

02.12.2015

None present for appellant. Mr. Ali Akbar, AADK alongwith Addl: A.G for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 30.3.2016 before S.B.


Chairman

30.03.2016

Counsel for the appellant and Assistant A.G for respondents present. Written statement not submitted despite last opportunity which was further extended on cost of payment of Rs. 1000/- as such no further opportunities are afforded to respondents for submission of written statement. The appeal is assigned to D.B for rejoinder and final hearing for 20.7.2016.


Chairman

I am requesting for withdrawal of instant appeal.

*Yashwantrao
Counsel for appellant.
20/7/16.*


20.07.2016

Counsel for the appellant and Mr. Ali Akbar, Patwari alongwith Mr. Kabirullah Khan Khattak, Assistant AG for the respondents present. Learned counsel for the appellant submitted application for withdrawal of the instant appeal as the grievances of the appellant have been redressed by the respondent-department. Signature of learned counsel for the appellant secured on the margin of order sheet. Dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED
20.07.2016


MEMBER


MEMBER


(Member)

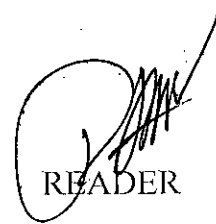
19.11.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Ali Akbar, AAD for the respondents present. The Tribunal is incomplete. To come up for the same on 01.01.2015.


READER

1.1.2015

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. The Tribunal is incomplete. To come up for the same on 18.3.2015.


READER

18.3.2015

Junior to counsel for the appellant and Mr. Muhammad Jan, GP present. Fresh notices be issued to the respondents. To come up for written reply on 25.6.2015.


MEMBER

25.06.2015

None present for appellant. Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 30.9.2015 before S.B.


Chairman

30.09.2015

None present for appellant. Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 2.12.2015 before S.B.


Chairman

Appeal No. 523/2013
Mr. Sher Ali

19.06.2014

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Appellant filed departmental appeal on 14.01.2013 before the appellate authority which has been replied on 22.01.2013, hence the instant appeal on 08.02.2013. He further contended that similar nature of appeal No. 145/2013 titled Ahmad Ali has already been admitted and pending before the learned Bench-II, therefore, the same may also be clubbed with the said appeal.

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

The learned Government Pleader while assisting the court was of the view that there is no final order and no departmental appeal against order dated 22.01.2013 hence the instant appeal is not maintainable in its present form.

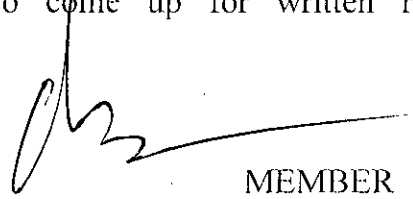
Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 26.08.2014 before the learned Bench-II.


Member

~~This case is put before the Bench-II for further consideration.~~

26.08.2014

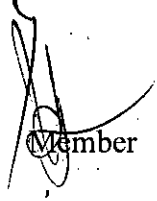
Appellant in person and Mr. Muhammad Jan, GP with Ali Akbar, AADK for the respondents present. Respondents need further time. To come up for written reply on 19.11.2014.


MEMBER

10.

02.04.2014


Counsel for the appellant present. The learned counsel for the appellant stated that similar nature of appeal titled Mr. Ahmad Ali-vs-SMBR has already admitted and fixed for hearing on 29.04.2014 before the learned bench-II. The above mentioned appeal may be requisition and also pre-admission notice be issued to the GP to assist the Tribunal for preliminary hearing on 12.05.2014.


Member

11.

12.05.2014

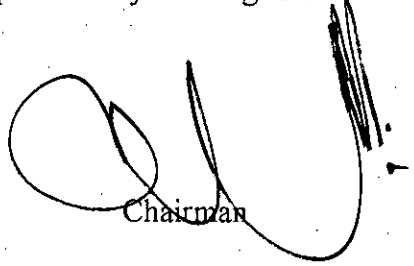
Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. As per order sheet dated 02.04.2014 the Service Appeal No. 145/2013 titled Mr. Ahmad Ali has been requisitioned and case file perused. The learned counsel for the appellant requested for further time to argue the case on the point of maintainability. To come up for further preliminary hearing on 19.06.2014.


Member

6.

23.9.2013


Appellant present in person, and requested for adjournment due to non-availability of his counsel who has proceeded for performance of Haj. To come up for preliminary hearing on 21.11.2013.


Chairman

7.

21.11.2013


Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 16.01.2014.


