~~
CHIEF JUSTICE

W. J.
JUDGE

ATTESTED

~~_____~~

L "S" (S) 18

BEFORE THE COURT OF SENIOR MEMBER BOARD OF
REVENUE KHYBER PAKHTUNKHWA

1. Kifayatullah Naib Tehsildar
2. Adil Waseem Naib Tehsildar Appellants

Versus

Commissioner, Peshawar Division Peshawar Respondent

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE
ORDER DATED 16.04.2013 PASSED BY COMMISSIONER
PESHAWAR DIVISION PESHAWAR.

By this single order will dispose of the above mentioned two identical appeals / representations against the order dated 16.04.2013 issued by Commissioner, Peshawar Division whereby M/S Kifayatullah Naib Tehsildar was posted as Head Clerk (Revenue) and Adil Waseem was posted as District Karungo Peshawar.

Peshawar High Court vide their Judgement dated 04.06.2013 remanded the case of the appellants with the observations that the departmental appellate authority, who earlier rejected the Representations of the Petitioners shall revisit the matter, if not already decided and grievances of the Petitioners be resolved in light of the Supreme Court Judgement dated 09.05.2013 whereby all the appointments, transfers and postings which has been made by the Caretaker Government, has been declared void ab initio, null and void and without lawful authority.

Perusal of the available record reveals that the posting / transfer orders were issue during the Caretaker Government, therefore in light of Judgement of Peshawar High Court dated 04.06.2013 passed in Writ Petition No. 1407-P/2013 and Hon'ble Apex Supreme Court of Pakistan the posting / transfer orders dated 16.04.2013 of Commissioner, Peshawar is without lawful authority and is therefore cancelled. Appeals / Representations are accepted.

Announced
Dated 20.06.2013

ATTESTED

M. Akbar
Reader to
Senior Member,
Board of Revenue,
Khyber Pakhtunkhwa

A. Waseem
Senior Member

ATTESTED

[Signature]

M
19
BB

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

CHARGE SHEET

I, Waqar Ayub, Secretary Revenue & Estate Department, Khyber Pakhtunkhwa as Competent Authority, hereby charge you Mr. Kifayatullah Naib Tehsildar (BPS – 14) as follows:

1. That you while posted as Naib Tehsildar Circle Mohmand, Peshawar committed the following irregularities:

- a) That you were transferred on 16.04.2013 and posted as Head Clerk Revenue Peshawar in the office of Deputy Commissioner, Peshawar. When the office of Commissioner, Peshawar Division inquired about charge assumption, it was reported by the Deputy Commissioner, Peshawar on 16.05.2013 that you have not yet assumed the charge of your post. Your refusal to comply with transfer orders in time falls within the mischief of insubordination and misconduct.
- b) When your explanation was called on 22.05.2013 you sent charge assumption report under No. 822-26/ADC/DC, dated 16.05.2013 to Commissioner, Peshawar Division. On enquiry it revealed that this dispatch number was affixed on some other communication. Therefore, you forged the dispatch number which tantamounts to cheating and misconduct.

2. By reasons of the above, you appear to be guilty of misconduct and insubordination as defined under Rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid. Copy of fact finding enquiry report is annexed.

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

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 whether you desire to be heard in person.

6. Statement of allegations is enclosed.

ATTESTED

Waqar
1-8-2013
Secretary
Revenue & Estate Department

N

20

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

DISCIPLINARY ACTION

I, Waqar Ayub, Secretary Revenue & Estate Department, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Kifayatullah Naib Tehsildar, 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

- a) That you were transferred on 16.04.2013 and posted as Head Clerk Revenue Peshawar in the office of Deputy Commissioner, Peshawar. When the office of Commissioner, Peshawar Division inquired about charge assumption, it was reported by the Deputy Commissioner, Peshawar on 16.05.2013 that you have not yet assumed the charge of your post. Your refusal to comply with transfer orders in time falls within the mischief of insubordination and misconduct.
 - b) When your explanation was called on 22.05.2013 you sent charge assumption report under No. 822-26/ADC/DC, dated 16.05.2013 to Commissioner, Peshawar Division. On enquiry it revealed that this dispatch number was affixed on some other communication. Therefore, you forged the dispatch number which tantamounts to cheating and misconduct.
2. For the purpose of inquiry against the said accused with reference to the above allegations, Syed Zaheer-ul-Islam, Deputy Commissioner, Peshawar is appointed as Inquiry Officer under Rule 10(i)(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 Commissioner Office Peshawar shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

Waqar
Secretary 1-8-2013
Revenue & Estate Department

ATTESTED

[Signature]

Subject:

ENQUIRY INTO THE DISCIPLINARY PROCEEDINGS UNDER THE
RULE 3 OF KHYBER PAKHTUNKHWA GOVERNMENT SERVANT
(EFFICIENCY & DISCIPLINARY) RULES 2011 AGAINST

1. MR. KIFAYATULLAH, NAIB TEHSILDAR MOHMAND CIRCLE.
2. MR. ADIL WASEEM, NAIB TEHSILDAR QASBA CIRCLE.

BRIEF HISTORY.

An enquiry was entrusted to the undersigned as Enquiry Officer by the Board of Revenue, Government of Khyber Pakhtunkhwa, vide its order contained in letter No.Estt:V/Adil Waseem/14390, Peshawar, dated 01.8.2013, for making probe into the allegations made against Mr. Kifayatullah Naib Tehsildar Mohmand Circle and Mr. Adil Waseem Naib Tehsildar Qasba Circle regarding insubordination, cheating and misconduct. (Annexure-A)

2- The charges to be enquired by me are that both the Naib Tehsildars Kifayatullah and Adil Waseem while posted as N.T Mohmand and Qasba Circles respectively were transferred on 16.04.2013 by the competent authority as Head Clerk Revenue and District Kanungo Peshawar, in the office of the Deputy Commissioner, Peshawar, but **FIRSTLY** they did not take the charge (Annexure-B). When the office of the Commissioner Peshawar Division Peshawar, enquired about the charge assumption, it was reported by the Deputy Commissioner, Peshawar, on 16.5.2013 that they had not assumed the charge of the posts yet (Annexure-C). It was then reasonably presumed that they had refused to comply with the transfer orders in time and their this act was taken within the meaning of mischief of insubordination and misconduct.

3- **SECONDLY**, when the explanation was called on 22.5.2013, the accused officials sent their charge assumption reports against forged dispatch numbers which were allocated to some other correspondence and as such by forging the dispatch numbers and making wrong entries in the dispatch register, both the officials were considered guilty of cheating and misconduct.

4 The Commissioner Peshawar Division Peshawar asked to probe into the case of bogus and back dated charge assumption reports of the Naib Tehsildars Mr. Kifayatullah and Adil Waseem and submit report by 6.6.2013 upon which, Mr. Mohammad Fawad Additional Assistant Commissioner conducted a fact finding preliminary enquiry.

5- The Officer conducted a detailed enquiry and found the allegations true to the extent that the charge assumption reports were bogus, back dated and prepared with malafide intention. He opined that both the officials did not comply with the transfer orders and were guilty of misconduct. The probing Officer in his preliminary facts finding enquiry recommended disciplinary action against the accused officials under Rule 3 of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 (Copy attached as Annexure-D).

ATTESTED

Therefore, the Board of Revenue Government of Khyber Pakhtunkhwa vide its order contained in letter No.Esst:V/Adil Waseem/14390 dated 1.8.2013 ordered the present enquiry to make probe into the allegations made against Mr. Kifayatullah and Adil Waseem Naib Tehsildars Mohmand & Qasba Circles respectively regarding insubordination, cheating & misconduct.

In the charge sheets and statement of allegations, both the accused officials are charged separately for committing the following acts/omissions, which are reproduced as:

"1.Mr. Kifayatullah Naib Tehsildar Mohmand Circle.

- (a) That you were transferred on 16.4.2013 and posted as Head Clerk Revenue Peshawar in the office of Deputy Commissioner Peshawar. When the office of the Commissioner Peshawar enquired about the charge assumption, it was reported by the Deputy Commissioner Peshawar on 16.5.2013, that you have not got assumed the charge of the post. Your refusal to comply with the transfer orders in time falls within the mischief of insubordination and misconduct.
- (b) When your explanation was called on 22.5.2013, you sent charge assumption report under No.822-26/ADC/DK dated 16.5.2013 to Commissioner Peshawar Division. On enquiry it revealed that this dispatch number was affixed on some other communication. Therefore, you forged the dispatch number, which tantamounts to cheating and misconduct."

"Mr. Adil Waseem Naib Tehsildar, Qasba Circle Peshawar.

- (a) That you were transferred on 16.4.2013 and posted as Head Clerk Revenue Peshawar in the office of Deputy Commissioner Peshawar. When the office of the Commissioner Peshawar enquired about the charge assumption, it was reported by the Deputy Commissioner Peshawar on 16.5.2013, that you have not got assumed the charge of the post. Your refusal to comply with the transfer orders in time falls within the mischief of insubordination and misconduct.
- (b) When your explanation was called on 22.5.2013, you sent charge assumption report under No.827-31/ADC/DK dated 16.5.2013 to Commissioner Peshawar Division. On enquiry it revealed that this dispatch number was affixed on some other communication. Therefore, you forged the dispatch number, which tantamounts to cheating and misconduct."

