

15.04.2015


Counsel for the appellant is not in attendance due to strike of the Bar. Asstt: AG for respondents present. Adjourned for preliminary hearing to 29.04.2015 before S.B.


Chairman

29.04.2015

None present for petitioner despite repeated calls from time to time. Addl: A.G for respondents present. The Court time is about to over. The application for restoration of appeal is dismissed in default. File be consigned to the record.


ANNOUNCED
29.4.2015


Chairman

29.04.15

15.5.2014

To come up for further proceedings on 13.8.2014.


Chairman

13.08.2014

Neither petitioner nor counsel for the petitioner present. Notices be issued the petitioner and counsel for the petitioner for further proceedings/arguments on maintainability of application for restoration of appeal on 25.11.2014.


Chairman

25.11.2014

No one is present on behalf of the petitioner. Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for further proceedings on 13.02.2015.


Reader

13.02.2015

None present for petitioner. Mr. Mukhtiar Ali, Supdt. for respondents alongwith Addl. A.G. present. Notices be issued to the petitioner and his counsel for arguments on maintainability of application for restoration of appeal for 15.04.2015 before S.B.


Chairman

Before The ^{KPK} Service Tribunal Peshawar
(Chairman Bench)
SA 76/2012

Gauhar Ali vs SMBR

305
17/4/14

Application for restoration

Sir,

Applicant humbly submits as under

1. That aforementioned case was filed
for 14 $\frac{2}{2014}$ and has been

dismissed in default by Chairman
Bench.

2.

That counsel for appellant

noted date as 14 $\frac{4}{2014}$ and

when ^{appeared} came to know that

The same has been

dismissed in default on

14 $\frac{2}{14}$ and

3.

That absence was not

intentional.

4.


That Superior Courts as

well as this humble

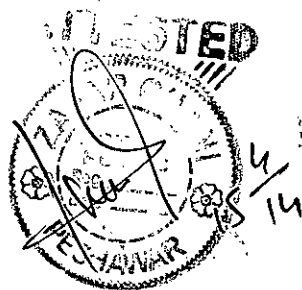
Tribunal prefers decisions on
merit

It is therefore humbly
requested that case may
please be restored

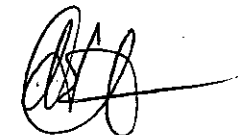
DT 15 $\frac{4}{2014}$

Appellant

Anand K. Adv
Supreme Court

I, Anand K. Advocate
solemnly affirm that
contents of application
are true & correct to the
best of my knowledge &
belief



15/4/2014

Anand K. Adv


Before The ^{KPIL} Service Tribunal peshawar
(Chairman Bench)
SA 079/2012

Gauhar Ali vs SIBR.

Application for restoration

Sir,

Applicant humbly submits as under

1. That aforementioned case was fixed
for 14 $\frac{2}{2014}$ and has been

dismissed in default by Chairman
Bench

2. That counsel for appellant
noted date as 14 $\frac{4}{2014}$ and
when appeared
when came to know that

The same has been
dismissed in default on
14 $\frac{2}{14}$ and

3. That absence was not
intentional.

4. That Superior Courts as
well as this humble

Tribunal prefers decision on
merit

It is therefore humbly

requested that case may

please be restored

DT 15 $\frac{4}{2014}$

Appellant
A. Singh
Ajay S. Adv
Supreme Court

I, Ajay S. Advocate

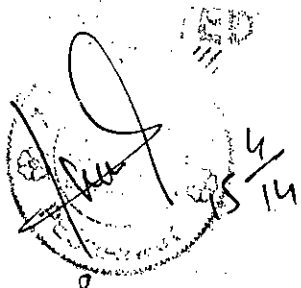
solemnly affirm that

contents of application are

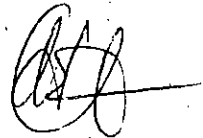
true & correct to the

best of my knowledge &

belief



15/4/2014

Ajay S. Advocate


Before The ^{KPK} Service Tribunal peshawar
(Chairman Bench)
SA 074/2012

Gaibow Ali vs SMBR

Application for restoration

Sir, Applicant humbly submits as under

1. That aforementioned case was fixed
for 14 ²/₂₀₁₄ and has been

dismissed in default by Chairman
Bench

2. That counsel for appellant
noted date as 14 ⁴/₂₀₁₄ and
when ^{appeared} came to know that

The same has been
dismissed in default on
14 ²/₁₄ and

3. That absence was not
intentional

4. That Superior Courts as
well as this humble.

Tribunal prefers decisions on
merit

It is therefore humbly

requested that case may

please be restored

DT 15 $\frac{4}{2014}$

Amranta
Singh
Ajay S. Adv
Supreme Court

I, Ajay S. Advocate

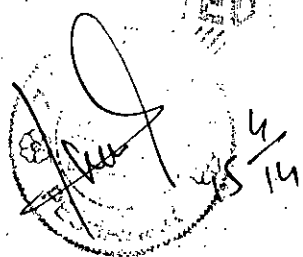
solemnly affirm that

contents of application

are true & correct to the

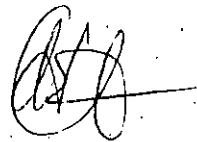
best of my knowledge &

belief



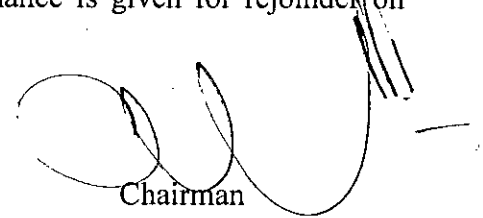
15/4/2014

Ajay S. Advocate



01.8.2013

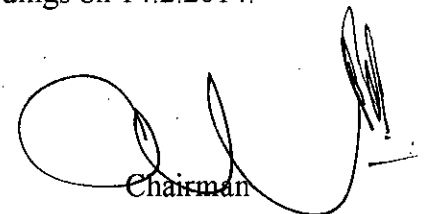
No one is present on behalf of the appellant. Mr. Mir Qasim, Assistant Secretary, for respondents with Mr. Usman Ghani, Sr. GP present. Rejoinder has not been received despite yet another chance given on the previous date. A last chance is given for rejoinder on 12.12.2013.



Chairman

12.12.2013

Neither appellant nor counsel for the appellant are appearing for the last so many dates. Mr. Mukhtiar Ali, Supdt. for respondents with AAG present. Rejoinder has also not been filed despite last chance given for the purpose on the previous date. Therefore, notices for appearance by way of a last chance be issued to both appellant and counsel for the appellant for further proceedings on 14.2.2014.

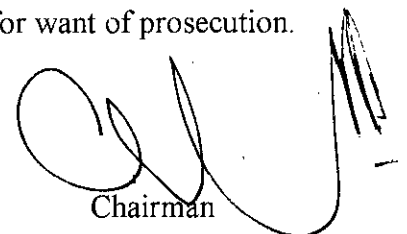


Chairman

14.2.2014

Neither appellant nor counsel for the appellant present despite their service through registered post. Mr. Mir Qasim, Assistant Secretary for respondents with AAG present. Due to non-appearance of the appellant/counsel for the appellant since admission of the case for regular hearing and lack of interest shown by the appellant in pursuing his case, the appeal is dismissed for want of prosecution.