Member

8.

16.01.2014

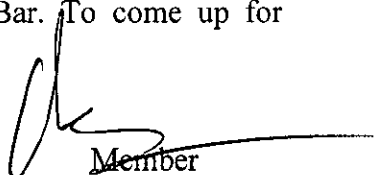
Appellant in person present and requested for adjournment. To come up for preliminary hearing on 24.02.2014.


Member

9.

24.02.2014

Appellant in person present. Preliminary arguments could not be heard due to General Strike of the Bar. To come up for preliminary hearing on 02.04.2014.


Member

3
30.4.2013

Counsel for the appellant present. In pursuance of the judgment of the august Supreme Court of Pakistan in constitution petition No. 53 of 2007 & constitution petition No. 83 of 2012, titled Sh. Riaz-ul-Haq, Advocate Supreme Court and an other-vs-Federation of Pakistan through Ministry of Law, etc. the case is adjourned on note Reader for proceeding as before on 5.6.2013.


Reader

4
5.6.2013

None for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance, 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 23.7.2013.


Reader

5
23.07.2013



No one is present on behalf of the appellant. Case is adjourned. To come up for preliminary hearing on 23.09.2013.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 523/2013

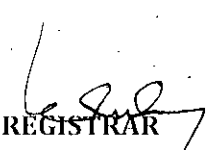
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/03/2013 18-3-2013	<p>The appeal of Mr. Sher Ali resubmitted today by Mr. Yaqoob Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to primary Bench for preliminary hearing to be put up there on <u>30-4-2013</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Sher Ali Patwari received today i.e. on 08/02/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 day.

Copy of relieving order in respect of appellant mentioned in para-2 of the memo of appeal (Annexure-B) is not attached with the appeal which may be placed on it.

No. 293 /S.T.

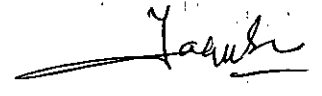
Dt. 08/02 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

MR. YQUB KHAN ADV. MARDAN.

Sir,
objections, completed and re-submitted

Please.


Yaqub Khan
Advocate

8/3/2012

Before the Service Tribunal KPK Peshawar

Appeal No. 523/2013

Sher Ali S/o Mehir Muhammad, Patwari Halqa/AOK Takht Bhai,
R/o Village & Tehsil Takht Bhai, District Mardan.

..... Appellant

VERSUS

Commissioner, Mardan Division, Mardan and another Respondents

INDEX

S/No.	Description of documents	Annexure	Page	
			From	To
1.	Appeal with affidavit.	-	1	4
2.	Copy of service book	A	5	9
3.	Copy of order dated 31-5-2001 ↓	B	10	11
4.	Copy of order dated 11/08/2011	C	12	13
5.	Copy of Departmental Appeal and order/judgment	D	14	18
6.	Copy of notification	E	-	19
7.	Wakalat Nama	-	-	20

Appellant

Dated: 4/2/2013

Through Counsel: Yaqoob Khan Advocate
Peshawar High Court Peshawar.

①

Before the Service Tribunal KPK Peshawar

Appeal No. 523/2013

Sher Ali S/o Mehir Muhammad, Patwari Halqa/AOK Takht Bhai,
R/o Village & Tehsil Takht Bhai, District Mardan.

..... Appellant

VERSUS

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

..... Respondents

S.W.F. Peshawar
Mardan Division
No. 392
8/2/13

**APPEAL AGAINST ORDER /JUDGMENT OF
RESPONDENT NO.1 DATED 22/01/2013,
WHEREBY DEPARTMENTAL APPEAL OF
APPELLANT IS PARTIALLY DISMISSED BEING
ADMITTED THE ENTIRE CLAIM OF APPELANT AS
A CORRECT, WHICH IS ILLEGAL, AGAINST LAW
AND FACTS.**

Respectfully Sheweth:-

1. That appellant has qualified course of Patwar and appointed as a Settlement Patwari on 28/05/1983 and worked with the respondent with the entire satisfaction of his superiors.

(Copy of service book is attached as Annexure "A")

2. That due to winding up of settlement operation Mardan and abolished the post of appellant, the appellant was relieved from duty

on the ground that as and when the post fall vacant in the Revenue

as submitted to
and filed.