PROCEEDINGS

Immediate after the receipt of enquiry order, the charge sheets/statement of allegations were served upon the accused officials on 02.08.2013, wherein the accused were required to put their written defence within seven days of the receipt of charge sheets before the enquiry officer, otherwise it would be presumed that they have nothing to offer in their defence and ex-parte proceedings would be undertaken. They were also asked to intimate whether they desire to be heard in person or otherwise. On 13.08.2013, both the accused officials appeared in person, submitted their written statements (Annexure-E & Annexure-F). In the meantime, the dispatch clerk Mr. Imran was also called who presented the dispatch register. Both the accused officials and dispatch Clerk were examined/cross examined in the light of record in presence of all.

ATTESTED

DEFENCE BY ACCUSED OFFICIALS.

In response to the charge that why did they not take the charge of the posts of their new assignments, they contended that their services had been placed on the disposal of District & Sessions Judge Peshawar vide letter No.5184/ADC(P)/EA dated 05.04.2013 for facilitating the election process and as such they reported to his office.(Annexure-G). They further stated that in the meantime, they were transferred on 16.04.2013 but through another order vide letter No.5999/DC(P)AG-I/Election dated 24.04.2013, they were instructed to continue their election duties with the District Returning Officer/District & Session Judge Peshawar, in the large public interest.

According to them, being on duty in the office of District & Session Judge Peshawar, they were not supposed to take the charge of their new places of posting vide ibid orders till completion of the election process.

- B. While responding to 2nd charge, they categorically denied the charge and said that it was the responsibility of dispatch clerk to properly register their charge assumption reports which according to them they had handed over to the staff of office of the Additional Deputy Commissioner Peshawar. To cut short they did not own the change of forgery of dispatch number.

STATEMENT OF DISPATCH CLERK (MR.IMRAN)

Mr. Imran, dispatch clerk, A.D.C. Office Peshawar, in the presence of accused officials, recorded his statement and said that Mr.Kifayatullah Naib Tehsildar came to his office on 23.05.2013 and asked him to enter the charge assumption reports in back date i.e 16.05.2013 but he refused to do so on the advice of his senior namely Haji Siddique. He further maintained that he refused to obey the illegal request of accused official and left the office for getting some photocopies. On his return, he found that the charge assumption reports had been entered against wrong dispatch numbers on 16.05.2013, which were already allocated to other correspondence. According to him there are ample chances that it was done by the accused official.

EXAMINATION OF RECORD.

The Dispatch Clerk also produced the dispatch register. It was confirmed by the examination of dispatch register that endorsements No.822-26/ADC/DC in respect of charge assumption report of Mr. Kifayatullah and No.827-31/ADC/DC in respect of charge assumption report of Mr. Adil Waseem have already been allocated to other correspondence. Endorsement/Dispatch No 821-823 issued to office orders of Mr.

ATTESTED

(24) 59

Arshed & Younis Naib Qasids, and dispatch No.824 is issued to a letter addressed to Tehsildar Peshawar titled application for correction of girdawari, 825 to a summon addressed to Tehsildar Peshawar and 826 to a notice addressed to Tehsildar. The entry was found false and forged to cheat the high-ups. (S)

DISCUSSION.

From perusal of the charge sheets, statement of allegations, replies thereto by the accused officials, statement of dispatch clerk and examination of the record, the questions/discussion generate that:-

Firstly, whether the accused officials deliberately did not comply with the transfer orders or otherwise?

Secondly, why the need arose to enter the charge assumption reports in back date?

It is an admitted fact that an officer or official can not remain unaware of his transfer orders and it is also true that Govt. servants are quite conscious of the service rules, policies and principles. Being astonished by an official on knowing that he has been transferred to some other position and that too not through the office where he has been assigned additional duty, is just a deceitful statement by the accused officials. No sooner did the officer/officials come to know, that they have been transferred, they either take over/hand over the charge or relinquish/assume, as the case may be and in the instant case their plea that as they were on duty with District Returning Officer and were not supposed to take the charge is totally absurd. The fact is proved as both the defiant officials lodged civil suits in the court of Mr. Mohammad Irfan Civil Judge Peshawar on 18.4.2013. Copies attached as **Annexure-'H' & 'J'**.

Their arguments are inappropriate and unreasonable. They were supposed to take the charge of the posts against which they had to draw their salaries. Further more, they were directed by the then Deputy Commissioner to continue their additional assignment i.e election duty and were not barred to take the charge of the posts of new positions.

The fact that they did not bother to assume the charge is further augmented by the statement of the dispatch clerk where they turn up on 23rd May once matter was ordered to be enquired.

Now coming to the second question as to what forced them to submit their charge assumption reports on 16th May 2013, and why they wanted to have dispatch nos. on that very day only, the answer is quite simple. Firstly the Deputy Commissioner had reported on 16th May 2013, that they had not assumed their charges and secondly, the office of the Commissioner Peshawar Division has enquired about the compliance of the orders. When they failed to force the dispatch clerk's hand, they themselves hurriedly and dishonestly entered their charge assumption reports against wrong dispatch numbers, taking advantage of absence of dispatch clerk and thus committed another blatant misconduct. (4)

ATTESTED

(Signature) DC/EO

25
133
82

FINDINGS :

Both the charges stand proved against the accused officials because they were supposed to take the charge well in time, comply with the orders and then keep on performing additional duties with District Returning Officer at the same time. Their contention is not correct that they were not aware of their postings and were on election duty thinking nothing of their transfer orders.

As far as the charge of back dated entry of their charge assumption reports is concerned, their reply that it was not their responsibility and they knew nothing about it, is not convincing. As discussed earlier, in first attempt, they tried to exert pressure or influence the dispatch clerk and on his refusal, they did that what was not justified. The statement of the dispatch clerk supports the attribution of wrong entries by the accused officials for their gain by corrupting the record on one hand and deceiving the bosses on the other.


RECOMMENDATIONS.

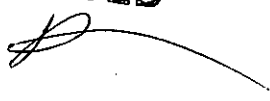
It is deduced from the facts, record and statements that both the officials are found guilty of insubordination, misconduct and cheating. One of the following major penalties is recommended please:-

- 1. Compulsory retirement.
- 2. Dismissal from service.

Enquiry report containing 5 pages and 9 annexure are enclosed.

Dated 26.08.2013


Deputy Commissioner,
Peshawar.
(Enquiry Officer)

ATTESTED


GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

SHOW CAUSE NOTICE

“AA”

P
26

1. I, Waqar Ayub, Secretary Revenue & Estate Department, under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 serve you, Mr. Kifayatullah, Naib Tehsildar that an inquiry conducted against you, an opportunity was given to be heard in person and written defence vide communication dated 02.08.2013.
2. After going through the findings of the Inquiry Officer, the material on record and other connected papers including your defence before the Inquiry Officer, I am satisfied that you have committed gross misconduct on the following counts:
 - a) That while you were transferred on 16.04.2013 and posted as Head Clerk Revenue Peshawar in the office of Deputy Commissioner, Peshawar and when the office of Commissioner, Peshawar Division inquired about charge assumption, it was reported by the Deputy Commissioner, Peshawar on 16.05.2013 that you have not yet assumed the charge of your post. Your refusal to comply with transfer orders in time falls within the ambit of insubordination and misconduct.
 - b) That when your explanation was called on 22.05.2013, you sent charge assumption report under No. 822-26/ADC/DC, dated 16.05.2013 to Commissioner, Peshawar Division. On enquiry it reveals that this dispatch number was affixed on some other communication. Therefore, you forged the dispatch number which tantamounts to cheating and misconduct.
3. As a result thereof, I, as Competent Authority, have decided to impose one or more major penalties indicated in Rule 4(b)(ii) (iii) and (iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.
4. 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 11.09.2013 at 9.00 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 ex-parte action shall be taken against you.

Copy of finding Inquiry Report is enclosed.

Imran
Secretary 30-8-2013

No.Estt: V/Kifayatullah/15557
Peshawar dated 30/08/2013
Mr. Kifayatullah, Naib Tehsildar, Peshawar.

ATTESTED

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No.Estt:V/Kifayatullah 15584
Peshawar dated 02 /09/2013

(175)

"(1)"
27

To

Mr. Kifayatullah,
Naib Tehsildar,
Peshawar.

Subject:- REQUEST FOR RE-NOMINATE THE INQUIRY OFFICER OF THE COMMITTEE

Reference the captioned request forwarded through Sial Ahmad Salman Advocate received on 30.08.2013.

The Government Servants (Efficiency and Discipline) Rules, 2011 do not allow representation of an accused government servant through a counsel, therefore, you are informed that enquiry proceedings have been completed and received in the Department whereafter show cause notices have been signed on 30.08.2013. Your contention made in the request, forwarded by the Advocate have been considered; views of the department are as under:-

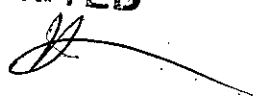
1. Calling of the complainant or his representative during inquiry proceeding is not mandatory; they may however be called by the Inquiry Officer in case a clarification is required.
2. There is no procedure for cross examination. You should have crossed examined witnesses appearing against you. In case the opportunity was not provided, the matter should have been brought into the notice of authorized officer immediately.
3. Inquiry proceedings are different from criminal proceedings; therefore, seeking opinion of handwriting expert is the sole discretion of the Inquiry Officer.
4. No details of complaints file by the Inquiry Officer have not been attached with the request to enable this department to arrive at an equitable decision.

For the reasons explained above no action can be taken in the request at this belated stage.