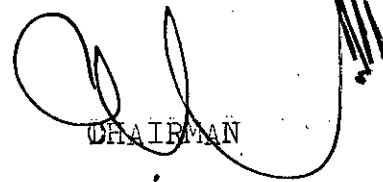
ANNOUNCED.
14.2.2014



Chairman

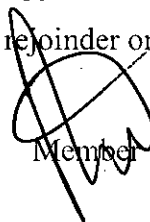
12.09.2012

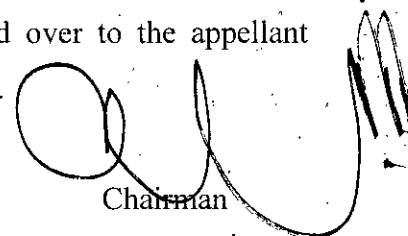
Clerk of counsel for the appellant and Mr. Mir Qasim, Assistant Secretary for respondents with AAG present. To come up for written reply/comments on 10.12.2012.


CHAIRMAN

10.12.2012

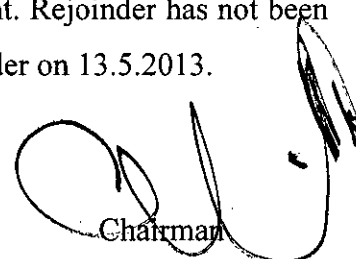
No one is present on behalf of the appellant and Mr. Attaullah, Supdt: SMBR, Peshawar ^{office} on behalf of the respondents with AAG present. Written reply/comments on behalf of the respondents filed, copy whereof be handed over to the appellant /counsel for the rejoinder on 15.02.2013.


Member


Chairman

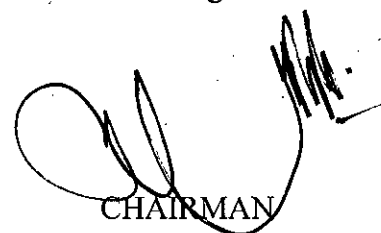
15.2.2013

No one is present on behalf of the appellant. Mr. Attaullah, Supdt. for the respondents with AAG present. Rejoinder has not been received. Another chance is given for rejoinder on 13.5.2013.


Chairman

13.5.2012

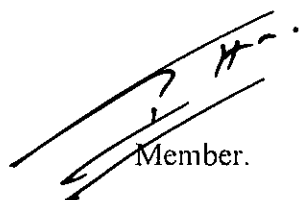
No one is present on behalf of the appellant. Mr. Attaullah, Supdt. for respondents with Mr. Usman Ghani, Sr. GP present. Rejoinder has not been received. Yet another chance is given for rejoinder, positively, on 1.8.2013.


CHAIRMAN

Appeal No. 74/2012.

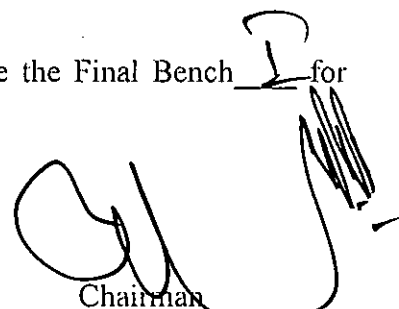
17.5.2012

Counsel for the appellant present and heard on preliminary. Contends that the appellant has been awarded the penalty of stoppage of one increment vide the impugned order dated 15.8.2011 without specifying the period which is mandatory under FR-29. He also referred to this Tribunal judgment in case of Noorzada and Khaista Rehman wherein the period has been specified. Moreover, the Hon'ble Supreme Court of Pakistan in case of Noorzada has held that minor penalty shall not be used as hurdle for further promotion. The appellant preferred a departmental appeal on 22.8.2011 but with no response. Points raised at the bar need consideration. The appeal is admitted to full hearing, subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply on 18.7.2012.


Member.

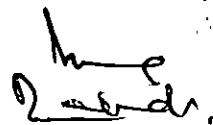
17.5.2012

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


Chairman

18.7.12

No one present for the appellant, Mr. Ataulah Supet; present for respondents. The worthy chairman is on tour to Alabad. To come up for written reply / comments on 12-9-12.



5.
Appellant deposited
Process fee & Security
of Rs. 160/- Bank Receipt
attached with file

6.

FORM "A"

FORM OF ORDER SHEET

Court of.....

Case No. 74 of 2012

No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
1-	19/01/2012	<p>The appeal of Mr. Gohar Ali re-Submitted to-day by Mr. Amjid Ali Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2-	24-1-2012	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>2-3-2012</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3-	2.3.2012	<p>Notice be issued to the appellant and his counsel for P.H on 5.4.2012.</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>
4-	5-4-2012	<p>Mr. Fahad Mawaz, Advocate, on behalf of counsel for the appellant present and requested for adjournment. To come up for P.H on 17-5-2012.</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>


Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3

The appeal of Mr. Gohar Ali Tehsildar Takhtbai Distt. Mardan received to-day i.e. on 14/12/2011 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days:-

- 1- Copies of Charge Sheet and its reply are not attached with the appeal which may be placed on it.
- ✓2- Copy of mutation dated 02.12.2010 mentioned in para-c of the grounds of appeal (Annexure-G) is not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be attested.
- 4- Copies of judgment of civil court 21/10/2010 and cancellation order of mutation mentioned in the memo of appeal (Annexure-Hand I) are not attached with the appeal.
- 5- Copy of impugned order dated 15/8/2011 is not attached with the appeal which may be placed on it.
- 6- Four more copies/sets of the appeal alongwith annexures i.e. complete in all respect may also be submitted with the appeal.

NO. 1606 /S.T

Dt. 19/12 /2011


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.

MR. AMJAD ALI ADVOCATE MARDAN.

Sir *All objection*
removed and resubmit
after completion

Amjad Ali
Advocate
Mardan
Advocate
SUPREME COURT
5/1/2011

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Appeal No. 74 /2012

Gohar Ali Appellant

Versus


Govt. of KPK and others Respondents

INDEX

S.No.	Description of documents.	Annexure	Dated
1.	Memo of appeal with affidavit.		1-3
2.	Addresses of the parties.		4
3	Copy of charge sheet	A	5
4	Reply	B	6-7
5	Copy of show cause notice	C	8
6	Reply / order dt 15-8-11	D/D-1	9-10A
7	Copy of representation	E	11-12
8	P.O. receipt.	F	13
9	Copy of mutation dated 02.12.2010.	G	14-25.
10	Copy of judgment of Civil Court Mardan dated 21.10.2010	H	26-34
			35
12	Wakalatnama.		35

Appellant

Through


AMJAD ALI
Advocate
SUPREME COURT
Supreme Court of Pakistan
At Mardan

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 74 /2011

1881
14-12-11

Gohar Ali, Tehsildar Takhtbai District Mardan.....Appellant

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Revenue/
S.M.B.R. Peshawar.
- 2) Chief Secretary Govt. of KPK, Peshawar.....Respondents

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974.

Respectfully Sheweth:-

- 1) That appellant is serving as Tehsildar in Tehsil Takhtbai District Mardan to the entire satisfaction of his superior.
- 2) That appellant is fresh entrant, after completing and qualifying the competitive examination.
- 3) That appellant has been charged sheeted which appellant, properly replied. (Copy of charge sheet is Annexure "A" and reply is Annexure "B").