8/2/13
11/3/13

side he should be appointed /adjusted against said post vide order of respondent dated ³¹⁻⁵⁻²⁰⁰¹

(Copy of order dated ³¹⁻⁵⁻²⁰⁰¹ is attached as Annex "B")

3. That on the availability of the post, appellant was re-appointed/adjusted in the Revenue side Mardan on 11/08/2011 after completion of all codal formalities vide order dated 11/08/2011.

(Copy of order dated 11/08/2011 is attached as Annex "C")

4. That appellant filed an appeal before the respondent No.1 (Commissioner Mardan Division, Mardan) which was partially accepted being admitted the entire claim of appellant as a correct but partially dismissed the appeal of appellant to the extent that appellant is not entitled for pay protection and back benefits of previous service already rendered in settlement operation Mardan which is illegal, against law and facts on the following grounds: -

(Copy of Departmental Appeal and order/judgment is attached as Annex "D")

GROUND:

A. That as per judgment of Superior Court (reported judgment 2008 PLC (CS) 482) coupled with judgments of this Hon'able Tribunal dated 03/05/2010 titled as Momen Khan vs. Chief Secretary etc., whereby it was held that appellants are entitled for pay protection and pensionary benefits of service already rendered in another department.

- B. Because as per earlier precedents, pension has been granted to identically settlement patwaries and appellant is also entitled for the same.
- C. Because pay protection is the right of appellant as per law and it can not be refused by respondents, much so when other identical settlement patwaries were granted the pay protection and seniority of settlement operation, pension as their services were also taken on against regular revenue posts in Mardan.
- D. Because the break in service has already condoned and previous service already counted for pensionary benefit and kept continued the service of appellant from 1st appointment till update, thus appellant is entitled for pay protection and back benefit on the basis of previous service already rendered in settlement operation Mardan.
- E. Because as per law, appellant is a regular civil servant and it was due to respondent that posts were abolished by respondent due to winding up settlement operation Mardan.
- F. Because identical appeal has been accepted by respondent (i.e. Commissioner Mardan).
- G. Because other similarly placed patwaries were granted to the same benefit in appeal titled as Hilal Said VS DOR Mardan, Imtiaz Ali VS DOR Mardan and as per reported judgment of Apex Supreme Court of Pakistan, SCMR 1996 page 1185, appellant is also entitled for the same benefit/relief.

H. That as per notification No: 12-1/2011 dated 04/06/2011 of KPK Finance Department has classified that pay protection will be admissible to the employee who are subsequent appointment in Govt: service from one department to another department through proper channel of said previous service.

(Copy of notification is attached as Annexure-E)

It is therefore, humbly prayed that on acceptance of this appeal , order/Judgment of commissioner Mardan dated 22/1/2013 may please be modified to the extent that appellatant may please be granted pay protection, seniority , back benefit of regular service of appellatant already rendered in settlement operation Mardan with all back benefits . Any other relief deemed fit may also be graciously awarded.

[Handwritten signature]

Appellant

Dated: 31 / 1 / 2013

Yaqoob
Through Counsel: Yaqoob Khan Advocate
Peshawar High Court Peshawar

AFFIDAVIT

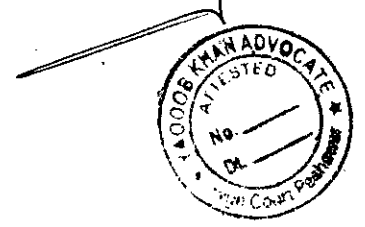
I, undersigned declare on Oath that contents of the appeal are true and correct to the best of my knowledge and belief.

Dated: 31 / 1 / 2013.

Deponent *[Handwritten signature]*

Attested

Yaqoob


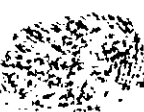


(5)

Note—The entries in this page should be reviewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

- 1. Name .. *Sher Ali*
- 2. Race .. *Afghan*
- 3. Residence .. *Villag Pate Kalan P.O Takht Bai
Tehsil & Distt Mardan.*
- 4. Father's name and residence .. *Amir Mohammad*
- 5. Date of birth by Christian era as nearly as can be ascertained .. *10-1-58 (Tenth January Nineteen Hundred fifty eight)*
- 6. Exact height by measurement .. *5'-6"*
- 7. Personal marks for identification.. *Black mole on right shoulder.*
- 8. Left hand thumb and Finger impression of (non-gazetted) officer ..

Little Finger.  Ring Finger 

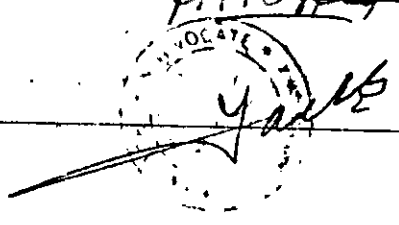
Middle Finger  Fore Finger 

Thumb. 