Secretary-I

ATTESTED



R
98
A

In Re: WP No 2238 /2013

Kifayatullah S/O Haji Akbar R/O Gulbahar No.3, Street Idress Abad,
Peshawar City.....Petitioner

VERSUS

1. Government of Khyber Pakhtun Khwa,
Through Chief Secretary,
Peshawar.
2. Govt. of K.P.K. through
Secretary Board of Revenue, Civil Secretariat,
Peshawar.
3. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar
4. Deputy Commissioner, Peshawar, Deputy Commissioner Office, Bacha
Khan Choke Peshawar.
5. Syed Sultan Haidar Shah S/o Syed Gulzar Hussain Shah
R/o Sheikh Abad No.3, House No. 946/14-A,
Peshawar.....Respondents

14
3039/13

== == == == == == == == == == == == == == == ==
PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN, 1973
== == == == == == == == == == == == == == == ==

FILED TODAY
Deputy Registrar
24 AUG 2013

ATTESTED
A

Respectfully Sheweth:

Brief facts leading to this Writ Petition are as under:

1. That the petitioner, after successfully qualified Public Service Commission examination, was appointed as Naib Tehsildar BPS-14 in the Department of Board of Revenue on 22.1.2009.
2. That the petitioner was indulged in the election process, the respondent No.4 without any authority issued letter dated 16.4.2013 wherein the petitioner was again transferred and was posted as Head Clerk (Revenue), Peshawar. The instant frequent transfer order is the violation of the ban imposed during election process by the Election Commission of Pakistan.

It may be mentioned here that by posting the petitioner as Head Clerk (Revenue), Peshawar which is a lower grade and different cadre post in clear violation of the Govt. Khyber Pakhtunkhwa Gazette Notification dated 29.9.2012 wherein it is clearly mentioned that only Assistant having dealt with revenue or acquisition matter can be posted as Head Clerk (Revenue).

3. That during those last two months, the petitioner has been transferred twice and thus is mortally aggrieved of the frequent transfer order, hence prefers Writ Petition No. 1093-P/2013 "Kifayatullah vs. Govt. of K.P.K. and others" before this Hon'ble Court which was dismissed along with other connected Writ Petitions with the direction to approach the competent forum.
4. That as per directions of this Hon'ble Court when the petitioner approached the Provincial Service Tribunal, it has come to his notice that the Provincial Service Tribunal established under K.P.K. Service Tribunal Act, 1974, was dis-functioned in light of the decorum of the Hon'ble Apex

FILED
 Deputy

24 AUG 2013

ATTESTED

[Signature]

30

BF

Court in the case titled "Sheikh Riazul Haq Advocate vs. Federation of Pakistan etc" until further order.

5. That the Provincial Governor through Gazetted Notification dated 7th May, 2013 had amended the Service Tribunal Act, 1974, due to which, the Service Tribunal was further disfunctioned until further notification and appointment of new Chairman & Members in accordance with the doctrine of Hon'ble Apex Court laid down in the case of "Sheikh Riazul Haq Advocate vs. Federation of Pakistan and others" (Copy of the Notification is attached as Annexure "A").
6. That the petitioner, being a Civil Servant is left with no remedy because the Provincial Service Tribunal was disfunctioned for an indefinite period despite of the fact that gazetted Notification dated 7th May, 2013 is in field, has preferred Writ Petition No.1408 of 2013 titled "Kifayatullah Vs Govt of Khyber Pakhtunkhwa & others" before this Hon'ble Court for constituting of new Services Tribunal which was disposed of with the direction that the worthy SMBR shall revisit the transfer order of the petitioner and decide the matter in light of the decision of the honourable Apex Court in Constitution Petition No. 30/2013 dated 6.6.2013.
7. That the respondent No.5 was not satisfied from the order of the Respondent No.3 (SMBR) for re-instating the petitioner on his original position, has challenged the same before Provincial Service Tribunal in Service Appeal No. 1032 of 2013 fixed for hearing on 26.08.2013.
8. That similarly, respondent No.5 has also filed a Review Petition before the Respondent No.3 for which the forum is not competent and the incumbent Respondent No.3 Fazal Rahmani had filed the Review as being of forum of non-joinder.
9. That respondent No.3 (SMBR) has reopened the Review Petition and restarted the proceedings against the petitioner on revenged basis to

FILED TODAY
Deputy Registrar
21 AUG 2013

ATTESTED

[Signature]

4.

5.

F

2

31 AUG 2012
D. S. KHAN
HIGED 10DVV

[Signature]
ALLEGED

ADVOCATE
[Signature]

- 3 - Case law according to need
- 1 - Constitution of Islamic Republic of Pakistan, 1973

LAW BOOKS:

petition on the subject has earlier been filed in this Hon'ble court
Certified that as per information furnished by my client no such like was

CERTIFICATE:

Dated: - 22/8/2012

Advocate, Peshawar
(BABA KHAN YOUSAFZAI)

[Signature]
Through:

Peshawar

Peshawar

NO 3 may kindly be suspended till the final disposal of the instant Writ
It is further prayed that the proceedings before the court be

INTERIM RELIEF



31/8/12

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

S 32
①
②

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
03.09.2013	<p><u>W.P.No.2238/2013</u></p> <p>Present: M/S Muzammil Khan and Babar Khan Yousafzai, Advocate for the petitioner.</p> <p>Mr. Rab Nawaz Khan, AAG for respondents.</p> <p>Learned AAG present in court in some other cases accepts notice in this case but seeks time to assist the court as he is not in possession of any record of the case. Comments of respondent No.3 be called for so as to reach this Court within 20 days and respondent No.3 shall also attend the court to explain that when the order dated 16.4.2013 was declared without lawful authority by him then how and in what manner the petitioner was charge-sheeted on 01.08.2013 for non-compliance of the said order. Adjourn to a date in office.</p> <p><u>Interim Relief</u></p> <p>Notice. In the meanwhile no adverse action should be taken against the petitioner.</p> <p><i>M. Hazrat Alam</i> <i>M. Faizur Rabbani</i></p>

2948
Presentation of Ag. Motion 05-9-13
2P

CERTIFIED TO BE TRUE COPY

Recd
11/9/13
6/9/13

ATTESTED

P

T
33
S
[scribble]

/

JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT

W.P. NO. 2238-P OF 2013

JUDGMENT

Date of hearing 9-10-2013

Appellant (Kifayatullah) By Mr. Babar Khan Yousofzai, advocate

Respondent (Govt. Etc) By Mr. Waqar Ahmed Khan, Advocate

MIAN FASIH-UL-MULK, J.- Through this

single judgment in W.P. No.2238-P of 2013, we intend to dispose of the connected Writ Petition No.2350-P/2013 also, as both are identical in nature.

2. Kifayatullah and Adil Waseem are petitioners in above noted writ petitions. They are Naib Tehsildars in the Revenue Department, who were transferred by the Deputy Commissioner, Peshawar on 16.04.2013 and posted as Head Clerk Revenue as well as District Kanungo Peshawar respectively in the office of Deputy Commissioner.

In response to a query, whether petitioners had assumed the charge in compliance with above transfer orders or not, it was reported that they had

ATTESTED
[Signature]

34
~~50~~

not submitted their arrival reports. The Deputy Commissioner, therefore, called explanations from both the petitioners, who then submitted their charge reports but the same were found to be entered in the back dates.

3. Meanwhile, petitioners questioned their transfer orders before this Court by filing writ petitions, which, according to them were illegal having been made during the Care-Taker Government in violation of the orders of the august Supreme Court of Pakistan. The writ petitions were, however, disposed of with directions to petitioners to seek their remedy from the Service Tribunal. Petitioners again filed writ petitions before this Court as the Khyber Pakhtunkhwa Service Tribunal being disfunctional did not entertain their appeals. The writ petitions were disposed of with directions to the appellate authority i.e. Senior Member Board of Revenue to dispose of the departmental appeals of petitioners. **ATTESTED**

Sh

[Signature]

Ultimately, the same were decided and transfer orders of petitioners were declared as without lawful authority; hence cancelled vide order dated 20.06.2013.

4. After about three and a half month of the above order, respondent No.5 filed review petitions before Senior Member Board of Revenue, which were accepted and the case was re-opened, in response to which Secretary Revenue and Estate Department issued charge-sheets against petitioners and the Deputy Commissioner was made inquiry officer in the matter, who in his fact finding inquiry held the petitioners guilty of the charge, on the basis of which show-cause notices were issued against the petitioners.

5. Petitioners through instant writ petitions apprehend that the Deputy Commissioner being biased against them would not be in a position to do complete justice to petitioners.

ATTESTED

36

6. In view of the above factual aspect of the case, these writ petitions are disposed of with directions to respondents that let the charge against petitioners be re-enquired through Member-II Board of Revenue wherein petitioners shall be provided proper opportunity of defence and dealt with strictly in accordance with law and the rules,

keeping in view the fact also that a competent forum had earlier declared the transfer orders of petitioners as without lawful authority, where after again petitioners are being proceeded against for the same charge. No order as to costs.

Sd/- Mian Farhad Malik - J

Announced
09.10.2013 *Sd/- Justice Rashid - J*

ATTESTED

[Signature]

*Office
12/10/13*

To
3.
4.
T
B
Wri
Kifay
dil V
rrnr
ctec
Div

14
= (37) (30)


To,

Deputy Commissioner,
Cherrasadda.

Subject: Application For Justice.

