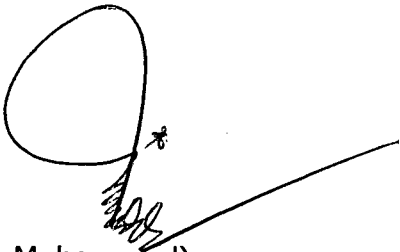


19.01.2022

Petitioner alongwith his counsel present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

As per office order dated 26.11.2021, the petitioner has been reinstated in service provisionally in the light of Service Tribunal judgement dated 14.09.2021. Learned counsel for the appellant did not press to further pursue the case. However, the case is to be adjournment sine-die till disposal of the appeal in the august Supreme Court of Pakistan. Till then record of the instant petition be kept in safe custody.

ANNOUNCED:
19.01.2022



(Mian Muhammad)
Member(E)

25.11.2021

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Hussain Akbar, Assistant for respondents present.

Learned AAG informed that the ^{implementation} case is under process and requested for adjournment with the commitment that implementation/execution report will be submitted on Monday i.e 29.11.2021. Adjourned. To come up for further proceedings on 29.11.2021 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

29.11.2021

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Hussain Akbar, Assistant for respondents present.

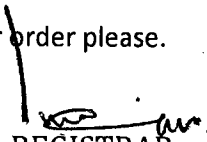


Respondent-department presented office order dated 26.11.2021 whereby Service Tribunal judgement dated 14.09.2021 has been partially implemented by reinstating the petitioner in service subject to final outcome of the CPLA. Copy of the same is also handed over to the learned counsel for the petitioner. To come up for further proceedings on 19.01.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 251 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.10.2021	<p>The execution petition of Mr. Imtiaz Ahmad submitted today by Mr. Taimur Ali Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench on <u>29/10/2021</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	29.10.2021	<p>Learned counsel for the petitioner present. Notices be issued to the respondents for submission of implementation report on <u>25.11.2021</u> before S.B.</p> <p style="text-align: right;"> Chairman</p>

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

Execution Petition No. 251 /2021
In Service Appeal No.517/2016



Imtiaz Ahmad, Ex-Patwari,
Tehsil & District Mardan.

PETITIONER

VERSUS

1. Commissioner Mardan, District Mardan.
2. Deputy Commissioner, District Mardan.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 14.09.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

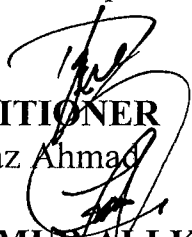
RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No517/2018 against the order dated 19.03.2018 passed by respondent No.1 on departmental appeal dated 15.01.2018 and order dated 09.01.2018 passed by respondent No.2 whereby petitioner was removed from service.
2. The said appeal was finally heard by this Honourable Service Tribunal on 14.09.2021. The Honourable Service Tribunal accepted the appeal and the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted, were set aside and the petitioner was reinstated into service from the date of his removal from service with all back benefits and the concerned respondent, on receipt of the copy of the judgment, shall issue the order of the petitioner's reinstatement with all back benefits having accrued or accruable from the date of his removal. **(Copy of judgment dated 14.09.2021 is attached as Annexure-A)**

3. That the petitioner has filed application on 06.10.2021 to respondent No.2 for implementation of judgment dated 14.09.2021 of this Honourable Tribunal, but no action has been taken by the respondents on the judgment dated 14.09.2021 till date. **(Copy of application is attached as Annexure-B)**
4. That the petitioner has been reinstated into service with all back benefits by this Honourable Tribunal in its judgment dated 14.09.2021, however, the respondents did not reinstated the petitioner into his service till date despite the clear direction of this Honourable Tribunal in its judgment dated 14.09.2021 that the concerned respondent on receipt of the copy of the judgment shall issue the order of the petitioner's reinstatement with all back benefits having accrued or accruable from the date of his removal from service.
5. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this Honourable Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 14.09.2021 of this Honourable Service Tribunal in letter and spirit.
7. That the petitioner has having no other remedy except to file this execution petition for implementation of judgment dated 14.09.2021 of this Honourable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 14.09.2021 of this Honourable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