That appellant is innocent and falsely charged.

- 5) That appellant is not provided enquiry report and thus has been prejudiced in his defense.

- 6) That show cause notice has been properly replied. (Copy of show cause notice is Annexure "C" and reply is Annexure "D").

- 6A) That vide order dt 15.8.11, one increment of appellant is stopped (copy of order dt 15.8.11 is attached)
- 7) That appellant dispatched appeal/ representation dated 22.08.2011 to respondent No.2 through registered post A/D

re-submitted to-409

[Signature]
19/11/11

re-submitted to-409
led filed,

[Signature]
19/11/2012

(2)

but remained un-responded. (Copy of representation is Annexure "E" and P.O. receipt is Annexure "F").

- 8) That order dated 15.08.2011 is illegal, against law and facts on following grounds:

GROUNDS.

- A. Because appellant is innocent and falsely charged.
- B. Because appellant was ablivious of civil suit/ court decree and attested the same in good faith and on gaining knowledge regarding court decree. Promptly and immediantly cancelled the same, prior to disciplinary proceeding. Thus appellant had no ill will. Malice and acted in good faith, performing official function
- C. Because appellant, inquired from the attorney and Patwari halqa and after obtaining affidavit and report of Patwari halqa. After due diligence having limited jurisdiction, being summary procedure of attestation of mutation as per sec 42 of revenue Act, attested the same on 02.12.2010. (Copy of mutation dated 02.12.2010 is attached as Annexure "G").
- D. Because on 17.02.2011 Patwari and field Kanung report that mutation No.229 dated: 02.12.2010 is against judgment dated 21.10.2010 of Civil Judge-IV Mardan and after obtaining necessary approval from DO (R&E), Mardan, the mutation was reviewed and cancelled on 02.12.2010. (Copy of judgment of Civil Court Mardan dated 21.10.2010 is Annexure "H")
- E. Because appellant is young officer, and the impugned penalty of stoppage of one increment may affect future prospects of promotion of appellant.

- F. Because as per FR-29, the period of stoppage of increment must be specified, which is a glaring illegality .
- G. Because there is no evidence that appellant has knowledge of decree of civil court.
- H. Because appellant has neither been given any opportunity of cross examining witnesses nor any witness examined in presence of appellant, thus inquiry is defective and against well settled judgments of Hon'ble Supreme Court.
- I. Because this Hon'ble Tribunal in case of Noorzada and Haista Rehman has specified the period of stoppage of increment.
- J. Because hon'ble Supreme Court in case of Noorzada has held that penalty shall not be used as hurdle for further promotion.
- K. Because there is no malafide on part of appellant and appellant has acted in good faith in performance of duty.

It is therefore, humbly prayed that on acceptance of this appeal, order dated 15.08.2011 may please be set aside and the penalty/ proceedings be not used as hurdle in future prospects of promotion.

Dated: 22.11.2011

Appellant
 Through
AMJAD ALI
 Advocate
 Advocate SUPREME COURT
 Supreme Court of Pakistan
 At Mardan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.



Deponent

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. _____/2011

Gohar Ali Appellant

Versus

Govt. of KPK and others Respondents

ADDRESSES OF PARTIES

APPELLANT:

Gohar-Ali, Tehsildar Takhtbai District Mardan

RESPONDENTS

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Revenue/
S.M.B.R. Peshawar.
- 2) Chief Secretary Govt. of KPK, Peshawar

Appellant

Through

Amjad Ali
Advocate

Supreme Court of Pakistan
At Mardan


AMJAD ALI
Advocate
SUPREME COURT

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 09/04/2011

CHARGE SHEET

- i. That mutation No.229 was rejected by Revenue Officer Circle Takht Bhai.
- ii. That the said mutation was challenged before the Civil Court who also maintained the rejection of the said mutation.
- iii. That you were well aware about the same, but ignoring the Civil Court decision, attested the said mutation in violation of Civil Court decision.

By reason of the above you appear to be guilty of mis-conduct under rule 3 of the NWFP Government Servants (Efficiency and Discipline) Rule 1973 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the said rules.

You are therefore, required to reply in your defence within 14 days of the receipt of this charge sheet, as to why disciplinary action should not be taken against you, and whether you desire to be heard in person.

Your written defence, if any, should reach the under signed 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 initiated against you.

Intimate whether you desire to be heard in person.


Senior Member


To,

The Assistant to Commissioner (Rev)/
Enquiry Officer, Mardan.

Subject: -

CHARGE SHEET


AMJAD ALI
Advocate
SUPREME COURT


An B


6

Respected Sir,

In compliance with the charge sheet dated 09.04.2011 received today on 13.04.2011.

It is submitted that the same nature reply has been sent to the Senior member Board of Revenue, Khyber Pakhtunkhwa, Peshawar through proper channel.

The facts are submitted as follow:-

That on 22.11.2010 one Abdul Qadar son of Abdul Ghafar through attorney Muhammad Iqbal resident of Malakand road, Mardan moved an application to the DO (R&E), Mardan for attestation of mutation No. 229, whereon the DO (R&E), Mardan directed the Tehsildar, Takht Bai for taking necessary action. Accordingly, on 02.12.2010 the undersigned directed the office kanungo, Takht Bai to produce the mutation No.0229 Mauza Pir Abad and also directed the patwari halqa to produce the part Patwar of the said mutation. I perused the mutation No.229 and part Patwar and asked the patwari that why the subject mutation was cancelled by the then Revenue Officer. The halqa patwari said that there was a civil suit pending in the court in respect of the subject mutation instituted by the said Abdul Qadar. After then, I enquired the patwari about the recent position of the subject civil suit, the patwari replied that Abdul Qadar has already withdrawn his suit and there is no any other civil suit pending in the court of law regarding the said mutation. At the same time Abdul Qadar also produced a written affidavit dated 30.11.2010 through his attorney M.Iqbal, to the effect that there is no case of any nature pending in District courts, Mardan with regard to the said property. (Copies enclosed). Relying upon the report of patwari and affidavit furnished by the Abdul Qadar through attorney the mutation No. 229 was attested on 02.12.2010.

That on 17.02.2011 the patwari halqa and Field kanungo submitted a report that the said mutation No. 229 is totally against the judgment passed on 21.10.2010 by the learned civil Judge-IV, Mardan in a civil suit No. 473/1, and also requested for review and cancellation of the subject mutation. Based on the report, I requested to the Distt:Officer (R&E) Office, Mardan on 19.02.2011 for his necessary approval.

The necessary approval was granted by the District Officer (R&E) Office, Mardan through his office letter No.888-900/Enq /DK dated 24.02.2011, that on 24.02.2011 at Tehsil Building Takht Bai I reviewed my previous order dated 02.12.2010 regarding the attestation of the subject mutation and restored the order of my predecessor.

In view of the above, it is kindly submitted, that I acted bonafidely and I was kept in dark regarding the facts of case and mutation through out the whole transaction. When it was brought in my notice by the halqa patwari that the subject mutation was wrongly attested and is against the court judgment, I timely reviewed my previous order and cancelled the said mutation No. 229.

The attestation of mutation is summary proceedings. Revenue officer in summary proceedings has a limited scope of enquiry. Elaborate enquiry and evidence could only be adjudicated upon by Civil Courts as provided by section 53 of West Pakistan Land Revenue act, 1967 as reported in 1996 CLC 1690.