Respectfully sheweth:
The Applicant respectfully submits the
under:

- ① That the ~~Shrey~~ Mury of complaint against the
Mr. Kifayatullah Naib Tehsildar ~~acquisition~~
acquisition ^{Cherrasadda} is fixed for today in the
court of Assistant Commissioner, Cherrasadda.
- ② That I came to the court for recording my
statement before the court. In meanwhile the
said official/Respondent came into the
court and start abusing to me and threaten
me in presence of court staff, Reader, stenio,
Naib ~~court~~ ^{quassid}.
- ③ That in this time abusing the said
official/Respondent tried to physically touch
me in indecent way in the presence
of court and in the presence of

ATTESTED


He kicked me in my stomach in the presence of court staff and the court staff saved me from further his actions.

It is, therefore, respectfully prayed the on acceptance of my this application, the Respondent Kifayatullah may kindly be charged ~~with~~ in a proper criminal case. It may also be kindly requested that the said official may kindly be dismissed from service for this action.

Qurat-ul-Ain Alam
Advocate High Court
Peshawar

Ful-ur
Abulcomplaint

Qurat-ul-Ain Alam
Advocate, Peshawar

Dated - 20/01/2016

ATTESTED
[Signature]

Registered

W

40



OFFICE OF THE
DEPUTY COMMISSIONER
CHARSADDA

NO.DC (CHD) Estt: 7(4)Discipline/ 375-77
Dated January 23, 2014.

To

The Section Officer – I (C&RC)
Chief Minister Complaint and Redressal Cell,
Chief Minister's Secretariat Khyber Pakhtunkhwa

Subject: INQUIRY AGAINST KIFAYAT ULLAH, NAIB TEHSILDAR
ACQUISITION CHARASADDA


A complaint was filed with Chief Minister Complaint cell by Ms. Qurtulain (Advocate Peshawar High Court) against NTA Charsadda Mr. Kifayat Ullah. The matter was inquired into by the AC Charsadda. The details of inquiry are explained below:

In pursuance of Section Officer-I (C&RC) Chief Minister Complaint and Redressal Cell, Chief Minister's Secretariat Khyber Pakhtunkhwa letter No. SO(C&RC)/CMS/KP/1-28/2013/1080 dated December 2, 2014, it is submitted that the subject inquiry was marked by the office of the undersigned to AC Charsadda in norms, but also a shameful act in Pakhtoon culture. This which complainant as well as the defendant were called on dated 17-01-2014 where parties were absent on specific date, time and venue. In continuity of the order sheet parties were summoned again by AC Charsadda on dated 20-01-2014 where parties did not observe the time and came late to the office of the AC Charsadda. The AC Charsadda left for the polio campaign after waiting for the parties for an hour. When the undersigned came back Reader of the office of the undersigned submitted a detail report regarding misconduct of Kifayat Ullah that is explanatory and attached for your kind perusal. (Report of AC Office staff attached as Annex-A)

The contents of the application clearly show that the issue between Naib Tehsildar Acquisition Kifayat Ullah and Ms. Quratulain (complainant) dates back to the stay of Mr. Kifayat Ullah in Peshawar as NT Qasba and there is no record of the complaint against him with DC Charsadda. Therefore, personal issues between both the parties can not be settled here as there is no evidence of the already instituted cases between both the parties.

However, I deem it adequate to mention that on 20-01-2014 Mr. Kifayat Ullah was summoned by Assistant Commissioner, Charsadda to enquire into the circumstances regarding the complaint. The NTA in the Court of AC Charsadda misbehaved with the complainant, abused her, used un-parliamentary language and finally kicked here in her belly, which is not only against the official norms, but also a shameful act in Pakhtoon culture. This act was done in the presence

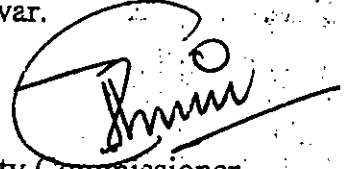
It is strongly recommended that he may please be proceeded under Efficiency & Disciplinary Rules for his shameful act.



Deputy Commissioner
Charsadda

Even No & Date

Copy forwarded to: -

1. The Senior Member Board of Revenue Khyber Pakhtunkhwa, Peshawar.
2. The Commissioner, Peshawar Division Peshawar.


Deputy Commissioner
Charsadda


27/1/14
Coe

To,

The Senior Member Board of Revenue,
Khyber Pakhtunkhwa.

Subject: - COMPLAINT AGAINST 1. KIFAYAT ULLAH NAIB TEHSILDAR
QASBA, PESHAWAR AND 2. DAUD DISTRICT QANOONGO,
ABBATABAD.

Dear Sir,

1. That the above named officers are morally and financially corrupt and this fact is evident from a criminal case registered in the Anti-Corruption Establishment against the Officer at Sl.No.1 in the August, 2011, in various mutations pertaining to Regi Lalma.
2. That the officer at sl.no.1 is having two latest model motorcars bearing Registration No.KH-053, Islamabad and LXM-2444 and a lot of moveable and immovable properties mostly in the names of his close relatives and friends.
3. That in order to convert black money into white, the said officer is constructing and designing and nearly to open a restaurant in the name of Cock & Bull near Baffani Plaza, Iqra Chowk, University Road at the name of his friend Dr. Shehzad.
4. That the officer belongs to a poor family having no rich financial status is enjoying his luxurious life due to extreme corruption. In addition to this the integrity of the officer-1 is questionable and living beyond his means.
5. That the officer is unauthorizedly signing and issuing Domicile Certificate.
6. That the officer-1 when going to sign the illegal mutations and take a huge amount of bribe for it. His subordinate reserve a table for lunch or dinner at Sliver Dragon Chinese Restaurant, University Road for the above said transaction along with the Officer-2. Same as done in the case of illegal mutations/transaction of Regi Lalma.
7. That the above named District Qanoongo when he had been posted as a Girdawar at Dasso, District Kohistan while he use to sit with the said Tehsildar and associates him in his illegal business regularly.
8. That many times charge sheets had been made against the said named District Qanoongo for not performing his duties as a Girdawar posted at Dasso, District Kohistan but he had given a huge amount of bribe to stop inquiry against him and now having Spot full history and ACR promoted as a District Qanoongo, ABBATABAD by using money and political sources.

ATTENDED

(42) (28)

9. That the said named District Qanoongo is also belonging to poor family. He had nothing in 2001 when he was Patwari but Today he is getting his portion in all illegal transactions/mutations form Officer-1 because all the reports are written by said District Qanoongo on illegal mutations and duly signed by Officer-1, having latest motorcar, Registration No.U-1831, Peshawar and build luxurious home and nujra in his village Bahadar Kalay.

10. That the most important thing about the Officer-2/Girdawar is that he is supplying prostitutes and call girls to Officer-1 and to his high ups in order to keep silence on there illegal practices.

11. That the stated grounds constitute a criminal misconduct which is punishable under the National Accountability Bureau Ordinance, 1999; read with the Provisions of Corruption Act, 1947.

Your Obediently,

Qurat-ul-ain
Qurat-ul-ain Alam,
Advocate
High Court, Peshawar.

Copy Forwarded For Information to the:-

1. Chief Justice Supreme Court of Pakistan with the pray to issue necessary directions to the NAB to probe into the matter, please.
2. Chief Justice Peshawar High Court, Peshawar with similar request.
3. Chief Secretary, Govt. of Khyber Pakhtunkhwa with the request to take cognizance of the corruption of the officers.
4. Home Secretary, Govt. of Khyber Pakhtunkhwa with similar request.
5. Director General NAE, Islamabad.
6. Director RAB, Khyber Pakhtunkhwa, Hayalabad, Peshawar.
7. Director Anti-Corruption Khyber Pakhtunkhwa.

ATTESTED

Qurat-ul-ain
Qurat-ul-ain Alam,
Advocate
High Court, Peshawar.

To,

77 (43) 827
dated 16-01-2013

The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

TO CPO/Peshawar

Subject:

Application To Action Against Naib Tehsilidar
Qasiba, Peshawar Mr. Kifayatullah S/O
Muhammad Akbar and District
Qanoongo, Abbottabad Mr. Daud Against Whom
SHO, Eastern Cantt Is Not Taking An Action.

Sir,

It is Requested that I have filed a complaint to the SMBR, Peshawar against the corruption and corrupt practices of Mr. Kifayatullah and Mr. Daud in the last week of July, 2012. Photocopy of the Complaint is attached as Annexure A.

One of the said copy of the complaint is also copy/filed with the Chief Justice of Peshawar High Court, Peshawar and the Chief Justice take an action through his Human Right Female cell and ask the comments form the SMBR, Peshawar on 16/09/2012. Photocopy of the Letter is attached as Annexure B.

Mr. Kifayatullah is frequently harassing and giving me threats for the withdrawal of my said complaint. On 22/11/2012 at 13.00 pm Mr. Kifayatullah and Mr. Daud came to my seat near Peshawar District Bar Room, Gate No.4 Khyber Road, Peshawar and start abusing language and threaten me "if I will not withdraw my said complaint/application against them then I will face bad consequences. I have already filed a complaint against the above said officers in this respect to SHO Eastern, Cantt (Photocopy of the application is attached as Annexure C) but Mr. Kifayatullah being a influential Tehsildar has approach the SHO for not taking action against him. I have given a legal notice to the SHO in this respect on 18/12/2012. Photocopy of the Notice is attached as Annexure D.

On 24/12/2012 I have filed an Application to the Director General NAB, Hayatabad, Peshawar against the concern officers and they called me on 03/01/2013 about the above said complaint against the above officers. Photocopy of the Application is attached as Annexure E.