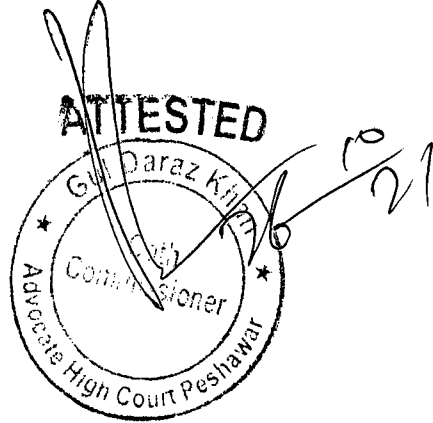
THROUGH:


PETITIONER
Imtiaz Ahmad
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

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


DEPONENT



A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 517/2018

Date of Institution ... 10.04.2018
Date of Decision ... 14.09.2021



Imtlaz Ahmad Ex-Patwari, Tehsil & District Mardan.

... (Appellant)

VERSUS

Commissioner Mardan, District Mardan and one another.

... (Respondents)

Amjad Ali,
Advocate

... For appellant.

Usman Ghani,
District Attorney

... For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN


... CHAIRMAN
... MEMBER (J)

JUDGMENT

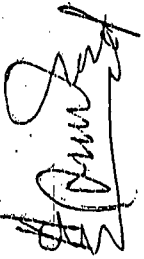
AHMAD SULTAN TAREEN, CHAIRMAN:-The appellant named above invoked the jurisdiction of this Tribunal through service appeal described above in the heading challenging thereby the penalty imposed upon him in pursuance to the disciplinary proceedings under E&D Rules, purporting the same being against the facts and law on the subject.

2. The facts as gathered from the memorandum of appeal and the record reveal that the appellant while serving as Patwari in the Revenue Department, District Mardan was charge sheeted on a complaint with the charges as enumerated below:

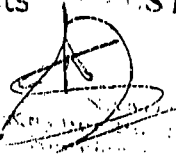
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- i. That the Assistant Commissioner, Takht Bhai vide letter No.951/AC T.Bhai dated 16.10.2017 reported that the court of AAC Takht Bhai passed an Ex-Parte decree against AminulHaq in the case, titled Muhammad Ibraheem V/S AminulHaq on 30.05.2017, followed by an ejectment order dated 19.06.2017. On 22.06.2017, Girdawar Circle alongwith PatwariHalqa (you) and Police contingent visited the ejectment spot and submitted report that possession of Khasra No.749/1 (5 Kanal and 01 Marla) was in possession of Muzaffar Shah S/O Muhammad Shah instead of AminulHaq, therefore, the ejectment procedure could not be carried out as the degree-debtor was AminulHaq, not Muzaffar Shah.
- ii. That as per KhasraGirdawri record dated 06.12.2016 of PatwariHalqa Seri Behlol, land in Khasra No.749/1 has been shown in the tenancy of AminulHaq, which was duly endorsed by you in your statement during the course of proceedings on 19.05.2017.
- iii. That the Addl. Assistant Commissioner, Takht Bhai himself perused the register of KhasraGirdawri and compared it with the record produced in the court case file, it was found that the revenue record of Khasra No.749/1 measuring 05 Kanal 01 Marla was tampered with and changes were made.
- iv. That the abovementioned report proved you guilty of tampering with the revenue record, which warrants disciplinary action against you under the E&D Rules.



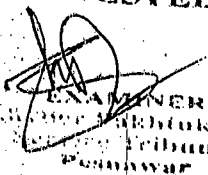
RECEIVED
OFFICE OF THE
ASSISTANT COMMISSIONER
TAKHT BHAI
GIRDWAR CIRCLE
TAKHT BHAI



He was directed to submit his written defense within 7 days of receipt of charge sheet to the inquiry officer. In the statement of allegations, issued in continuation of the disciplinary action, the charges as enumerated above, were reiterated in the said statement and Mr. Jawad, Additional Assistant Commissioner-IV, Mardan was appointed as Inquiry Officer. The departmental representative Aziz urRehman D.K and the accused appellant were directed to join the proceedings on the date, time and place fixed by the Inquiry Officer. According to the letter copy whereof is annexed with the appeal, the said letter No.951/A.C T Bhai of even date addressed to the Deputy Commissioner.