(7)

As envisaged in section 181 of the Land Revenue Act, 1967 that no suit, prosecution or other legal proceedings shall lie against a Revenue Officer for anything done or ordered to be done in good faith by him as such in pursuance of the provisions of this act, or any other law for the time being in force.

A part from the above, I am new comer and recently appointed as Tehsildar and trying for improvement of my skills in the revenue field work.

It is therefore requested that I may please be exonerated from the charges leveled against me; I will follow rules regulation and will be care full in future.

I further request to give me option for personal hearing

(GOHAR ALI)
Tehsildar, Takht Bai

SHOW CAUSE NOTICE

I, Waqar Ayub Senior Member Board of Revenue as Competent Authority, under the North West Frontier Province, Government Servant Efficiency and Discipline Rules, 1973 serve you, Mr. Gohar Ali Tehsildar Takht Bhai as follow:-

- (i). That consequent upon the completion of inquiry conducted against you for attestation of mutation No. 229, the Inquiry Officer after giving you opportunity of hearing on 03.03.2011 has found you guilty of misconduct.
- (ii). That on going through the finding / recommendations of the Inquiry Officer, material on record, and other connected papers including your defence before the said Inquiry Officer.

I am satisfied that you have committed the following omissions under Efficiency and Disciplinary Rules, 1973.

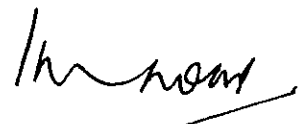
- i. That the impugned mutation No.229 was previously rejected by Revenue Officer Circle Takht Bhai.
- ii. That the said mutation was challenged before the Civil Court which also maintained the rejection of the said mutation.
- iii. That you were well aware of the factual position regarding the legal status and decree of the Civil Court of the impugned mutation but you attested this mutation.

1. As a result thereof, I, as Competent Authority, am of the view that minor penalty as defined under Rule 4 (a) of the NWFP Civil Servant Efficiency and Discipline Rules, 1973 be imposed upon you.

2. You are therefore required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

3. If no reply to this Notice is received within fifteen days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

Copy of Enquiry Report is enclosed.



Senior Member

No. 19404 /Estt: I/

Peshawar, dated 11/06.2011

Mr. Gohar Ali, Tehsildar Takht Bhai

To,

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

D B
Amir D
9

MAMJADALI
Advocate
SUPREME COURT

Subject: - SHOW CAUSE NOTICE.

Respected Sir,

In compliance with the show cause notice No. 1940/Estt;/ dated 11-06-2011. I Mr. Gouhar Ali Tehsildar Takht Bai submitted as follow.

The facts are submitted as follow: -

That on 22.11.2010 one Abdul Qadar son of Abdul Ghafar through attorney Muhammad Iqbal resident of Malakand road, Mardan moved an application to the DO (R&E), Mardan for attestation of mutation No. 229, whereon the DO (R&E); Mardan directed the Tehsildar, Takht Bai for taking necessary action. Accordingly, on 02.12.2010 the undersigned directed the office kanungo, Takht Bai to produce the mutation No.0229 Mauza Pir Abad and also directed the patwari halqa to produce the part Patwar of the said mutation. I perused the mutation No.229 and part Patwar and asked the patwari that why the subject mutation was cancelled by the then Revenue Officer. The halqa patwari said that there was a civil suit pending in the court in respect of the subject mutation instituted by the said Abdul Qadar. After then, I enquired the patwari about the recent position of the subject civil suit, the patwari replied that Abdul Qadar has already withdrawn his suit and there is no any other civil suit pending in the court of law regarding the said mutation. At the same time Abdul Qadar also produced a written affidavit dated 30.11.2010 through his attorney M.Iqbal, to the effect that there is no case of any nature pending in District courts, Mardan with regard to the said property. (Copies enclosed). Relying upon the report of patwari and affidavit furnished by the Abdul Qadar through attorney the mutation No. 229 was attested on 02.12.2010.

That on 17.02.2011 the patwari halqa and Field kanungo submitted a report that the said mutation No. 229 is totally against the judgment passed on 21.10.2010 by the learned civil Judge-IV, Mardan in a civil suit No. 473/1, and also requested for review and cancellation of the subject mutation. Based on the report, I requested to the Distt:Officer (R&E) Office, Mardan on 19.02.2011 for his necessary approval.

The necessary approval was granted by the District Officer (R&E) Office, Mardan through his office letter No.888-900/Enq /DK dated 24.02.2011, that on 24.02.2011 at Tehsil Building Takht Bai I reviewed my previous order dated 02.12.2010 regarding the attestation of the subject mutation and restored the order of my predecessor.

In view of the above, it is kindly submitted, that I acted bonafidely and I was kept in dark regarding the facts of case and mutation through out the whole transaction. When it was brought in my notice by the halqa patwari that the subject mutation was wrongly attested and is against the court judgment, I timely reviewed my previous order and cancelled the said mutation No. 229.

The attestation of mutation is summary proceedings. Revenue officer in summary proceedings has a limited scope of enquiry. Elaborate enquiry and evidence could only be adjudicated upon by Civil Courts as provided by section 53 of West Pakistan Land Revenue act, 1967 as reported in 1996 CLC 1690.

As envisaged in section 181 of the Land Revenue Act, 1967 that no suit, prosecution or other legal proceedings shall lie against a Revenue Officer for anything done or ordered to be done in good faith by him as such in pursuance of the provisions of this act, or any other law for the time being in force.


As your good self know that I was a new entrant and had little knowledge at the time of attestation of mutation and made endeavour to rectify the mistake after having knowledge, hence it is very humbly requested that the said enquiry may please be filed without any action against me in the interest of my future carrier. I shall remain very cautious and vigilant in respect of my duties in future.

I further request to give me option for personal hearing.

(GOHAR ALI)
Tehsildar, Takht Bai

Ana D-1

~~Abdullah~~
Abdullah
10/A


JAMIL ALI
Advocate
SUPREME COURT

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated 15/08/2011

ORDER

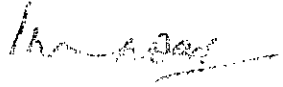
No. _____ /Estt: I/PP/Gohar. WHEREAS, Gohar Ali Tehsildar Takht Bhai District Mardan was proceeded against under the NWFP Government Servant (Efficiency and Discipline) Rules, 1973 for the charges mentioned in the charge sheet dated 09.04.2011 for inefficiency and misconduct;

AND WHEREAS Muhammad Siddiq, Assistant to Commissioner (Revenue), Mardan was appointed as Enquiry Officer who has reported that the Tehsildar being new entrant as Revenue Officer, was not competent to review the attested mutation.

AND WHEREAS, the Authorized Officer, after having considered the charges, reply of the accused officer to the charge sheet, and report of the Enquiry Officer found him guilty of the charges, and served him with a Show Cause Notice alongwith a copy of report;

AND WHEREAS, the Authorized Officer after considering report of Enquiry Officer and personal hearing of the accused official is satisfied that the charges against the said accused officer have been proved;


NOW THEREFORE, in exercise of the powers conferred by rule 5(iv) of the NWFP Government Servants (Efficiency and Disciplinary) Rules, 1973 read with Rules 3 and 4 thereof, the Authorized Officer is pleased to impose a minor penalty of stoppage of one annual increment on the said accused officer namely, Mr. Gohar Ali, Tehsildar Takht Bhai for the charges leveled against him.