On same day, on the advice and assistance of the Director Anti-Corruption, Peshawar Mr. Fayaz Ali Shah, I met with S.P

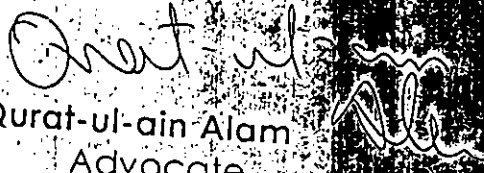
Cantt Mr. Shabi Hussain to hear my grievances from the SHO, Eastern Cantt and provide all the copies of compliance notice and application but he turned a deaf ear.

After that I approached to the S.S.P Operation Mr. Imran Shahidi on 09/01/2013 to hear my grievances and provide all the documents again but he also turned a deaf ear. It is pertinent to mention that Mr. Kifayatullah Naib Tehsildar, Qasba, Peshawar is the younger brother of Mr. Anayat SHO, Chamkani, Peshawar and the above officers of your department know it. The Naib Tehsildar, Qasba is using his illegal black money and political sources to stop lodging F.I.R against him.

The above said Police officers are neither take an action against them nor denied to take an action. The above said police officers neither tell me the progress of my complaint nor tell me the reason of the delay. They put me on wait for good reason of discouraging me to not take an action against the corrupt officers and effecting my legal right by using delaying tactics.

I am a practicing lawyer and they violating my fundamental rights as enshrined by the Constitution of Islamic Republic of Pakistan, 1973. The above said SHO, S.P Cantt, S.S.P Operation are saving the skin of the corrupt officers by doing and asking me why and for what reason and for what purpose I have filed the corruption complaint against the above said officers.

It is, therefore, requested to you that take an expedient action in my complaint against Mr. Kifayatullah and Mr. Daud as well as take an action against their criminal intimidation to me as giving life threads and will face problem if I will not withdraw the said complaint against them and also ask the concerned Police officers for not taking an action against them by using delaying tactics.


Qurat-ul-ain Alam
Advocate
High Court, Peshawar

ATTESTED



Z
48

**GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT**

No. Estt:V/Kifayat 4093-95
Dated Peshawar the 19th February, 2014

To

Capt(R) Munir Azam,
Commissioner,
Peshawar Division, Peshawar.

Subject:- DISCIPLINARY ACTION AGAINST MR. KIFAYAT ULLAH
NAIB TEHSILDAR LAND ACQUISITION CHARSAJDA

I am directed to refer to the subject and state that the competent authority has been pleased to appoint you as Enquiry Officer to investigate the charges and conduct enquiry under the provision of E & D Rules, 2011 against Mr. Kifayat Ullah, Naib Tehsildar, Land Acquisition Charsadda in light of the attached charge sheet/statement of allegations.

I am further directed to request you to submit your findings/
recommendations/report within a period of 15 days please.

Charge sheet and statement of allegations are enclosed.

Assistant Secretary (Estt:)

Endst:No. & date even.

Copy forwarded to:-

1. Deputy Commissioner, Charsadda with reference to his letter No.DC(CHD)/Estt:7(14)Discipline/577 dated 10-2-2014 with the request to depute an officer well conversant with the facts to assist the Enquiry Officer as and when called please.
2. Tehsildar, Charsadda with the direction to serve the charge sheet and statement of allegations upon Mr. Kifayatullah, Naib Tehsildar Land Acquisition, Charsadda and signature of the official be obtained on duplicate copy as acknowledgement of its receipt which may be returned to this office for record.

Assistant Secretary (Estt:)

ATTESTED
A

46

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

CHARGE SHEET

I, Waqar Ayub, Secretary Revenue & Estate Department, Khyber Pakhtunkhwa as Competent Authority, hereby charge you Mr. Kifayatullah Naib Tehsildar (BPS-14) Land Acquisition Charsadda as follows:

1. That you while posted as Naib Tehsildar Land Acquisition Charsadda, committed the following misconduct:

a) That you were called to record your statement in an inquiry initiated on complaint of Ms. Qurat-ul-Ain Alam Advocate, Peshawar High Court on 20.01.2014 to explain your position with regard to the allegation leveled against you before Assistant Commissioner Charsadda.

b) Instead of furnishing your response, you deliberately humiliated the complainant (a female) at 1430 hours on 20.01.2014 in the office of Assistant Commissioner Charsadda by insulting her using abusive language and kicked her in the belly in presence of the staff of Assistant Commissioner Charsadda and general public.

A.C. statement

2. By reasons of the above, you appear to be guilty of misconduct as defined under Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules 2011 and have rendered yourself liable to all or any of the penalties specified in Rules ibid.

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 whether you desire to be heard in person.

6. Statement of allegations is enclosed.

ATTESTED

M. Nawaz
SECRETARY

47

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

DISCIPLINARY ACTION

I, Waqar Ayub, Secretary Revenue & Estate Department, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Kifayatullah Naib Tehsildar, Land Acquisition Charsadda has rendered himself liable to be proceeded against, as he committed the following acts which fall under the meaning of misconduct defined within the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011.

STATEMENT OF ALLEGATIONS

- a) That you were called to record your statement in an inquiry initiated on complaint of Ms. Qurat-ul-Ain Alam Advocate, Peshawar High Court on 20.01.2014 to explain your position with regard to the allegation leveled against you before Assistant Commissioner Charsadda.
- b) Instead of furnishing your response, you deliberately humiliated the complainant (a female) at 1430 hours on 20.01.2014 in the office of Assistant Commissioner Charsadda by insulting her using abusive language and kicked her in the belly in presence of the staff of Assistant Commissioner Charsadda and general public.

2. For the purpose of inquiry against the said accused with reference to the above allegations, Capt @ Munir Azam, Commissioner, Peshawar Division is appointed as Inquiry Officer under Rule 10 (1) (a) of the Rules ibid.

3. The Inquiry Office shall in accordance with the provisions of the Rules ibid provide reasonable opportunity of hearing to the accused, record findings and make, within fifteen (15) 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 Deputy Commissioner Charsadda shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

M. Anwar
SECRETARY

ATTESTED
A

کنیت اللہ نائب قصلدار، بلوچستان چار سہدہ

← یہ لڑکی پچھلے دو سال سے مہر بچھو پڑی ہے۔ کبھی مجھ پر تاؤ نہ لگتا ہے۔ کبھی جادو کرتی ہے۔ کبھی مہر گھریلوں زندگی میں انتشار پیدا کرنے کی کوشش کرتی ہے۔

پچھلے دو سال سے شائد میں کوئی ایسا دفتر خیر خیر خواہ میں رہ گیا ہو جس میں اس نے مہر خلاف درخواست نہ دی ہو۔ لیکن اللہ تعالیٰ کے فضل و کرم سے کسی بھی ایسی کے بنیاد درخواست کو ٹھاس نہیں ڈالی۔

← پھر جب درخواستوں میں ناقص ہو جاتی تو ساتھ ساتھ یہ مجھ پر خلاف کوٹوں کے ذریعے جوتے کرتی تھی کہ مہر ساتھ صلح کر لو۔ حالانکہ پورا ڈسٹرکٹ کورٹ اس کے ریجیوٹیشن سے واقف ہے۔ سب تو اس سے امان چاہتے ہیں۔

← اس دفع اس نے مشور کیا ہے کہ اب وہ مجھ سے اجازت دے گی کیونکہ اس SMBR میں وقار ایوب صاحب کی مجھ سے نہیں تھی۔ وہ اس قصلدار کے خلاف ایک چھوٹی سے چھوٹی چیز سے بھی پھاڑ بنا دیتا ہے تو مہر یعنی اس کے درخواست کو تو ضرور consider کریں گے۔

← جناب عالی! اس کے ایک دفتر میں درخواست دی تھی جو کہ قابل مہر ہے۔ SMBR صاحب کے دفتر میں بھی دی تھی جو کہ اس SMBR نے قابل کی تھی۔ اور ایسی طرح باقی دفاتر میں بھی۔

← اس دفعہ یہ DC چار سہدہ کے پاس آئی کیونکہ اس نے کہا تھا کہ میں شخص نہیں نہیں چھوڑوں اور اس کے پاس بتواتر ہیں۔ مہر خیال میں DC صاحب اس کو پہچان نہیں پاتے DC صاحب اگر اتنا اس سے پوچھتے کہ تمہارا قصلدار کے ساتھ مسئلہ کیا ہے۔ یا شخص قصلدار سے شکایت کیا ہے۔

DC صاحب نے یہ نہیں چوچھا کہ تم آفس میں کون کون سے محفلدار کے پیچھے پڑی ہو۔ اس کے بعد
DC صاحب نے اس کو CM کے محفل میں داخل کرنے میں درخواست دینے کا مشورہ دیا۔
چونکہ مہری ذاتی زندگی میں ملازمت کے ہتھیار ادا ہے۔

← اس لڑکے نے میرے خلاف اتنے قدم اٹھائے اتنی درخواستیں میرے خلاف دی گئیں
اس کے باوجود میں نے اس کو یہ تک نہیں کہا کہ محفل کے چہرے پر دو آنکھیں ہیں
بڑھو۔ اس پر اس کو اور بھی غصہ آتا تھا۔ تو توں کو سمجھتی ہے محفلدار اور مہری
تو تم از کم آنکھوں کے سامنے تو ایسا تھا اب چار سہرہ چلا گیا ہے نظر و اس سے دور ہے اس
کے پیچھے دل غصہ ایسا ہے۔ جسکے یہ تجھے وقتاً فوقتاً SMS بھی کرتی تھی۔