9. Signature of Government servant .. *M. Ali*

10. Signature and designation of the Head of the Office, or other Attesting Officer.

Sher Ali
Settlement Officer,
MARDAN.



1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	8 Signature of Government servant
(6) 290-10-350/12 Settlement Pathari Halga Jungara	Temp	Temp	290/-			25-5-83	M. D.
520-18-480 do	Temp	Temp	520/-			1-7-83	M. D.
do	Temp	Temp	538/-			1-12-83	
do	Temp	Temp	556/-			1-12-84	
Patwari Halga Burehshahi	Temp	Temp	574/-			1-12-85	
520-18-330 Patwari Burehshahi	Temp	Temp	574/-			1/86	
Sett Patwari Vill - Jungara	Temp	Temp	574/-			26/86 (Fris)	

7

9	10	11	12	13	14	15	
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer.	Leave		Signature of the head of the office or other attesting officer.	References to any recorded punishment or censure, or reward or praise of the Government or Government servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debit to another Government		
				Period	Government to which debit.		

Settlement Officer
MARDAN

Revision of Scale
30-5-83

25-5-83 to 30-11-83
From the Office Copies of the pay bills.

Settlement Officer
MARDAN

Settlement Officer
MARDAN

30-11-83 Increment

Settlement Officer
MARDAN

Service Verified from 1-12-83 to 30-11-84
From the Office Copies of the pay bills.

Settlement Officer
MARDAN

Settlement Officer
MARDAN

30-11-84 Increment

Settlement Officer
MARDAN

1-12-84 to 30-11-85
pay bills.

Settlement Officer
MARDAN

Settlement Officer
MARDAN

30-11-85 Increment

Settlement Officer
MARDAN

Service Verified from 1-12-85 to 31-12-85
From the Office Copies of the pay bills.

Settlement Officer
MARDAN

Settlement Officer
MARDAN

Office of the Accountant General
N.W.F.P. Peshawar
Pay fixed in basic pay scale 1983
of Rs. 5200...1.2.83
@ Rs. 5200... P.M.w.e. 1.1.7.83
with next increment on 1.12.83

Service from 1.1.1986
to 25/5/1986 verified from
The office copies of
pay bills.

Asstt. Accountant General
Asstt. Accountant General
R.N.W. Peshawar

Settlement Officer
MARDAN

25/5/86 transfer to
D.C. Office of

Settlement Officer
MARDAN

Settlement Officer
MARDAN

Settlement Officer
MARDAN

8-10-86 (A/N)
Transfer to

Settlement Officer
MARDAN

26-5-86 to 8-10-86
From the Office Copies of the pay bills.

Settlement Officer
MARDAN

D.C. Office of

Settlement Officer
MARDAN

Settlement Officer

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 G. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
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(8)

Patwar in Bagan Temp/ptl.
520-14-880.

574/- 9/10/86

do do

592/- 1/12/1986

700-25-1200

800/- 1/7/1987

Settlement Patwar Sar khabi. do.

800/- 1/9/87

of the Account Officer
H. W. D. Penhaver
Pay fixed in the Revised Pay Scale 1971
of Rs. 700-25-1200 - B-51
@ Rs. 800/- P.M.W.R.P. 4-1001-7-87
with Basic increment on 1-12-87.

Account Officer
Patwar Sar khabi

700-25-1200
Patwar Sawaldher do.

825/- 1/4/88

do do

857/- 1/12/88

do do

875/- 1/12/88

9	10	11	12	13		14	15
				Leave			
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer.	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Period	Government to which debitable		

19

X

*Appointed as Patwaris on
The recommendation of DSC
vide No. 148-58/DK/Hrc. Dated
11/08/2011.*

[Signature]
District Officer
Revenue & Estate
District Collector,
Mardan.

[Signature]
District Officer
Revenue & Estate,
District Collector
Mardan.

Attested

[Signature]

OFFICE ORDER.