Secretary
(Authorized Officer)

No. 23437-40 /Estt: I/PP/Gohar.

Copy forwarded to the:-

1. Commissioner, Mardan Division Mardan.
2. District Accounts Officer, Mardan.
3. Officer Concerned.
4. Personal File.


Secretary

To.

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

AMJAN ALI
Advocate
SUPREME COURT

Sub E

(11)

Subject: -

REPRESENTATION/ DEPARTMENTAL APPEAL AGAINST
ORDER DATED 15.08.2011 PASSED BY SENIOR MEMBER,
BOARD OF REVENUE WHICH IS ILLEGAL AGAINST LAW
AND FACTS.

Sir,

Appellant humbly submits as under: -

1. That appellant is serving as Tehsildar in Tehsil Takht bai District Mardan to the entire satisfaction of his superior.
2. That appellant is fresh entrant, after completing and qualifying the competitive examination.
3. That appellant has been charge sheeted which appellant, properly replied.
4. That appellant is innocent and falsely charged.
5. That appellant is not provided enquiry report and thus has been prejudiced in his defense.
6. That Show cause Notice has been properly replied.
7. That order dated 15.08.2011 is illegal, against law and facts on following ground.

GROUND.

- A. Because appellant is innocent and falsely charged.
- B. Because appellant was oblivious of civil suit/ court decree and attested the same in good faith and on gaining knowledge regarding court decree, promptly and immediately cancelled the same, prior to disciplinary proceedings. Thus appellant had no ill will, malice and acted in good faith, performing official functions.
- C. Because appellant, inquired from the attorney and patwari halqa and after obtaining affidavit and report of patwari halqa, after due diligence, having limited jurisdiction, being summary procedure of attestation of mutation as per Sec 42 of Land Revenue Act, attested the same on 02.12.2010.
- D. Because on 17.02.2011, patwari and field Kanungo reported that mutation No. 229 dt; 02.12.2010 is against judgment dated 21.10.2010 of Civil Judge-IV, Mardan and after obtaining necessary approval from DO (R&E), Mardan, the mutation was reviewed and cancelled on 02.12.2010.

No. 1444

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

(13) Rs. 28/-

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Initials of Receiving Officer Chait Secod Write here "letter", "post card", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

If insured. { Insurance fee Rs. _____ Ps. _____ (in words) _____ } Weight _____ Grams _____

Name and address of sender Chait Secod

- E. Because appellant is stoppage of one incr of appellant.
- F. Because as per FR-29, specified, which is a g
- G. Because there is no evidence that appellant has knowledge of decree of civil Court.

It is therefore humbly requested that order dated 15.08.2011, may please be set aside.

Dated 22.08.2011



(GOHAR ALI)
Tehsildar,
Tehsil Takht Bai
District Mardan.

51

10	10	11	11	10	9	8	7	6	5	4	3	2	1
								66-13	1-AY	29A			
								7-6	1-AL	299			
								2-8	1-AT	"			
								1-6	1-AY	29A			
								3-15	1-CP	29A			
								1-10	1-CP	29A			
								2-13	1-40	29A			
								2-14	1-4	205			
								1-11	1-25	"			
								7-9	1-50	292			
								0-2	1-41	098			
										294			
								39-18	1-22	29A			
										"			
								1-18	1-25	292			
								0-9	290	299			
								0-9	297	"			
								1-13	1-28	098			
										294			
								1-10	1-21	29A			
										292			
								5-11	1-2	098			
										294			
								16-11	1-12	2-1			
								0-15	1-11	299			
								0-9	1-14	299			
								10-7	294	500			
								13-7	292	29A			
										299			
								5-17	292	299			
								0-7	291	299			

اندراج جمعہ کی گذشتہ یا آخری واقعہ انتقال جس کی قیمت مطلوب ہے

اندراج جدید جواب تمام کیا جاوے گا

نمبر شمار	نام مالک و احوال	نمبر نام کیفیت و رقبہ و قسم زمین	نام کاشتکار و احوال	نمبر و رقبہ و قسم زمین	نمبر نام کیفیت و رقبہ و قسم زمین	نام کاشتکار و احوال	نمبر نام کیفیت و رقبہ و قسم زمین	نام کاشتکار و احوال
229	عبد انوار محمد عبدالقادر	59-1092	پینڈ	50	59-1092	پینڈ	50	پینڈ
230	قائم ریویٹ سان 669	110-1104	پینڈ	15-685	110-1104	پینڈ	15-685	پینڈ
231	مادل ٹاڈن بریوور (1786)	114-29	پینڈ	1786	114-29	پینڈ	1786	پینڈ
232	پینڈ	1092-67	پینڈ	1786	1092-67	پینڈ	1786	پینڈ
233	پینڈ	1090-3	پینڈ	4320	1090-3	پینڈ	4320	پینڈ
234	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
235	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
236	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
237	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
238	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
239	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
240	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
241	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
242	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
243	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
244	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
245	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
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247	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
248	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
249	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ
250	پینڈ	1098-17	پینڈ	20	1098-17	پینڈ	20	پینڈ

رپورٹ پٹواری و تصدیق
گرو اور قانگوے

324 →

19/8/54

2/9/54

Handwritten notes and signatures in the left margin.

Handwritten notes in the middle margin, including dates like 19/8/54 and 2/9/54, and various signatures.

16

Handwritten notes and signatures at the bottom right, including a date 3/7/54.

171

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
229	597	2	589					کی (3200) عبدالرشید خان (1786) ... (1514)	کی (3200) ... (1786) ... (3200)	کی (3200) ... (1786) ... (3200)				
21	558							کی (3200) عبدالرشید خان (1130) ... (2070)	کی (3200) ... (1130) ... (3200)	کی (3200) ... (1130) ... (3200)				
								7-1 1211 23-12 1212 1-17 1213 1-6 1214 2-6 1215 5-15 1216 2-11 1217 10-6 1218 1-16 1219 1-12 1220 12-3 1221 2-4 1222 5-0 1223 11-2 1224 3-2 1225 15-2 1226 1-17 1227 4-7 1228						

Handwritten notes and signatures in the bottom left corner, including "No 1491" and "6/7/09".