← جناب عالی! اس چارج شیٹ میں لکھے دونوں الزامات غلط ہے بنیاد
اور ذاتیات پر مبنی ہیں۔ میں قطعاً تاریخ پر AC چار سہرہ کے دفتر میں
بنیاد۔ AC صاحب دفتر میں موجود نہیں تھے۔ جسے ہی میں ریڈر کے دفتر میں داخل
ہوا یہ سامنے بیٹھی تھی اور شروع ہوئی میں کھینچ کر نکال نہیں چھوڑتی۔ لو میرے
چار سہرہ آئی ہوں کیا کر سکتے ہو میرا۔ میں اسے باوجود کہیں اسکو کو کہا کہ تم
چار سہرہ آئی ہو میری میکان پر AC صاحب ابھی نہیں ہیں آئیں آئیے کچھ بات
ہیں۔ لیکن یہ اپنی جگہ اس جگہ رکھے ہوئے تھی۔ کبھی میرے پاس سے میں جو بیان
لکھ دیا تھا وہ کبھی لکھی تھی۔ کبھی بالکل میرے سر پر آہٹ لگائی بالکل فردوسی طرز
جسکے پر اتر آئی تھی۔ اس کے باوجود میں نے اپنا بیان لکھ کر ریڈر کے ہوا لیا اور
نقل آئی۔

← جہاں تک جنرل پیس کی بات ہے اور مارنے کی بات ہے یہ سب اس پر غلط اور بنیاد
ہے۔ مہری باقیں ریڈر کے دفتر میں بیٹھی تھی بلکہ دروازے پر۔

ATTESTED

بہ ذرا کم صبر سے خلاف سزا سنیں اور بے ایمانی پر منحصر ہے۔ یہ پورا واقعہ جس میں شرح
صبر سے خلاف اٹھا یا گیا کسی بھی دفتر میں اس شرح نہیں ہوا جس میں شرح SMBR
صاحب نے اس کو حوالہ دی ہے۔

← جناب عالی آپ صبر سے اس سے یہ ہے جو ہے کہ اس کو صبر سے کیا مسئلہ ہے
اور اس کی بنیادی کمی ہے خلاف کیا ہے۔ یہ کہوں جگہ جگہ در خواست
دی ہے صبر خلاف اور اس شرح چار سدرہ کو آئی ہے۔

اور آخر میں آیا ہے گزارش ہے کہ ایسے بد اخلاق اور بد کردار کیمپلٹ کی
جو حکم افزائی کر کے بیچارے کو ملے است نہ کر میں۔ اور آخر میں صبری SMBR کہا
ہے یعنی یہ گزارش ہے کہ اگر انکو ہم سے کوئی شکایت ہے یا بیچارا کوئی عمل اچھا نہیں
دیکھا تو جو کہ میں انکو معاف کرنا چاہتا ہوں۔ ہم ان سے نہ کہ وہ گناہ کی معافی مانگ
بھی چکے ہیں دو بارہ بھی عافیت ملے ہیں آپ بیچارے کو لے میں۔ بیچارے افسوس
رہتا ہے۔ ہمیں اس میں کوئی کفایت محسوس نہیں ہوتی۔ لیکن اس شرح میں بیچارے
سے معمولی چیزیں اٹھا کر اپنے ماعت کو سنیل مار چکرنا ایسے جرم افسوس کو اذ
نہیں دیتا۔ شکریہ

[Handwritten Signature]

ATTESTED

[Handwritten Signature]

کتابت اللہ
نائب قلمدار الکوٹہ

چار سدرہ



BB (SI) 293

**OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR**

**ENQUIRY REPORT AGAINST MR. KIFAYATULLAH NAIB TEHSILDAR
(BPS-14).**

In pursuance of Board of Revenue Khyber Pakhtunkhwa letter No. Estt:V/Kifayat/4093 dated 19/03/2014 I, the undersigned, was appointed as Enquiry Officer to investigate the charges and conduct enquiry under the provisions of E&D Rules 2011 against Mr. Kifayat Ullah Naib Tehsildar, posted as NT (Acquisition) Charsadda, in light of the charge sheet and statement of allegations.

2. Brief facts of the case are that Miss Qirat-ul-Ain Advocate filed a complaint before the Chief Minister's Complaint Cell against Mr. Kifayatullah Naib Tehsildar which was forwarded to the Deputy Commissioner Charsadda for further necessary action. Deputy Commissioner Charsadda marked the same to the Assistant Commissioner Charsadda for enquiry and report. As per report of Deputy Commissioner Charsadda Mr. Kifayatullah NT(Acquisition) in the court of AC Charsadda misbehaved with the complainant, abused her, used unparliamentarily language and kicked her in her belly which is not only a shameful act in Pakhtun culture but also against the officials norms. He, therefore, requested for initiating disciplinary proceedings against him.

3. The accused official was charged as while serving as NT Acquisition Charsadda, he was called to record his statement in an enquiry initiated on the complaint of Miss. Qurat-ul-Ain Alam Advocate, Peshawar High Court on 20.01.2014 to explain his position with regard to the allegations leveled against him before Assistant Commissioner Charsadda. Instead of furnishing his response, he deliberately humiliated the complainant (a female) on 20.01.2014 in the office of Assistant Commissioner Charsadda by insulting her, using abusive language and kicked her in the belly in presence of the staff of Assistant Commissioner Charsadda and general public.

4. I, the Inquiry Officer, received the relevant documents containing letter of appointment of Inquiry Officer, the charge sheet and statement of allegations from the Board of Revenue, Khyber Pakhtunkhwa on 20.02.2014. The accused official submitted his reply to the charge sheet(Annex:A). The accused official, the complainant and the eye witnesses were summoned for 11.03.2014 and their statements were recorded. The statements of complainant, accused official and witnesses namely Rahmat Karim, Reader to Assistant Commissioner, Charsadda and Mr. Muhammad Naeem Steno to Assistant Commissioner Charsadda are attached as Annex: B, C, D & E respectively. The accused official as well as the complainant were also provided an opportunity to cross examine each other as well as the witnesses.

ATTESTED

(52) 594


FINDINGS

5. The accused official denied the charges leveled against him, however, both the witnesses namely Mr. Rahmat Karim and Mr. Muhammad Naeem in their statements confirmed and supported the version of the complainant that the accused official humiliated the complainant, used abusive language and kicked her in her belly in the presence of staff of Assistant Commissioner Charsadda.

6. After hearing the complainant, the accused official, eye witnesses and perusal of their statements, the accused official, Mr. Kifayatullah Naib Tehsildar Acquisition(BPS-14) District Charsadda, has been found guilty of misconduct within the meaning of Khyber Pakhtunkhwa Government Servants(Efficiency and Discipline) Rules, 2011. The charge of misconduct against the accused official is, therefore, proved.

RECOMMENDATIONS

7. In view of the above, it is recommended that a major penalty of removal from service under rule 4(b)(iii) of the Khyber Pakhtunkhwa Government Servants(Efficiency & Discipline) Rules, 2011 may be imposed upon the accused official.


21/04/14
(MUNIR AZAM)
COMMISSIONER
PESHAWAR DIVISION PESHAWAR
(INQUIRY OFFICER)

ATTESTED


CC (53)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

SHOW CAUSE NOTICE.

I, Waqar Ayub, Senior Member, Board of Revenue / Secretary Revenue & Estate Department, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011 serve you, Mr. Kifayatullah, Naib Tehsildar show cause notice that an inquiry was conducted against you, wherein an opportunity was given to you to be heard in person and furnish written defence. The Enquiry Officer has submitted his report on 21-4-2014.

2. After going through the findings of the Inquiry Officer, material on record and your defence before the Inquiry Officer, I am satisfied that you have committed gross misconduct on the following counts.

- a) When you were called upon to record your statement before Assistant Commissioner, Charsadda in an inquiry initiated on complaint of Miss. Qurat-ul-Ain Alam Advocate on 20.01.2014 to explain your position with regard to the allegation levelled against you, you humiliated the complainant (a female) at 14:30 hours on 20.01.2014 in the office of Assistant Commissioner Charsadda using abusive language and kicked her in the belly in presence of the staff of Assistant Commissioner Charsadda and general public.
- b) The verbal and physical assault against the complainant was not only uncalled for, but was conduct unbecoming of Government Servant and a gentleman. Your conduct before the Inquiry Officer was prejudicial to good order and service discipline. Thus you committed misconduct as defined in Rule 2 (1) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

3. As a result thereof, I, as Competent Authority, have agreed to the recommendation of Inquiry Officer to impose major penalty of removal from service as indicated in Rule 4(b) (iii) of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

4. 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 5.5.2014 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 ex-parte action shall be taken against you.

Copy of finding Inquiry Report is enclosed.

Waqar Ayub
Senior Member/ Secretary

No. 9198 /Estt:V/Kifayat/NT

Peshawar, dated 28/04.2014.

Mr. Kifayatullah Naib Tehsildar Land Acquisition Charsadda.

ATTESTED

DD (54)
GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated 26 /05/2014

NOTIFICATION

No. Estt: V/Kifayatullah/ 11119. WHEREAS Mr. Kifayatullah, Naib Tehsildar Land Acquisition, Charsadda was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in Charge Sheet and Statement of Allegations dated 19-02-2014.

AND WHEREAS Capt. (Rtd) Munir Azam, Commissioner Peshawar Division was appointed as Inquiry Officer to probe 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 statements of accused official, submitted his report whereby the charges of using abusive language and physically assaulting the complainant, a female, while waiting in office of Assistant Commissioner Charsadda in connection with fact finding enquiry, stand proved.