~~Amir B~~ Amir B
FAKMAN SMT

In pursuance of the decision arrived at in the meeting held on 19/5/2001, presided over by the Senior Member, Board of Revenue, NWFP, Feshwar and winding up Settlement Operation in Swabi District, the under mentioned Settlement Patwaris are hereby relieved of their duties w.e.f. 31/5/2001 in accordance with the provision of (appendix E) Chapter-3 of Land Records, Manual:

10

<u>S-No.</u>	<u>Name of Patwari with Parentage.</u>	<u>Seniority Position.</u>
1)-	Barfaraz Khan S/O Sherin Jan.	1
2)-X	Jamshed Anwar S/O Abdul Malik.	2
3)-	Amir Hussain S/O Wahood Gul.	3
4)-	Sabz Ali No.1 S/O Mohibullah Khan.	4
5)-	Imtiaz Ali S/O Subhanuddin.	5
6)-	Shor Ali S/O Amir Muhammad.	6
7)-	Mahmood Tajbar S/O Ghayasuddin.	7
8)-	Yousaf Ali S/O Sherin.	8
9)-	Harrat Bilal S/O Abdul Haq.	9
10)-	Umrad Khan S/O Mohibullah Khan.	10
11)-	Datta Kamil S/O Abdul Malik.	11
12)-	Fazli Ghafoor S/O Muhammad Gulab.	12
13)-	Hasim-ur-Rahman S/O Gul Rahman.	13
14)-	Sabz Ali No.2 S/O Patan.	14
15)-	Mahmood Sadiq S/O Fazli Karim.	15
16)-	Bahadar Khan S/O Karim Khan.	16
17)-	Amir Badshah S/O Saif Rehman.	17
18)-	Alibay Ali S/O Mir Muhammad.	18
19)-	Anwar Khan S/O Amir Khan.	19
20)-	Riswan Ullah S/O Abdul Ghafoor.	20
21)-	Amir Khan S/O Amir Khan.	21

- P/2.
- | | | |
|------|---|----|
| 23)- | Pir mazhar Ali Shah S/O
Said Anwar Shah. | 23 |
| 24)- | Khalid Khan S/O
Hayat Khan. | 24 |
| 25)- | Shamsul Arifeen S/O
Rafiuddin. | 25 |
| 26)- | Aurang Zeb S/O
Amir Zada. | 26 |
| 27)- | Hanif Muhammad S/O
Muhammad Gul. | 27 |
| 28)- | Ahmad Ali Khan S/O
Bahadar Khan. | 28 |
| 29)- | Farman Ali S/O
Abdul Khalid. | 29 |
| 30)- | Muhammad Arshad S/O
Mir Ghazal. | 30 |
| 31)- | Hazrat Ghulam S/O
Said Ghulam. | 31 |
| 32)- | Taj Ali S/O
Muhammad Hazrat. | 32 |
| 33)- | Mehar Dil Khan S/O
Khaista Khan. | 33 |

(11)

(Signature)
Deputy Commissioner/
Settlement Officer,
Swabi.

OFFICE OF THE SETTLEMENT OFFICER, MARDAN AT SWABI.

No. 425/31 /SO-Mardan/E-19. Dated Mardan the 31/5/2001.
Copy forwarded to the :-

- 1)- Commissioner, Mardan Division, Mardan w/r to Director, Land Records, NWFP, Peshawar memo: no. 1079-81/DLR/Sett: dated 24/5/2001 with the request to take up the case for adjustment of Senior Patwaris of Mardan Distt: relieving the Junior most Patwaris candidates, presently posted in Mahal.
- 2)- Secretary, Board of Revenue, NWFP, Peshawar.
- 3)- Director, Land Records, N.W.F.P., Peshawar w/r to his memo: no. 1089-81/DLR/Sett: dated 24/5/2001.
- 4)- Deputy Commissioner, Mardan along with a copy of the minutes of the meeting held on 19/5/2001 with Senior member, Board of Revenue, NWFP, Peshawar.
- 5)- PS to Senior Member Board of Revenue, NWFP, Peshawar.
- 6)- District Accounts Officer, Mardan.
- 7)- Accounts Section (Local).

(Signature)
Deputy Commissioner/
Settlement Officer,
Swabi.

OFFICE OF THE
 DISTRICT OFFICER (R&E),
 MARDAN
 No. 149-56 /DK/HVC
 Dated Mardan the 11 /08/2011

Aux C

 12

OFFICE ORDER

On the recommendation of Departmental Selection Committee meeting held on 11.08.2011, the following candidate patwaris of Mardan District (Tehsil Mardan, Katlang and Takht Bhai) are hereby appointed as patwaris in BPS-5 on regular basis, with immediate effect as per existing appointment policy.