3. It was concluded in light of the above facts by the A.C Takh Bhai that Mr. Imtiaz Ahmad Patwari Halqa Seri Behlol (Appellant) had made changes in the revenue record/Khasra Girdawri and recommended for proper investigation of the act of accused. The inquiry report dated 30.11.2017 reveals that the petitioner (Muhammad Ibraheem) submitted application requesting therein not to proceed further with the inquiry proceedings but it was observed by the Inquiry Officer that as the matter is with regard to tampering in the revenue record and was brought in notice of the competent authority, as such, petitioner had no concern to patch up the matter with the Patwari Halqa when the allegations of tampering were proved against the official concerned. With this view, the Inquiry Officer concluded that tampering in Khasra Girdawri had been proved against the Patwari Halqa, as such, he was held responsible for the same. It was recommended that he be proceeded against under E&D Rules,

ATTESTED


EXAMINER
Tribunal
Patwar

2011 with major penalty. Show cause notice in pursuance to the inquiry report was given but it is nowhere mentioned in the said show cause notice that the disciplinary action against the appellant started from service of charge sheet and statement of allegations upon him by the Deputy Commissioner, Mardan and the inquiry report was also submitted to the said D.C. However, show cause notice in pursuance to the inquiry report was issued by Additional Deputy Commissioner, Mardan but the impugned order dated 07.01.2018 was passed by the Deputy Commissioner after an exercise noted in Paragraphe-03 of the impugned office order dated 09.01.2018 as to calling the appellant for personal hearing on 14.12.2017 and 02.01.2018. On the latter day, Mr. Taj Ali Girdawar Circle Takht Bhai, M/S. Ahmad Badshah Office Kanungo Takht Bhai, Shah Jehan existing Patwari Halqa Seri Behlol and Shahab Ex-Patwari Halqa Seri Behlol are shown to have recorded their statements. In the next paragraph of the said order, imposition of major penalty of removal of the appellant from service is recorded. Appellant challenged the said order through departmental appeal dated 15.01.2018 which was dismissed by the Commissioner, Mardan Division, Mardan vide his order dated 19.03.2018. Consequently, this appeal was filed on 10.04.2018 as matter of next remedy after rejection of the departmental appeal. On admission of appeal for regular hearing, respondents were notified and they attended the proceedings by filing their written reply/comments raising several factual and legal objections and asserted for dismissal of appeal with cost.



ATTESTED

EXAMINER
 (M/S. Pakhtukhwa)
 Vice Tribunal
 Peshawar

4. We have heard the arguments and perused the record.

5. Learned counsel for appellant argued that on the basis of a complaint, the appellant was charge sheeted for the allegation of tampering of Khasra Girdawri with respect to Khasra No.749/1 measuring 05 Kanal 01 Marla but the appellant has not made any tampering in original record as the original record is exist with the same entries as it was and no one has pointed out any tampering in the same. Further submitted that the complainant later on requested for withdrawal of complaint as per application dated 08.11.2017 showing his satisfaction on the record. Learned counsel went on to argue that there is no tampering in Khasra Girdawri rather it was misunderstanding/misinterpretation of technical terms of patwar and that it was in hurry as per request of Reader of Court and ex-parte proceedings has endorsed in good faith. He concluded his arguments with the submission that appellant is innocent and was proceeded against on the basis of non-existent grounds; that the impugned order is against the facts and law in absence of proper inquiry as the appellant was neither associated with inquiry nor opportunity of cross-examination was afforded, as no statement was recorded in presence of appellant. Learned counsel prayed for setting aside of the impugned penalty on acceptance of appeal as prayed for.

[Handwritten signature]

6. Learned District Attorney argued on behalf of the respondents and submitted that the appellant was rightly removed from service as the he was involved in tampering of revenue record; and he submitted a fake/tampered Fard Girdawri in the Court. Further submitted that proper inquiry was conducted and the appellant had availed the opportunity of personal hearing twice. Lastly, he

ATTESTED

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Patwar

submitted that the impugned order has been passed after fulfillment of all codal formalities and requested for dismissal of the instant service appeal with cost.