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

NOW THEREFORE while considering the gravity of misconduct i.e. abusing and physically assaulting a female as conduct unbecoming of a Government Servant and a gentleman, and prejudicial to service discipline, I as Competent Authority, in exercise of powers conferred under Rule 4(b)(iii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 impose the major penalty of Removal from service upon Mr. Kifayatullah, Naib Tehsildar Land Acquisition Charsadda.

sdf
Senior Member

No. Estt: V/Kifayatullah/ 11120-26

Copy forwarded for information & appropriate action to:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar Cantt.
2. Commissioner Peshawar Division, Peshawar.
3. Deputy Commissioner, Charsadda.
4. District Accounts Officer, Charsadda.
5. Private Secretary to Senior Member Board of Revenue, Peshawar.
6. Official concerned.
7. Personal File.

ATTESTED

[Signature]
Assistant Secretary (Estt.)

Total service Feb 17/2014

EE

55

Departmental Appeal

In Respect of

The Chief Sectary / Appellate Authority
Khyber Pakhtunkhwa
Peshawar.

Departmental Appeal Against the
Impugned order of removal from
Service of Appellant bearing
No Eastt:V/Kifayat ullah/ 11120-26

Relief Claimed

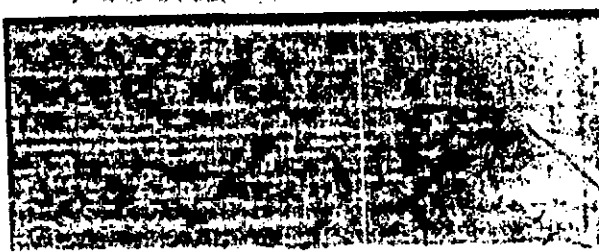
To set aside the inquiry proceedings along with impugned order of removal from service referred above, being wrong, illegal, against facts, Null and void, ineffective on appellant and hence the appellant be reinstated / ^{reinst.} resorted along with all its back benefits.

Respectfully Submitted that

1. The appellant was inducted in service as Naib Tehsildar in BPS 14, through Provincial Public Service in Feb 2009 and Served as H.V.C in D.C office Peshawar, Naib Tehsildar Mohmmand and presently was Naib Tehsildar Land Acquisition Charsadda.
2. The appellant was charged for Misbehaviorur, insulting, and humiliating a Lady Advocate in the office of AC Charsadda.
3. For the said charges, the Appellant was charge sheeted and statement of allegations were served upon him Directly by the

ATTESTED

R



competent authority and hence he was referred to Commissioner Peshawar as an inquiry officer against the appellant.

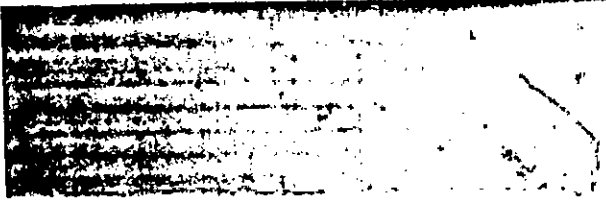
- 4. The inquiry officer in slip shod manner with out compliance of codal formalities and with out affording proper opportunity of defence submitted his report of removable from service.
- 5. Legally the inquiry officer can not recommend the punishment to the Competent Authority.
- 6. Acting on the report of inquiry officer with out asking any Explanation from appellant regarding findings of inquiry report, the Impugned order of remove~~d~~ from service was issued.

Aggrieved from which removal order the instant Departmental Appeal.

Grounds for setting aside the Impugned order of removal from service.

- i) That No offence of any Misconduct has been committed by Appellant. The Appellant never insulted the lady Advocate nor Humiliated her.
- ii) The offence (if any before the High ups) was not of such a nature which could entail such a drastic punishment of removal from service. The codal formalities for a formal and proper inquiry has never been complied with.
- iii) Laws and Rules have been transgressed in the matter and the appellant has been condemned unheard.
- iv) The enquiry proceedings and Impugned order are illegal and unjustified.

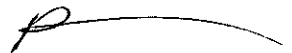
ATTESTED
[Signature]



JS7

- v) The inquiry proceedings and Impugned order are wrong and illegal, without jurisdiction and so void abinitio.
- vi) The Inquiry proceedings and Impugned removal order are arbitrary in nature and so are contradictory one.
- vii) The entire proceedings as well as Impugned order are against the Rules of natural justice.
- viii) No oral or documentary evidence brought on record in support of charges.
- ix) Proper procedure has never been adopted in the matter and so the entire proceedings vitiated from the very inception.
- x) The inquiry proceedings as well as the Impugned order are based on presumptions, suppositions, surmises and conjectures.
- xi) The appellant has been condemned unheard and the Impugned order is biased one, and prejudice in its nature.
- xii) The removal Authority never acted fairly and impartially.
- xiii) The Appellant is innocent and has falsely been implicated in the case and has been victimized.

ATTESTED



Prayer.

For the above stated reasons and in interest of Justice,
The inquiry proceeding and removal order of appellant are wrong, illegal, void abinitio, Malafide one and so be setaside and the appellant be reinstated / restored in service with all its back benefits.

Appellant



Kifayat Ullah
Ex. Naib Tehsildar
Land Acquisition
Charsadda.

D.No. C.S-009
dt: ~~5-6-14~~
5-8-14
4-9-14

ATTESTED



89

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Kifayatullah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Chief Secretary etc (Respondent)
(Defendant)

I/We Kifayatullah (Appellant)

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar,** ^{§ Taimur Ali Khan} _{Adv} 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

[Signature]
(CLIENT)

ACCEPTED

[Signature]
M. ASIF YOUSAFZAI
Advocate

[Signature]
TAIMUR ALI KHAN
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

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

Appeal No. 1099/2014

Kifayatullah

V/S

Revenue Department.

.....
**APPLICATION FOR FIXING OF AN EARLY DATE OF
HEARING IN THE ABOVE TITLED INSTEAD OF 24-11-2014**
.....

RESPECTFULLY SHEWETH:


1. That the appellant has filed appeal against the order dated 26.5.2014, where the appellant has been removed from the service and not taking action on departmental appeal of the appellant with in statutory period and fixed for preliminary hearing on dated 24.11.14
2. That the main issue in the appeal is regarding the removal from service of the appellant. The appellant is facing great hardships in shape of unemployment due to which the whole family is suffering a lot.
3. That the appellant has no other remedy but to request the august Tribunal for early hearing and to meet the principal of access to justice.


It is, therefore, most humbly prayed that the appeal is hand may be hear on an early date instead of 24-11-14 to meet the ends of justice.



Appellant
Kifayatullah

THROUGH:

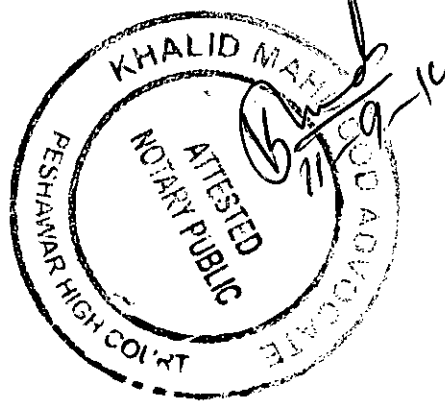

(M. ASIF YOUSAFZAI)

AND 
(TAIMUR ALI KHAN)

ADVOCATES PESHAWAR

AFFIDAVIT:

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




Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1099/2014

Kifayatullah, Ex.N.T, Land Acquisition, Charsadda. .. (Appellant)

Versus

1. The Chief Secretary, KPK Peshawar.
2. The SMBR, KPK, Peshawar. .. (Respondents)


APPLICATION FOR SUSPENDING THE OPERATION OF IMPUGNED ORDER NO. ESTT. V/Kifayatullah/11120-26, dated 26.5.2014 TILL DISPOSAL OF THE MAIN APPEAL.

RESPECTFULLY SHEWETH

1. That vide impugned order dated 26.05.2014, the appellant has been removed from service without any proper enquiry and opportunity of defence to the appellant.
2. That the impugned order is based on personal grudges on the complaint of an outsider without any evidence and against the Government Servants (E&D) Rules.
3. That prima-facie the appellant has a good case and likely to succeed in his favour.
4. That the memo: and grounds of appeal may be considered as integral part of the application.
5. That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

Through


APPELLANT


(MUHAMMAD ASIF YOUSAFZAI)

Advocate, Peshawar.

VERSUS

PARAWISE REPLY ON APPLICATION FOR SUSPENSION OF DISMISSAL ORDER ON BEHALF OF RESPONDENTS NO. 1 & 2 IS AS UNDER:-

1 Incorrect. The impugned order was issued on the basis of proper enquiry conducted by Commissioner, Peshawar Division where the appellant was given opportunity to defend himself. After issuance of show cause notice, after examination of the inquiry report, findings, and recommendations, the appellant was given personal hearing on 5.5.2014 to explain his position viz a viz evidence on file and findings of enquiry officer.

2 Incorrect. The respondent has no personal grudges with the appellant. In fact the appellant has a behaviour unbecoming of a gentleman and government servant, which is obvious from the fact that after dismissal the appellant barged into the respondent's office, threatened him and used foul language. Resultantly an FIR was registered against him. Earlier he had also mis-behaved with Deputy Commissioners Peshawar and Charsadda.

3 Incorrect. The appellant has a weak case which is likely to fail.

4 Incorrect. Grounds of appeal cannot be considered as integral part of the stay application. The balance of convenience is in favour of service discipline and respondents.