NC 1491 KLR

3-0	1299
11-2	1299
3-2	1291
15-2	1291
1-17	1291
4-7	1291
3-0	1291
6-15	1291
51-55	1291

نمبر شمار		نام ملک و احوال		نام کاشتکار و احوال		نمبر نام کیفیت و رقبہ و قسم زمین		نام ملک و احوال		نمبر نام کیفیت و رقبہ و قسم زمین		نام کاشتکار و احوال		نمبر نام کیفیت و رقبہ و قسم زمین		نام ملک و احوال		نمبر نام کیفیت و رقبہ و قسم زمین	
9	22	مندی گورنہ منڈی	منڈی	عبدالستار منڈی	منڈی	50	299	5-5	50	299	5-5	50	299	5-5	50	299	5-5	50	299
15	15	سہیل گورنہ منڈی	منڈی	عبدالستار منڈی	منڈی	50	299	5-9	50	299	5-9	50	299	5-9	50	299	5-9	50	299
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20

محمد اسحاق علی صاحب
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اندراج جدید جواب تمام کیا جاوے گا

اندراج جمعہ کی گذشتہ یا آخری واقعہ استعمال کیے بغیر سب سے

نمبر شمار	نام مالک و احوال	نام کاشتکار و احوال	نمبر نام کھیت و رقبہ و قسم زمین	مساحہ و رگان	نمبر زمین	نام مالک و احوال	نمبر و نام کھیت و رقبہ و قسم زمین	مساحہ و رگان	نمبر زمین
52	عبد انصاری			242	1-12			722	1-12
53				237	1-5			422	1-5
				242	0-72			414	0-72
				200	5-10			441	5-10
				210	9-1			449	9-1
				200	9-1			1010	9-1
				228	0-19			800	0-19
				228	1-1			100	1-1
				280	5-11			471	5-11
				281	1-2			469	1-2
				242	0-15			412	0-15
				222	11-13			211	11-13
				229	9-15			401	9-15
				228	0-2			422	0-2
				217	2-77			422	2-77
				224	2			1022	2
				2	9-11			1020	9-11
				269	9-7			1024	9-7
				250	9-7			1129	9-7
				250	1-11			1122	1-11

محمد جمال
24/2/2011

(22)

حسب دستاویزی ڈسٹریکٹ اہل مدد ان رکن ٹیلی آڈیو
نمبر 653-253 نورم 24/2/2011 واقع ہوائی ریلوے لائن
163 قانون معاملہ زمین 1967 کی جاتی ہے واقع ہوائی
جناب خالد عبدالغفار سول جج ایمرڈاں
رجسٹرڈ 1/10/2009 54 فیصد ہوائی
ہوائی - سید اقصیٰ علیہ السلام کی روٹی سے واقع ہوائی
فورم 12/10/2009 52 فیصد کیلئے اور حکم راجہ
25/10/2009 بحال کیا جاتا ہے اور واقع ہوائی خارج
کراچی

473/1

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				<p>سند شماره 25-7</p> <p>ریسه</p> <p>3-2</p>	<p>پسند</p> <p>فهرست</p> <p>1786</p> <p>43200</p>	<p>(43200)</p> <p>عبدالله شاورنگر (1786)</p> <p>ایم بی بی (11819)</p>		<p>0-1 880 210</p> <p>5-8 884 "</p> <p>55-10 882 "</p> <p>13-19 89 "</p> <p>78-7 89 "</p> <p>5-8 89-19</p>		<p>پسند</p>	<p>(42200)</p> <p>سند شماره 25-7</p> <p>ریسه</p> <p>(1786)</p> <p>ایم بی بی (11819)</p>	<p>17 229</p> <p>569</p> <p>467</p>		
			<p>سند شماره 17-2</p> <p>ریسه</p> <p>0-19</p>	<p>پسند</p> <p>فهرست</p> <p>1786</p> <p>43200</p>	<p>(43200)</p> <p>عبدالله شاورنگر (1786)</p> <p>ایم بی بی (11819)</p>		<p>1-2 914 112</p> <p>16-0 919 112</p> <p>17-2 914 112</p>		<p>پسند</p>	<p>(43200)</p> <p>سند شماره 17-2</p> <p>ریسه</p> <p>(1786)</p> <p>ایم بی بی (11819)</p> <p>DR-0 سند شماره 17-2 (1786)</p>	<p>18 588</p> <p>469</p>			
			<p>سند شماره 873-17</p> <p>ریسه</p> <p>22-12</p>	<p>پسند</p> <p>فهرست</p> <p>1120</p> <p>43200</p>	<p>(43200)</p> <p>عبدالله شاورنگر (1120)</p> <p>ایم بی بی (12080)</p>		<p>1-5 840 220</p> <p>5-11 1120 220</p> <p>7-6 840 220</p> <p>1-19 440 220</p> <p>5-10 1040 220</p> <p>25-9 840 220</p> <p>1-6 1040 220</p> <p>18-11 1840 220</p>		<p>پسند</p>	<p>(43200)</p> <p>سند شماره 873-17</p> <p>ریسه</p> <p>(1120)</p> <p>ایم بی بی (12080)</p>	<p>19 567</p> <p>469</p>			

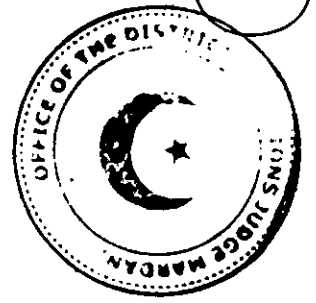
اندراج جمعندی گذشتہ یا آخری واقعہ اشغال جسکی ترمیم مطلوب ہے : اندراج جدید جواب تمام کیا جاوے گا

نمبر شمار	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۱	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۲	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۳	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۴	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۵	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۶	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۷	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۸	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۹	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۱۰	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۱۱	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۱۲	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۱۳	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۱۴	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل
۱۵	نام مالک و احوال	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل	نمبر و نام کیفیت	معاصل

(85)

Jun H

IN THE COURT OF KHALID MANSOOR CIVIL JUDGE-IV,
MARDAN.



Civil Suit No..... 473/1.
Date of original institution.....31-10-2006.
Date of Institution.....04-11-2009.
Date of Decision.....21-10-2010.

Date of Judgment - 1-12-10

Abdul Qadir S/O Abdul Ghafar R/O 21-Ravi Road, Badami
Bagh Data Nagar Lahore, Punjab.....(Plaintiff)

VERSUS

1. Central Government of Pakistan through Federal Secretary Rehabilitation Department, Islamabad.
 2. Deputy Settlement Commissioner, Mardan.
 3. Head Clerk Rehabilitation Department, Mardan.
 4. Government of NWFP through Collector, Mardan.
 5. Tehsildar Revenue Department Takht Bhai Circle.
 6. Girdawar Circle Takht Bhai.
 7. Patwari Halqa Mauza Pir Abad Tehsil Takht Bhai.
 8. Government of Pakistan through Collector, Mardan.
-(Defendants)

SUIT FOR DECLARATION, PERMANENT
INJUNCTION & POSSESSION.

JUDGMENT:
21-10-2010

The plaintiff has filed the instant suit for declaration to the effect that the plaintiff is owner-in-possession of the suit property vide Claim No.QPR-3287/183/316 RL-II No.25 dated 27.01.1960 and the entries in the revenue record in the names of the defendants or any other persons are wrong, against law and facts, false and based on fraud and collusion and the same are the result of negligence of revenue officials

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Sessions Court Mardan

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and ineffective upon the rights of the plaintiff and the revenue record is liable to corrected. Issuance of permanent injunction and recovery of possession in the alternative have been asked for in prayer-B and C of the plaint respectively.