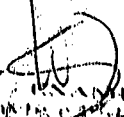
7. The departmental representative namely Hussain Akbar present at the time of hearing was in possession of original files containing record of the case file in the Revenue Court titled "**Muhammad Ibraheem Vs. AminulHaq**". There was a connected file inside the main case in which an objection petition filed by Muzaffar Shah and another against Muhammad Ibraheem and others was available. Accordingly, an objection was raised that the respondents getting benefit of wrong KhasraGirdawri had filed case against a dead person namely AminulHaq to deprive the petitioners from the land in their possession. The said objection petition was dismissed by the Revenue Court/Additional Assistant Commissioner Takht Bhai, Mardan vide order dated 23.06.2017. The copy of the objection petition and order as to its disposal have been obtained and placed on file of the above titled appeal. According to the findings in the said order after hearing of the parties, it was found by the Revenue Court that Muzaffar Shah who was tenant at will was in possession of the suit property bearing Khasra No.749/1 measuring 05 Kanal 01 Marla without any legal status, while the ownership of the said property was resolved in favor of AzmatUllah Khan, and AminulHaq was held as tenant. Consequently, the record produced on 22.06.2017 at the time of delivery of possession was found incompatible with the spot verification and revenue record and attested revenue record, available on file. It was further observed that counsel for the petitioners failed

ATTESTED

EXAMINER
REVENUE DEPARTMENT
MARDAN

to prove that AminulHaq against whom decree was passed, was dead or not and the objection petition was not accepted with the aforementioned findings. The objection petition of Muzaffar Shah was dismissed with liberty to the petitioner to establish his possession before the competent Civil Court. We could not be confronted with any appeal/revisional order as to setting aside of the said order of the Revenue Court. Therefore, presumption is very much viable that the said order stands in filed. As far as factual position as discussed herein above is concerned, the whole proceedings against the appellant revolves around the allegation that he made tampering in the revenue record enabling passing of decree for delivery of possession on the spot, and the possession was found otherwise than the record produced before the Revenue Court by the appellant. The appellant in reply to the charge sheet specifically asserted as to correctness of the record produced by him before the Revenue Court and stated that the revenue officials who went to the spot, probably misunderstood the KhasraGirdawri and deemed the land under tenancy of Muzaffar Shah instead of AminulHaq; and they came back without any proceedings on pretext of the said excuse/surmises; and they submitted wrong report. The said reply of the appellant has been annexed with appeal available on file. The order of the Revenue Court on objection petition of Muzaffar Shah as discussed before, confirms the authenticity of written reply of the appellant to the charge sheet. However, the Inquiry Officer as well as the competent authority resorted to a hit and run the exercise, may be under influence of bureaucratic ego to prove the report of Mr. Aon Haider, Assistant Commissioner, Takht Bhai sent to the Deputy Commissioner vide his

ATTESTED

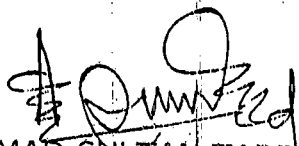

 EXAMINER
 Khasra Girdawri
 District Tribunal
 Peshawar

office letter No.951/A.T Bhai dated 16.10.2017; and held the appellant guilty of charge just to satisfy the said ego by making him a scapegoat. Therefore, we are not inclined to maintain the penalty as imposed upon the appellant which obviously resulted from self-styled proceedings against him on allegation of an unfounded charge.

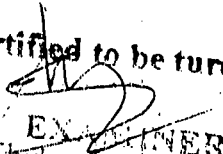
8. For what has gone above, the appeal at hand is accepted. Consequently, the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted, are set aside; and the appellant is reinstated into service from the date of his removal from service with all back benefits. The concerned respondent, on receipt of the copy of this judgment, shall issue the order of appellant's reinstatement with all back benefits having accrued or accruable from the date of his removal from service. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
14.09.2021


(ROZINAREHMAN)
MEMBER (J)


(AHMAD SULTAN TAREEN)
CHAIRMAN

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

B

خدمت جناب ڈپٹی کمشنر صاحب بہار، ضلع مردان

40
Zahir Mulla
Advocate

درخواست بہار بحالی سروس / عطا ٹی بی بیٹ بینیفٹس / تقناتی بحیثیت بوردی
 بہ تعویف منصفہ عدالت سروس ٹرانسپونل شہادہ منظور دی اسل نمبر 517/2018
 ڈپٹی ایچ سروس ٹرانسپونل شہادہ منصفہ عدالت 14/9/2021
 منصفہ عدالت درخواست ہذا کے