S.No	Name with parentage and address	Tehsil Mardan.
1	Syed Zahir Ali Shah s/o Abdul Wali Shah r/o Kot Ismail Zai	
2	Gohar Shah son of Haji Umar Shah r/o Bughdada	
3	Ali Akbar son of Lal Zada r/o Gadar	
4	Hamid Ali son Guli Sadbarg r/o Gujrat	
5	Arshad son Aftabu Din r/o Gujar Garhi	
6	Khalid Khan son of Hayat Khan r/o Mardan	
7	Ahmad Ali son of Bahadur Khan r/o Kandar	
8	Shafiqur Rehman son of Muhammad Rafiq r/o Mohabat Abad	
9	Azizur Rehman son of Noor Muhammad r/o Bara Banda Mardan.	
10	Mushtaq Ali son of Dilsoz r/o Gujrat	
11	Farhad Ali son of Ziarat Khan r/o Naseer Killi	
12	Niaz Muhammad son Sultan Muhammad r/o Garhi Kapura	
13	Duri Kamil son Abdul Malik r/o Charguli	
14	Ghulam Muhammad son of Gul Muhammad r/o Charguli	
15	Muhammad Ijaz son of Abdul Salam r/o Surukh Dheri	
16	Mudasir son Umar Khitab r/o Gujrat	
17	Inayat Ali Shah son of Sher Muhammad r/o Gujrat	
18	Mehar Dil Khan son of Khaista Khan r/o Chail Banda	
19	Khalid Iqbal son of Jehan Zeb r/o Bughdada	
20	Khairul Amin s/o Muhammad Saleem r/o Mardan	
	Tehsil Katlang.	
21	Darwesh Khan s/o Bahadur Khan r/o Shero	
22	Muhammad Saeed son of Ajab Khan r/o Katlang	
23	Asif Akbar s/o Muhammad Akbar r/o Qasmi	
24	Muhammad Asad s/o Umbaras Khan r/o Kharki	
25	Shakeel Ahmad s/o Lal Bahadur r/o Katlang	

Tehsil Takht Bhai.	
26	Sher Ali son of Mir Muhammad r/o Ratu Kalan Takht
27	Sabz Ali son of Pathan r/o Khan Killi Takht Bai
28	Gulab Khan son of Ismail r/o Qutab Garh
29	Janat Gul son of Abdul Samad r/o Qutab Garh
30	Abdul Haleem son of Abdur Rauf R/o Lund Khwar
31	Sardar Ali son of Haji Sher Ali r/o Lund Khwar
32	Muhammad Sameen s/o Shahzad r/o Lund Khwar
33	Muhammad Afzal son of Sarfaraz r/o Sher Garh

M
DISTRICT OFFICER (R&E)
MARDAN

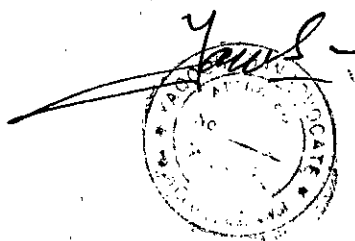
Endst: No. & date even

Copies to:

1. The Commissioner, Mardan Division, Mardan.
2. The District Coordination Officer, Mardan.
3. The Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. The Deputy District Officer (R), Mardan/Katlang/Takht Bhai.
5. The District Comptroller of Accounts, Mardan.
6. The Tehsildar, Mardan/Katlang/Takht Bhai.
7. Finance Assistant Local.
8. Officials Concerned

M
DISTRICT OFFICER (R&E)
MARDAN

Attested



فہرست فیصلہ ہمارے فیصلے کے تحت ڈویژن ماردان

مردان

مردان

مردان

مردان

22/01/2013

14/01/2013



IN THE COURT OF COMMISSIONER MARDAN DIVISION MARDAN

Anx D

Sher Ali Patwari

Appellant

Versus

Deputy Commissioner/
District Collector Mardan

Respondent

14

Case No.....
Date of Institution: 14/01/2013
Date of Decision: 22/01/2013

APPEAL/REPRESENTATION FOR CONDONATION OF BREAK IN SERVICE OF THE APPELLANT W.E.F 01.06.2001 TO 10.08.2011 AND PREVIOUS SERVICE OF APPELLANT RENDERED IN SETTLEMENT OPERATION MARDAN W.E.F 28.05.1983 TO 31.05.2001 TO BE COUNTED FOR PAY AND PENSION BENEFITS.