Brief facts of the case as arising out of the amended plaint are that the suit property being evacuee property was the ownership of Government of Pakistan; that the suit property was allotted to the plaintiff vide Claim No.QPR-3287/183/316 RL-II No.25 dated 27.01.1960; that after the allotment in favour of the plaintiff, the revenue officials were required to make entries in the revenue record in the name of the plaintiff; about two years ago, the plaintiff came to know the disputed property is still entered in the name of Government of Pakistan; that the allotment in favour of the plaintiff has also been verified by the Rehabilitation Department, Mardan and the Head Quarters at Lahore; that the defendant No.2 and Chief Settlement Commissioner, Peshawar have also issued directions for correction of revenue record in favour of the plaintiff; that a mutation No.229 has been entered but the same has not yet been attested; that the defendants No.1 to 3 have been made party by the order of Additional District Judge. Mardan passed in appeal No.127/13 dated 14.02.2009; and that the defendants were repeatedly asked to admit the rights of the plaintiff but they ultimately refused, hence, this suit.

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The defendants were firstly placed ex-parte and the suit was dismissed by my learned predecessor-in-office vide his judgment dated 20.10.2007 but the plaintiff's appeal was allowed by the learned appellate court vide its judgment dated 14.02.2009 and the case was remanded back for decision afresh. During post-remand proceedings, the plaintiff filed amended plaint on 30.03.2009. The contesting defendants filed written statement wherein they denied the claim of the plaintiff. The divergent pleadings of the parties led to the formulation of the following issues;

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ISSUES:

1. Whether the plaintiff has got a cause of action? OPP
2. Whether the plaintiff is the owner-in-possession of the suit property on the basis of the claim NO.25 RL-II QPR 3282/183/316 dated 27.01.1960? OPP
3. Whether the mutation No.229 has been entered in the name of the plaintiff but the defendants have not attested the same as yet. If yes, what is its effect? OP?
4. Whether the plaintiff is estopped by his conduct from instituting the instant suit? OPD
5. Whether the suit is time-barred? OPD
6. Whether this court has got jurisdiction?
7. Whether the suit is hit by the principle of res-judicata? OPD
8. Whether the suit is not maintainable due to mis-joinder and non-joinder of necessary parties? OPD
9. Whether the suit is bad in its present form?
10. Whether the plaintiff has filed the instant suit in contravention of Section-80 of the Code of Civil Procedure, 1908. If so, then its effect? OPD
11. Whether the defendants are entitled to compensation U/s 35-A of the Code of Civil Procedure, 1908?
12. Whether the plaintiff is entitled to the decree as prayed for in the plaint? OPP
13. Relief.

The parties produced pro and contra evidence. During the post remand proceedings, the plaintiff examined four witnesses as APW-1 to APW-4 respectively in support of his claim.

The Patwari Halqa, namely Monin Khan while appearing as APW-1 relied on the statement of his predecessor in office who had

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appeared as PW-1 on 15.06.2007 who had produced Parth Patwar of Mutation No.229 as Ex.PW-1/1, Roznamcha Waqiyati as Ex.PW-1/2 and jamabandies for the year 1992-93 to 2004-05 as Ex.PW-1/3.

The PW-2, namely Hazrat Sher Record Keeper Rehabilitation Department produced manual register with respect to RL-II as Ex.PW-2/1. During recording statement in post remand proceedings, this witness has also produced letter No.5/HCR dated 05.08.2004, No.836/PBI dated 20.12.2004 and letter No.NTCRQ/291-04 dated 17.12.2004 as Ex.PW-2/2 to Ex.PW-2/4. Though my learned predecessor in office allowed the cross-examination of the said witness during post-remand proceedings but his examination-in-chief has not been recorded during post-remand proceedings, therefore, his statement was again recorded as PW-2 on 24.11.2009 while he was cross-examined on 09.10.2010 as is clear from the order sheet of the even date read with the order sheet No.37 dated 07.09.2010

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The AOK Takht Bhai, namely Sultan Bahader while appearing as APW-3 relied upon the statement of his predecessor-in-office namely Ali Azam who had appeared as PW-3 during pre-remand proceedings. This witness further stated that all the documents produced by said PW-3 are correct. The said Ali Azam had produced attested copies of jamabandies for the year 1965-66, 1969-70, 1978-79 and 1961-62 as Ex.PW-3/1 to Ex.PW-3/4.

The plaintiff's special attorney, namely Muhammad Iqbal while appearing as APW-4 relied on his statement previously recorded as PW-4 during pre-remand proceedings. He after exhibiting power of attorney in his favour as Ex.PW-4/1 has reiterated the contents of the plaint in detail. He lastly prayed that the suit be decreed. Thereafter, the plaintiff closed his evidence.

On the other hand Pir Kamal Shah Head Clerk DRC, Mardan appeared as DW-1 and produced order dated 17.05.2005 of Additional

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Settlement Commissioner, Mardan as Ex.DW-1/1, application dated 1.3.2005 as Ex.DW-1/2, letter No.135/PBI dated 07.03.2005 as Ex.DW-1/3, order dated 17.05.2005 of Collector Mardan as Ex.DW-1/4, copy of application and order dated 06.03.2006 as Ex.DW-1/5 and Ex.DW-1/6, copy of appeal and order dated 02.09.2006 of Collector, Mardan as Ex.DW-1/7 and Ex.DW-1/8. He lastly prayed that the suit be decreed. Thereafter, the learned AGP closed the evidence of contesting defendants.

I have heard the arguments of the learned counsels for both parties and have also perused the record. My issue-wise findings are as under;

ISSUE No. 2.

The burden to prove this issue was upon the plaintiff who has produced four witnesses in support of his claim. It was necessary for the plaintiff not only to prove the RL-II/ QPR-3287/183/316 dated 27.01.1960 but he was also bound to prove that the disputed Khasra numbers were allotted to him through the said RL-II. The concerned official of Rehabilitation Department, namely Hazrat Sher while appearing as PW-2 on 24.11.2009 has produced certain letters and he has also relied on his statement previously recorded in the instant case on 29.06.2007 wherein he had stated that the concerned original register had become torn up, therefore, obtaining its photo-copy is impossible. He has further stated that as the original register had become torn up, therefore, they have freshly constructed it manually. But he could not show as to under which provision of law they were authorized to reconstruct a fresh register regarding the entries of the original torn up register. It is further not clear as to how the correction/genuineness of entries in the reconstructed register have been ensured by the concerned persons/authorities who have reconstructed the said register especially when the said witness has stated that the original register was illegible.

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He has further stated that though some khasra numbers are legible but the same do not match, i.e, probably he meant to say that the same do not want match with the entries in the reconstructed register. He has further stated that he cannot say any thing about the khasra numbers which have already torn-up/illegible in the original register meaning thereby he could not say as to which khasra numbers were those. So, the genuineness and the correction of the entries in the newly reconstructed register is not clear rather the same has not been proved in accordance with law. Though the PW-2 has produced the verification letter as Ex.PW-2/4 regarding the RL-II/ QPR-3287/183/316 RL-II No.25 dated 27.01.1960 but the perusal of the same would reveal that it has only verified that the said RL-II is genuine and entered in the record while there is nothing in it to the effect that the said RL-II was allowed/confirmed. Further, the said verification letter is also silent about the khasra numbers which were allegedly granted to the plaintiff. If the said verification is presumed to be genuine even then the plaintiff has failed to prove as to which khasra numbers, if any, had/have been allotted to him meaning thereby he has also failed to prove that the disputed khasra numbers were in fact allotted to him while the genuineness of the entries in the newly reconstructed register is neither proved nor believable as explained above. In light of what has been discussed above, the plaintiff has failed to prove this issue. Hence, the issue No.2 is decided in the negative.