جناب عالی! سلسلہ عنوان بالا بندہ مذکورہ ذیل عکروضات کا حامل ہے۔

(1) بندہ بحیثیت بوردی عدالت سے منصفہ عدالت بحالی اپنے فرائض منصفہ انجام دے رہا تھا۔
 اور ایک ڈپٹی ایچ سروس ٹرانسپونل ریکورڈری کے بعد حکیم جناب ڈپٹی کمشنر صاحب مدد 9/1/2018
 کو بندہ کی ہر فاشنی بہ صیغہ رجوع آف سروس کیا گیا۔

(2) والد ہر فاشنی (رجوع آف سروس) کے منصفہ کی ناراضگی پر اسل عدالت کمشنر صاحب مردان ڈپٹی کمشنر
 دائر کئی - جو کہ نتیجتاً خارج ہو۔

(3) والد عدالت رجوع آف سروس ٹرانسپونل شہادہ بدین سلسلہ اسل نمبر 517/2018
 دربارہ سروس بحالی و دیگر تعلقہ کوائف دائر کیا گیا۔

جوہ بالا خیر دفعہ 14/9/2021 کو عدالت سروس ٹرانسپونل شہادہ منظور ہوتے ہوئے
 منصفہ عدالت کے لیے اس منصفہ عدالت کے سروس رجوع آف سروس دورانہ رضاشی 9/1/2018
 لغات نہ حال ٹائم بیٹ بینیفٹس کیا گیا ہے۔

(4) رجوع آف سروس کے علاوہ بحالی فرمائی جائے۔ نیز ٹائم بیٹ بینیفٹس عطا فرمائی جائے
 اور بحیثیت بوردی تقناتی بہ تعویف منصفہ عدالت سروس ٹرانسپونل فرمائی جائے۔

عن نوڈر میں ہوگی۔
 Dated: 6/10/21
 621

بجرت

سروس ٹریڈ یونٹ لٹیمٹ

اعلیٰ اجلاس 2 پنجاب
اعلیٰ اجلاس 2 پنجاب
کلیئر سردان

موردہ
مقدمہ
دعویٰ
جرم

باعت تحریر آئنگ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آج کے مقام لٹیمٹ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و اقرار ثالث و فیصلہ پر حلف دینے جو اب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا پٹرفہ یا اپیل کی بڑائی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نگرانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
اقرار کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داخستہ منقولہ قبول ہوگا دوران مقدمہ میں جو فرچہ ہر جائزہ التوائے مقدمہ کے
سب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھو یا کہ سند ہے۔

Accepted & Adjusted

20

ماہ

المرقوم

کے لئے منظور ہے۔

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المقام

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B
PESHAWAR.

No.

Execution Petition 251
Appeal No. of 2021

Mutias Ahmad Appellant/Petitioner

Versus

Commissioner Mardan Respondent

Respondent No. 1

Commissioner Mardan Distt:
Mardan.

Notice to: —

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 25/11/21 at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 1/11

Day of Nov 20 21

(for implementation)
Report

[Signature]
Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except on Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

Sunday

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B
PESHAWAR.

No.

Execution Petition 251
~~Appeal No.~~..... of 20 21

Imtiaz Ahmad.....Appellant/Petitioner

Versus

Commissioner Mardan.....Respondent

Respondent No. 2.....

29d

Notice to: — Deputy Commissioner Distt. Mardan.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....25/11/21.....at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

E.P

Copy of ~~appeal~~ is attached. ~~Copy of appeal has already been sent to you vide this~~

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

1/15

Day of.....Nov.....20 21

(for implementation Report)

[Signature]
Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 251/2021
In Service Appeal No. 517/2018

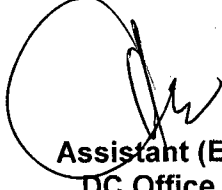
Imtiaz Ahmad, Ex. Patwari Tehsil & Department, Mardan.....Appellant

VERSUS

1. Commissioner Mardan Division, Mardan.
2. Deputy Commissioner, Mardan Respondents

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S#	Name of document	Annex	Page No
1	Compliance Report	-	1
2	Letter dated 11.10.2021	"A"	2-3
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4	Letter dated 12.11.2021	"C"	5-6
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Assistant (Estt & Rev)
DC Office, Mardan