5 Arguments are to be confined to the grounds taken in pleading.

In view of the above and provisions of section 7 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 which do not provide for suspension of impugned orders, it is requested that application for suspension of dismissal order may be rejected.

Respondent No. 1

[Handwritten signature]

Respondent No. 2

28-10-2014

[Handwritten signature]

Service Appeal
514
28/10/14

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 1099/2014.

Kifayatullah, Ex-Naib Tehsildar, Land Acquisition Charsadda.....Appellant

VERSUS

Senior Member, Board of Revenue Khyber Pakhtunkhwa and others.....Respondents

COMMENTS ON BEHALF OF RESPONDENTS NO.1 & 2.

Preliminary objection.

1. That the appellant has concealed facts from the Tribunal in order to get a favourable decision.
2. That the appellant has not come to the Honourable Tribunal with clean hands.
3. That the appellant has got no cause of action.
4. The appeal is not competent in its present form.

ON FACTS.

1. Partially correct to the extent that appellant was recruited on recommendations of the Khyber Pakhtunkhwa Public Service Commission.
2. Incorrect. The contents are based on assumptions. The lady advocate has made a complaint against the appellant which was sent to the Deputy Commissioner concerned for report. The allegation of malafide on part of Respondents # 2 are based on surmises and are incorrect.
3. Pertains to record.
4. Incorrect. The appellant never took charge of the post of Head Clerk Revenue, nor did he draw pay of the post during the month in question. He could have perform his duty with District Returning Officer even in the capacity as Head Clerk Revenue Peshawar had he relinquished charge of the post of Naib Tehsildar (Mohmand) Peshawar as duty station of both the posts is same. Till the end of April 2013, the post of Naib Tehsildar Mohmand was not vacated due to which the relieving official could not take charge of new assignment.
5. Incorrect. The appellant was transferred from Mohmand Circle as Head Clerk Revenue Peshawar, but he did not assume charge of new assignment and started approaching various fora to get the transfer cancelled. The appellant assumed the charge, when Commissioner Peshawar Division called his explanation on 22-05-2013 i.e. after 5 weeks. In order to show, prompt implementation of the transfer order to avoid disciplinary action the official got entered his own and his accomplice's charge report in back date with dispatch register's numbers 822-26 against which another communication had been entered by dispatcher on 16-05-2013.

6. Partially correct. The original representation against the transfer order was rejected by the then Senior Member, Board of Revenue. The sole ground of acceptance of subsequent representation was that transfer was made during tenure of caretaker government; this ground is not supported by law and judgment referred to by the appellant, as the appellant's posting was made on administrative grounds by the then Commissioner Peshawar Division.
7. It is incorrect that the proceedings were initiated by respondent No.2 on his own initiative. The appellant was charged on basis of an enquiry initiated on representation of officials who were to replace the appellant. Furthermore, the Peshawar High Court did not delete any charge from the charge sheet. It is not out of place to mention that the appellant was held guilty of forgery and cheating in the enquiry conducted by Member-II, Board of Revenue appointed as Inquiry Officer pursuant to orders of Peshawar High Court. The appellant also acted in an unruly manner with the Inquiry Officer i.e. Member-II, Board of Revenue as verbally reported by him.
8. The official respondents have no knowledge of any personal clashes between the official and the lady advocate. Whenever a complaint is received, it is the duty of supervisory officer to get it enquired into and take decision taking into consideration the findings of the Inquiry Officer.
9. Incorrect. Respondent No. 2 has no personal grudges with the appellant nor can the official cite a single incident. The appellant was a delinquent official and action was taken as required by law, as was the case with other officials. The disciplinary proceedings were carried out in the prescribed manner; proper opportunity to defend and personal hearing was given to the appellant. Two days after his dismissal of service, the official barged into the office of Respondent No.2 and threatened him. When he was removed from office, the appellant used foul language, resultantly an FIR was registered against him. The appellant is so resourceful that on the second day of his arrest, when he was produced before the magistrate, he was released on bail in non-bailable offences. The appellant also influenced the Investigating Officer who has not properly recorded statements of witness under section 161Cr.PC. Thus the appellant has successfully tried to weaken the criminal case.
10. Incorrect. Departmental appeal of the appellant has been rejected by Respondent No.1. As the appeal was not instituted through the Board of Revenue, it took time to process; however the appeal was decided in time.

GROUND.

- A. Incorrect. Order dated 26-5-2014 is according to law. The Enquiry Officer has held him guilty of charge i.e physically assaulting a female and that too an advocate, which is conduct unbecoming of a gentleman and government servant, and disgraceful on part of a government employee.

- B. Incorrect. During personal hearing the appellant was asked to submit written reply, but he stated that his statement before the Commissioner, Peshawar Division (Enquiry Officer) may be considered as reply to show cause notice and he does not want to add anything further. He stated verbally that the Deputy Commissioner Charsadda and Commissioner Peshawar had personal grudges against him and had framed him up.
- C. Incorrect. The respondent No.2 has no personal grudges with the appellant or any other official. The respondent No. 2 has always appeared before Courts/ Tribunals whenever asked to clarify matters when ever asked to do so. Posting orders are cancelled occasionally and none of the officials who got posting order cancelled alleged of Respondent No. 2 taken it personal except this appellant, who is doing it intentionally to seek the Tribunal's sympathetically, as he has no legal grounds to prove his case.
- D. Incorrect. The assault on, and misbehavior with a female or any complainant during enquiry proceedings cannot be termed as a personal matter; they are covered under the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987.
- E. Incorrect. The order is covered fully under the provisions of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.
- F. Incorrect. The departmental appeal has been rejected by Respondent No. 1. The appeal took time to get decided as it was not submitted through the Board of Revenue as required under Rule 3 (1) of the Khyber Pakhtunkhwa Civil Servant (Appeal) Rules 1986 (Annexure – A).
- G. Incorrect. The appellant has been treated according to law and every opportunity has been given to him to defend himself.
- H. The Respondents also seek permission to advance further grounds during Arguments.

The appeal having no legal footing may be dismissed with costs.

Ali

Respondent No. 1

M. N. M.

11-2-2015
Respondent No. 2

10. Now the administrative department has confirmed in para-9 of the summary that the appellants has filed service appeal before the Khyber Pakhtunkhwa Service Tribunal in the matter (Annex-E). According to the Rule-19 (2) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the authority with whom the departmental appeal is pending shall not take any further action after filing an appeal by the affectee Government in the Service Tribunal (Annex-F). Since the rules bar further action on the departmental appeal, hence, the note is required to be returned to the administrative department.

11. Moreover, as examined in para-5, action on the departmental appeal has considerably been delayed. The Administrative Department may be directed to avoid such practice in future.

Waseem

(Dr. Akhtar Nazir)
Secretary Establishment
October 17, 2014

Chief Secretary, Khyber Pakhtunkhwa.

SMYBR

Segy-2

AS(2)

QF V
6-11

Alex

21/10/14

Chief Secretary
Govt. of Khyber Pakhtunkhwa

llw
22-10-2014

23/10/14

llw
23/10

CGO/SECRETARY
NO 4744
DATE 17-10-14
CGO/SECRETARY
NO 1547-5
DATE 17/10/14

5

Incorrect. The appellant already assigned the duties with the Sessions Judge, Peshawar which he performed regularly. After performing the duties with the District & Session Judge, the appellant assumed the charge of the post of HCR and submitted his Assumption Report on 11.05.2013.

- 6 Incorrect. The contents of Para-6 of the appeal are correct.
- 7 Incorrect. The contents of Para-7 are correct. The transfer order of the appellant has been cancelled on the directions of the Apex Court. All allegations on the based of the transfer order of the appellant were automatically removed.
- 8 Incorrect. Any action without any proof has been taken by the respondent department is against the law and against the Government Policy.
- 9 Incorrect. Due to personally appearance in the Honourable Court as directed by the Court, the respondent No.2 was not in favour of the appellant. All actions against the appellant have been taken against the law, rules and personal grudges by the respondent No.2.
- 10 Incorrect. The departmental appeal of the appellant was not decided by the respondent department, which is against the law and rules.

GROUND:

- A) Incorrect, while Para-A of appeal is correct.
- B) Incorrect, while Para-B of the ground of appeal is correct.
- C) Incorrect. The contents of para-C of the grounds are correct, while the reply of the respondent is incorrect.
- D) Incorrect. No proofs have been produced by the respondent department. The clash with lady advocate was a personal matter which can not be based for awarding penalty.
- E) Incorrect. The appellant has not been treated according to law and rules.
- F) Incorrect. The respondents have been failed to decide the appeal of the appellant within the statutory period.

- G) Incorrect. The appellant has not been treated according to law and rules.
- H) Legal.

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

APPELLANT
Kifayatullah

Through:



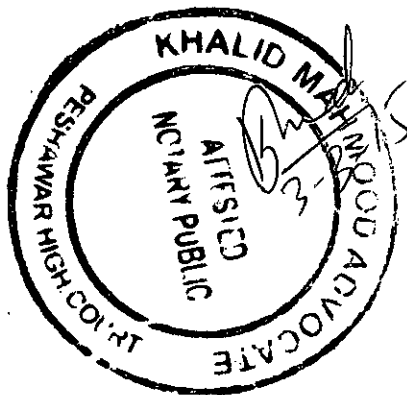
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

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



DEPONENT



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1869 /ST

Dated 7 / 12 / 2015


To

The SMBR,
KPK Peshawar.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 20.11.2015 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.