ISSUE No.3.

The burden to prove this issue was upon the plaintiff. The perusal of the record reveals that the though the mutation No.229 was entered and directions for attestation of mutation in favour of the plaintiff were issued vide the letter No.5 /HC (R) dated 05.08.2004 Ex.PW-2/2 but these directions were later on reversed by the successor of the concerned officer vide his order dated 17.05.2005 Ex.DW-1/1. Though the plaintiff had filed certain applications for attestation of mutation in his favour but he has failed to prove the allotment of the disputed land in his favour,

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ISSUES No.4 and 7

The burden to prove both these issues was upon the defendants but the defendants have failed to produce any evidence in this regard. Hence, the issues No.4 and 7 are decided in the negative.

ISSUE No.8.

The burden to prove this issue was upon the defendants but they could not produce any evidence in this respect. Hence, the issue No.8 is decided in the negative.

ISSUE No.9.

Though the plaintiff has failed to prove his case but the learned AGP appearing for the defendants could not point out any defect in the suit so far as its present form is concerned. Hence, the issue No.9 is decided in the negative.

ISSUE No.10:

Though the suit has been filed in contravention of Section-80 of the Code of Civil Procedure, 1908 but this fact is not fatal so far as the merits of the instant case are concerned. Hence, the issue No.10 is decided accordingly.

ISSUE No. 11.:

The burden to prove this issue was upon the defendants but they could not produce any evidence in this respect. Hence, the issue No.11 is decided in the negative.

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ISSUE No.1.

In light of my above issue-wise findings the plaintiff has got no cause of action. Hence, the issue No.1 is decided in the negative.


ISSUES No.12.

In light of my above issues-wise findings, the plaintiff has failed to prove his case, therefore, he is not entitled to any relief. Hence, the issue No. 12 are decided in the negative.

RELIEF.

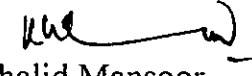
In light of my above issue-wise findings the plaintiff has failed to prove his case, the same is hereby dismissed. Parties are left to bear their own costs. File be consigned to Record Room after its necessary completion and compilation.

Announced
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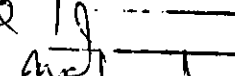

Khalid Mansoor
Civil Judge-IV, Mardan.

CERTIFICATE.

Certified that this judgment consists of nine (09) pages and each page has been signed by me after making necessary corrections therein.


Khalid Mansoor
Civil Judge-IV, Mardan.

زیر قلم تصحیح کیا گیا اور (09) صفحات پر دستخط کیا گیا

Name of Applicant	
Date of Presentation	420/24/09/12
Date on which served	11-01-12
Date on which returned	11-01-12
No. of words	12
Court Fee stamp	6/10
urgent fee	
Signed of Copyist	
Date of Copy	11/01/12

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11/01/12

General Department
Sessions Court Mardan

بعدالت سروس ٹریبونل لاہور

کورٹ فیس

مورخہ: 14/12/2017ء منجانب امجد علی

مقدمہ: گوہر علی بنام: حکومت گلگت

دعویٰ: سروس اپیل

جرم:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام لاہور کے لئے AMJAD ALI Advocate SUPREME COURT مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جو اب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمد ہوگی اور منسوخی دائر کرنے کی اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مذکور کے عمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداشتہ منظور قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المرقوم 16 ماہ 12 ستمبر 2017ء

بد گواہ شدہ الع بد

لے منظور ہے۔

بمقام:

AMJAD ALI
Advocate
SUPREME COURT

"A"

SERVICE TRIBUNAL, N.-W.F.P., PESHAWAR.

BUNGALOW # 112, STREET # 12,
DEFENCE OFFICERS' COLONY,
PESHAWAR.

PM

No.

APPEAL No. *74* of 2007.

Ghobar Ali

Appellant/Petitioner

Versus

Through Secy. Revenue Pesh.

RESPONDENT(S)

Notice to Appellant/Petitioner

*Ghobar Ali Tehsildar
Tahsil Bai Dist. Mandan*

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *5-4-2012* at *2:17 AM*

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

14/4/12
Registrar,
N.-W.F.P. Service Tribunal
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 74/2012

Gohar Ali Tehsildar Takhtbai District MardanAppellant

VERSUS

Senior Member Board of Revenue and othersRespondents

PARAWISE COMMENTS OF RESPONDENTS NO. 1&2

PRELIMINARY OBJECTIONS.

1. The Appellant has no locus standi to bring the present Service Appeal
2. The Appellant is estopped by his own conduct to bring the present Services Appeal
3. The appellant has no grounds in support of his Appeal
4. The appeal is time barred, not maintainable and bad for misjoinder & nonjoinder.

RESPECTFULLY SHEWETH.

ON FACTS.


1. Incorrect. His performance is not up to the entire satisfaction of his superiors.
2. Relates to department and office record.
3. Correct.
4. Incorrect. He had attested a mutation which was previously rejected by Revenue Officer circle Takhat Bhai. The said mutation was challenged in Civil Court who also maintained the rejection of the said mutation.
5. Incorrect copy of enquiry report was provided thereafter proper opportunity of personal hearing was also provided to the appellant.
6. Incorrect. He did not convince the Competent Authority during personal hearing.
7. His appeal / representation was properly examined in office and was filed.
8. Incorrect. Order dated 15.08.2011 is legal and according to law.

ON GROUNDS

- A. Incorrect. He was well aware about the pendency of the case on the said mutation in civil court.
- B. As in para A above.
- C. Incorrect. He was required to obtain a report of patwari / Girdawar and then had attested the mutation.
- D. Correct. But he has once committed illegality in the shape of attestation of mutation.
- E. The punishment given to him is better for him as to maintain service discipline and norms in future.
- F. Incorrect. The quantum of punishment given to him is just and according to law.

- G. Incorrect. The appellant was well aware the pendency of civil suit on the impugned mutation.
- H. Incorrect. He was properly given opportunity of hearing but he could not prove his innocence
- I. No comment.
- J. Incorrect. The penalty given to him was according to law and his further promotion will also be considered according to law.
- K. The penalty was imposed on the basis of his negligence by attestation of mutation during stay granted by Civil Court.

In view of the above, it is prayed that the appeal may be dismissed.


Senior Member
Board of Revenue
(Respondent No. 122)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 74/2012

Gohar Ali Teksildar Takhtbai District MardanAppellant

VERSUS

Senior Member Board of Revenue and othersRespondents

PARAWISE COMMENTS OF RESPONDENTS NO. 1&2

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2. The Appellant is estopped by his own conduct to bring the present Services Appeal
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RESPECTFULLY SHEWETH.

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3. Correct.
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7. His appeal / representation was properly examined in office and was filed.
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- E. The punishment given to him is better for him as to maintain service discipline and norms in future.
- F. Incorrect. The quantum of punishment given to him is just and according to law.

- Incorrect. The appellant was well aware the pendency of civil suit on the impugned mutation.
- II. Incorrect. He was properly given opportunity of hearing but he could not prove his innocence
- I. No comment.
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- K. The penalty was imposed on the basis of his negligence by attestation of mutation during stay granted by Civil Court.

In view of the above, it is prayed that the appeal may be dismissed.

[Signature]
Senior Member
Board of Revenue
(Respondent No. 1 & 2)