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 251/202
In Service Appeal No. 517/2018

Imtiaz Ahmad, Ex. Patwari Tehsil & Department, Mardan.....Appellant

VERSUS

1. Commissioner Mardan Division, Mardan.
2. Deputy Commissioner, Mardan.....Respondents

**COMPLIANCE REPORT TO EXECUTION PETITION No. 251/2021 BY
 RESPONDENT NO.02**

Respectfully Sheweth:

With due regard it is submitted that the this Hon;ble Tribunal vide judgment dated 14.09.2021 re-instated the Petitioner in service with all back benefits. Being aggrieved of the said judgment, this office vide letter No. 1497/DC(M)/EA-18, dated 11.10.2021 (Annex-A) requested the administrative department (Board of Revenue) to approach the law department to examine the case for filing CPLA. The law department held meeting of the Scrutiny Committee on 03.11.2021. The Committee after proper examination decided that the case was fit for filing CPLA in the Supreme Court of Pakistan.

Therefore, the law department vide letter dated 03.11.2021 asked the Administrative Department (Revenue & Estate Department) to approach office of the Advocate General Khyber Pakhtunkhwa for the needful action (Annex-B). Resultantly, this office vide letter dated 12.11.2021 (Annex-C) provided power of attorney alongwith necessary documents to Advocate-On-Record, who has prepared the CPLA and is going to file the same in the Supreme Court of Pakistan.

Since filing of CPLA against the judgment dated 14.09.2021 in the titles Service Appeal is at final stage and the said judgment has not got finality; therefore, it is requested that the Execution Petition may be adjourned till decision by the August Supreme Court of Pakistan, please.


**Deputy Commissioner
 Mardan (Respondent No.2)**



OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

Phone No: 0937-9230048-56 Fax No: 0937-9230303

Email: dcmardan0937@gmail.com

No 1497 /DC(M)/EA-18 Dated Mardan the: 11/10/2021

2
Annex - A

To

The Secretary-I,
Board of Revenue Khyber Pakhtunkhwa,
Peshawar.

Subject: SERVICE APPEAL No. 517/2018 TITLES "IMTIAZ AHMAD VS COMMISSIONER

Memo:

1. Kindly refer to the subject noted above and to state that the Assistant Commissioner Takht Bhai vide letter No. 951/AC.T.Bhai, dated 16-10-2017 reported that the court of AAC Takht Bhai passed an ex-parte decree against Ameenul Haq on 30-05-2017 followed by an ejectment order dated 19-06-2017. On 22-06-2017 Girdawar Circle alongwith Patwari Halqa (Mr. Imtiaz Ahmad) and police contingent visited the ejectment spot and submitted report that possession of Khasra No. 749/1 (measuring 5 Kanal 1 Marla) was in possession of Mazafar Shah S/o Muhammad Shah instead of Ameenul Haq, therefore, the ejectment proceedings couldn't be carried out as the decree-debtor was Ameenul Haq not Mazafar Shah. As per Khasra Girdawri record exhibited by Mr. Imtiaz Ahmad Patwari in the court on 19-05-2017, Mr. Ameenul Haq has been shown as tenant in khasra No. 749/1, Mauza Seri Behlol. That the Additional Assistant Commissioner Takht Bhai himself checked the Register Girdawri, compared it with the record produced in court, wherein it was found that the revenue record of Khasra No. 749/1 was tampered with and changes were made.
2. Consequently, vide No. 1258-60/06-DK/RA, dated 02.11.2017 regular inquiry was initiated against the Patwari by appointing the Addl Assistant Commissioner-IV, Mardan as Inquiry Officer; charge sheet alongwith Statement of Allegations was issued to him; and he was suspended from service vide office order No. 1249-57, dated 02.11.2017. The Inquiry Officer submitted his report vide No. 109/AAC-IV/ Inquiry Officer, dated 30.11.2017, wherein the appellant (Imtiaz Patwari) was declared guilty of tampering with the revenue record, misleading the court and misconduct, therefore, recommended major penalty against him under the (E&D) rules.
3. The appellant was issued a show cause notice dated 07.12.2017. Later on he was called for personnel hearing on 14-12-2017 and 02.01.2018, wherein he failed in rebutting the allegations levelled against him. Therefore, vide Office Order No. 86/16(6)/DK/RA, dated 09.01.2018, major penalty of removal from service was imposed upon him.
4. Against the said order, he filed departmental appeal with Commissioner Mardan Division, which was dismissed vide order dated 19.03.2018; therefore, he filed the subject noted service appeal which has been disposed vide judgment dated 14.09.2021 with the following remarks:

"For what has gone above, the appeal in hand is accepted. Consequently, the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted, are set aside; and the appellant is reinstated into service from the date of his removal from service with all back benefits. The concerned respondent, on receipt of the copy of this judgment, shall issue the order of appellant's reinstatement with all back benefits having accrued or accruable from the date of his removal from service".