ORDER:

Brief facts of the case are that the appellant was appointed as Settlement Patwari on 28/05/1983. Due to winding up of settlement operation Mardan, the appellant was relieved from service vide order dated 31/05/2001. Later on the appellant was appointed/adjusted as patwari on regular basis vide order dated 11/08/2011. The appellant has submitted the instant appeal/representation for condonation of break in service w.e.f. 01/06/2001 to 10/08/2011 and counting his previous service rendered in settlement operation Mardan w.e.f. 28/05/1983 to 31/05/2001 towards pension and pecuniary benefits.

Appellant with his counsel present. Arguments heard and case file perused.

Counsel for the appellant argued that as per reported judgment of Hon'ble Supreme Court of Pakistan (2008 PLC (CS) 482), appeal of the appellant was accepted with the direction that necessary action be taken for the revised pay fixation as well as counting of service rendered by the appellant in other department i.e. PAF prior to resign for the purpose of qualifying period for pension. Moreover as per judgment of Service Tribunal Khyber Pakhtunkhwa, Peshawar dated 30/08/2007 in the case titled "Abid Khan versus Commissioner Mardan etc" service of the appellant had been ordered to be counted for pension and pay protection and the intervening period to be treated as extra ordinary leave without pay. He further contended that the Hon'ble Service Tribunal Peshawar has

Contd....P/2

See Page No

28-1-13

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15

Accepted appeals in cases titled "Momin Khan versus Chief Secretary Khyber Pakhtunkhwa etc" and "Ali Zaman versus Chief Secretary Khyber Pakhtunkhwa etc." whereby it was directed that the appellants are entitled for protection of pay and pensionary benefits for the service already rendered in another department in FATA. Furthermore, as per reported judgment of the Hon'ble Apex Court (1996 SCMR 1185), if the Service Tribunal or Supreme Court decides a point of law relating to the terms of service of a civil servant who litigated but also for other civil servants who may not have taken any legal proceedings, in such a case the dictates and rule of good governance demand that the benefits of such a judgment be extended to other civil servants who may not be parties to the litigation instead of compelling them to approach the Service Tribunal or any other forum. Thus as per the above referred judgment appellant is entitled for protection for pay and fixation and pensionary benefits for his qualifying service already rendered in this department i.e Settlement Operation Mardan and condonation of break in service for the period between relieving from service and re-appointment in Revenue side Mardan.

From perusal of the record of the case and arguments advanced at the bar, it reveals that the appellant was appointed as settlement patwari on 28/05/1983 and due to winding up of Settlement Operation Mardan the appellant was relieved from service. Subsequently the appellant was appointed/adjusted as patwari halqa in Revenue side Mardan vide order dated 11/08/2011. Hence the appellant, being a civil servant of the revenue department and adjusted in the same department is entitled for continuation of his service. Therefore the instant appeal is hereby accepted to the extent that the qualifying service already rendered by the appellant in Settlement Operation Mardan be counted for pensionary benefits only and his service break is condoned accordingly. However the appellant shall not be entitled for any emolument, including pay for the above mentioned period condoned. A copy of this order may be sent to Deputy Commissioner/District Collector Mardan for necessary action. No order as to cost.

File be consigned to record room after completion.

Announced
22/01/2012

Commissioner
Mardan Division Mardan



No. 1714
Date of Application 28-1-13
Name of Applicant
Wards 800 Fee 80
Urgent Fee
Sign of Copyist
Date of Preparation

28-1-13

ATTESTED

Examiner/Reader to
Commissioner Court
Mardan Division Mardan

28-1-13

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Appeal No. _____
Sher Ali S/O Mehr Mohammad Patwari hadda Lakhtohai
Mardan.....Appellant
VERSUS
D.C.Mardan.....Respondent

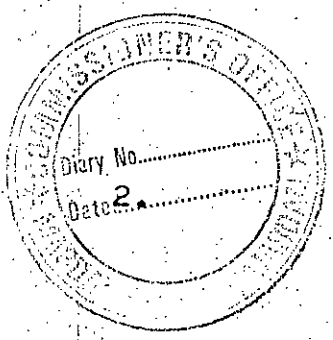
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Reader
Handwritten signature and date 11/01

APPEAL/REPRESENTATION FOR CONDONATION OF
BREAK IN SERVICE OF APPELLANT WITH EFFECT
FROM 01.6.2001 TO 10/9/2011 AND PREVIOUS
SERVICE OF APPELLANT ALREADY RENDERED IN
SETTLEMENT OPERATION MARDAN WITH EFFECT FROM
28/5/83 TO 31/5/2001 BE COUNTED FOR PAY AND
PENSION WITH ALL BACK BENEFITS.