5. In view of the above, it is requested that the Law Department may be approached to grant approval for filing of CPLA against the said judgment in August Supreme Court of Pkakistan, please. (The relevant documents duly indexed are attached)



Addl Deputy Commissioner
Mardan

No. & Date Even:

Copy to:

1. The Deputy Commissioner, Mardan.



Addl Deputy Commissioner
Mardan



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

Annex-B

(Agenda Item No.11)

No.SOL/DG/Law/9-23(25)/Rev/2021/441
Dated Peshawar the 03-11-2021

To

1. The Advocate General,
Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa,
Revenue & Estate Department.

PS/SMBR
Dy No. 6824
Date: 04/11/21
Govt. of Khyber Pakhtunkhwa

SUBJECT SERVICE APPEAL NO. 517/2018 IMTIAZ AHMAD VERSUS
COMMISSIONER MARDAN DIVISION, MARDAN AND OTHERS

I am directed to refer to your letter No.Estt:VII/SA/517/18/Imtiaz Ahmad, dated 27.10.2021 on the subject noted above and to state that a meeting of the Scrutiny Committee has been held on 03-11-2021 under the Chairmanship of Secretary Law Department in order to determine the fitness of the subject case for filing of Appeal/CPLA in the upper forum.

After threadbare discussion on the subject case particularly hearing the stance of Administrative Department, it was decided with consensus by the Scrutiny Committee that the subject case is a fit case for filing of Appeal/CPLA before the Supreme Court of Pakistan.

Therefore, the Administrative Department is advised to approach the office of Advocate General Khyber Pakhtunkhwa through well conversant representative alongwith complete record of the case for doing the needful forthwith, please. (Power of Attorney for signature of petitioners attached).

MBR-@/AS Estt

Yours faithfully,

hth
4/11/21

S/E VII

SMBR
04/11/21

(TAHIR IQBAL KHATTAK)
SOLICITOR
LAW DEPARTMENT

Endst: No & Date Even.

Copy forwarded to the.

1. PS to Secretary Law Department.
2. PA to Law Officer, Law Department.

SOLICITOR

(5)



OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

Phone No: 0937-9230048-56 Fax No: 0937-9230303

Email: dcmardan0937@gmail.com

No 1664/DC(M)/EA-18

Dated Mardan the: 15/11/2021

Annex C

To

The Advocate-On-Record,
Supreme Court of Pakistan,
For Government of Khyber Pakhtunkhwa, Peshawar.

Subject: SERVICE APPEAL NO.517/2018 IMTIAZ AHMAD VERSUS GOVT OF KHYBER PAKHTUNKHWA AND OTHERS

Memo:

This is with reference to your letter No. 13978/AG, dated 05.11.2021 addressed to Secretary to Govt of Khyber Pakhtunkhwa, Revenue & Estate Department, Peshawar.

The following documents are hereby enclosed for necessary action at your end please.

1. Certified copy of judgments of Service Tribunal.
2. Grounds of Service appeal.
3. Comments alongwith annexure.
4. Annexure of Service Appeal.
5. Court Fee.

Mr. Imtiaz Ahmad Superintendent DC Office Mardan alongwith Mr. Hussain Akbar (Assistant Estt) are nominated to produce the record.

DEPUTY COMMISSIONER
MARDAN

No & Date Even:

Copy to:

1. Assistant Secretary (Estt), Board of Revenue Khyber Pakhtunkhwa, Peshawar w/r to letter No. Estt:VII/SA/571/18/Imtiaz Ahmad/29596-98, dated 10.11.2021.
2. PS to Commissioner Mardan Division, Mardan.

DEPUTY COMMISSIONER
MARDAN

6

**POWER OF ATTORNEY TO THE ADVOCATE-ON-RECORD
IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)**

CPLA NO. _____/2021

Government of Khyber Pakhtunkhwa..... Appellant(s)

Versus

Imtiaz Ahmad Ex. Patwari, Tehsil & District Mardan..... Respondent

I (we) appellants in the above suit/Appeal/Petition/Reference do hereby appoint and constitute Mr. Moeen-Ud-Din Humayun, Advocate-on-Record Supreme Court, the Advocate-on-Record for the aforesaid appellant [or plaintiff(s) or petitioner(s) or respondent(s) or defendant(s) or opposite party] to 87 Compiled by Supreme Court of Pakistan, Library commence and prosecute (or to appear and defend) this action appeal/suit/petition/reference on my (our) behalf and all proceedings that may be taken in respect of any application connected with the same including proceedings in taxation and applications for review, to draw and deposit money, to file and take back documents, to accept the processes of the Court, to appoint and instruct counsel, to represent the aforesaid appellant for plaintiff(s) or petitioner(s) or respondent(s) or defendant(s) or opposite party in the above matter and to do all things incidental to such acting for the aforesaid appellant [or plaintiff(s) or petitioner(s) or respondent(s) or defendant(s) or opposite party]. The aforesaid appellant [or plaintiff(s) or petitioner(s) or respondent(s) or defendant(s) or opposite party] agree(s) to ratify all acts done by the aforesaid Advocate -on-Record in pursuance of this authority.

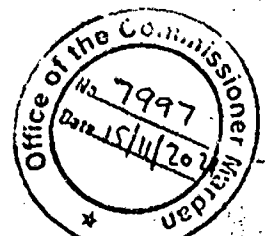
In witness whereof I (we) do hereunto set my (our) hand(s) this day of 12th November, 2021.

COMMISSIONER
MARDAN DIVISION MARDAN

DEPUTY COMMISSIONER
MARDAN
DEPUTY COMMISSIONER
MARDAN

Accepted

(Moeen-Ud-Din Humayun
Advocate-on-Record
Supreme Court of Pakistan
(for KPK) Advocate General's Office KPK,
High Court Building Peshawar.
Ph#: 091-9210312, 9210119



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

**Execution Petition No. 251/202
In Service Appeal No. 517/2018**

Imtiaz Ahmad, Ex. Patwari Tehsil & Department, Mardan.....Appellant

VERSUS

- 1. Commissioner Mardan Division, Mardan.**
- 2. Deputy Commissioner, Mardan.....Respondents**

AUTHORITY LETTER

Mr. Hussain Akbar (Assistant Establishment & Revenue) DC Office, Mardan is hereby authorized to attend the Khyber Pakhtunkhwa Service Tribunal, Peshawar in the above titles Service appeal.


**DEPUTY COMMISSIONER
MARDAN**



OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

Phone No: 0937-9230048-56 Fax No: 0937-9230303

Email: dcmardan0937@gmail.com

No. 1811 /DC(M)/EA-18/9

Dated Mardan the: 26 /11/ 2021

OFFICE ORDER

In compliance with judgment dated 14.09.2021 in Service Appeal No. 517/2018 titled Imtiaz Ahmad Ex. Patwari VS Commissioner Mardan & others coupled with order dated 25.11.2021 in execution petition No. 251/2021 in the above-mentioned service appeal, Mr. Imtiaz Ahmad Ex. Patwari is hereby re-instated in service subject to judgment in the CPLA.

As far as back benefits are concerned, same shall be looked into in light of outcome of the CPLA being filed in the August Supreme Court of Pakistan.

By order of
DEPUTY COMMISSIONER
MARDAN

Endst No. & Date Even:

Copy to

1. Commissioner, Mardan Division, Mardan.
2. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Secretary-I, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. District Comptroller of Accounts, Mardan for necessary action.
5. Assistant Commissioner Mardan/Takht Bhai.
6. Tehsildar Mardan/Takht Bhai/ Rustam/Katlang/ G.Kapoor.
7. Accounts Office DC Office Mardan for necessary action.
8. PS to Deputy Commissioner, Mardan.
9. Mr. Imtiaz Ahmad Patwari.


ADDL DEPUTY COMMISSIONER
MARDAN