Respectfully Sheweth:

1. That appellant was appointed as Settlement
Patwari on 28/5/83 vide order dated
28/5/83. (Copy attached).



That due to winding up settlement operation
Mardan, the appellant was relieved from
service on the condition that he will be

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(2)

(17) (18)

adjusted as and when vacancy fall vacant

in the department vide order dated 31/5/2001

(Copy attached).

3. That appellant was appointed/adjusted as

Patwari Halqa in Revenue side Mardan on

regular basis vide order dated 11/8/2011.

(Copy of the order is attached).

4. That as per judgement of Apex Supreme Court of

Pakistan, if an official is resigned the

Government service and appointed in other

departments, he is entitled for pay

protection and pensionary service already

rendered in other department.

5. That other similarly placed officials were

granted the same benefit in appeal titled

as Arshad versus D.L.R., Shafiq ur Rehman

and Muhammad Riaz versus Borad of Revenue

Peshawar and as per reported judgement of

Apex Supreme Court of Pakistan, SCMR 1996

page 1185 and 2003 SCMR 1074, Appellant

is also entitled for the same benefits/
relief.

ATTESTED

[Signature]

Examiner/Reader to
Commissioner
Mardan Division Mardan

28-1-13

See Page 2

B 3

28-1-13

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17
3

18

P-----3.

It is therefore, humbly prayed that on acceptance of this appeal, the break in service of appellatant with effect from 01-6-2001 to 10-8-2011 may please be condoned and service of appellatant already rendered in Settlement Operation, Mardan may please be counted for pay and pension only,

Any other relief deemed fit may also be graciously granted, and appellatant may please be upgraded from BPS-5 to BPS-9 with all back benefit.

[Signature] Appellant

Through

[Signature]
(YAQUB KHAN)
Advocate High Court at Mardan.

Dated: 15.3.2011.

AFFIDAVIT

I, the undersigned do hereby solemnly affirm that the contents of the appeal are true and correct to the best of my knowledge and belief.

[Signature] Deponent

ATTESTED

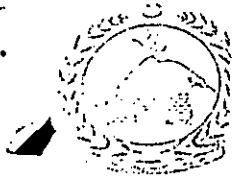
[Signature]
Yaquub Khan
Advocate,
Distt Court Mardaa.

No. 1714
Date of Application 28-1-13
Name of Applicant [Signature]
Wards 1200 Fee 125
Urgent Fee 22
Sign of Copyist [Signature]
Date of Preparation [Signature]

28-1-13

[Signature]
ATTESTED
Examiner/Reader to
Commissioner Court
Mardan Division Mardan

28-1-13



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Aux
(19)

11310
07/6/11

NO. FD (SR-1) 12-1/2011
Dated Peshawar the: 4th June, 2011

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All District Coordination Officers in Khyber Pakhtunkhwa.
10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
11. The Registrar, Peshawar High Court, Peshawar.
12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of *Mr. Sajjad Rashid* and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst:of even No. & date.

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance.
8. PA to Spl: Secretary Finance.

(KHURSHID ALAM)
Section Officer (SR-I)

Attested

مورخہ: 4 فروری 2013ء منجانب ریلوے

مقدمہ: سٹیٹس علی نیوٹریٹی بنام: گمشدہ سرسارو علی

دعویٰ: ریلوے

جرم:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکلہ کاروائی کے لئے لکھنے والے مقرر 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 جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور غرضی دعویٰ اور درخواست ہر قسم کی تصدیق ذراں 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 اسکا ساختہ برداختہ منظور قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا 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 سندر ہے۔

المرقوم 4 ماہ فروری 2013ء

بد گواہ شدہ الع

کے لئے منظور ہے

بمقام:

Attested & Accepted

Yours -



Before the Service Tribunal KPk Peshawar

Appeal No. 523/2013

Sheer Ali

vs

Commissioner Mardan etc.

Service Appeal

Subject: Application for withdrawal of appeal.

Respectfully sheweth:-

1. That above captioned case is fixed for today.
2. That appellant has got remedy from respdts, hence appellant is not interesting in further proceeding of the instant case.
3. That appellant is requesting for withdrawal of instant appeal due to get remedy from respdts.

It is therefore, humbly requested that above captioned case may please be withdrawn.

Through counsel:-

Appellant
Sheer Ali



Dated 20/7/2016

Yaqub