

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	13.10.2015	<p data-bbox="613 401 1417 483" style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p data-bbox="786 530 1235 568" style="text-align: center;">Service Appeal No. 1251/2014</p> <p data-bbox="613 613 1474 692">Amjid Khan Versus Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, Peshawar etc.</p> <p data-bbox="760 737 954 775" style="text-align: center;"><u>JUDGMENT</u></p> <p data-bbox="675 819 1433 857" style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant</p> <p data-bbox="613 902 1479 1024">with counsel (Mr. Ijaz Anwar, Advocate) and Government Pleader (Mr. Muhammad Jan) for the respondents present.</p> <p data-bbox="613 1128 1479 1746">2. This appellant namely Amjad Khan was Patwari Halqa Nauthia and appellant namely Javed Khan, was Patwari Halqa Chamkani Tehsil and District Peshawar at the relevant time. This appellant was appointed as Patwari in the year, 2012 as stated in the memo: of appeal. Both the appellants were dismissed from service vide impugned order dated 25.08.2014 and 04.08.2014 respectively mainly on the following charge:-</p> <p data-bbox="691 1794 1406 2033" style="text-align: center;">“that they were keeping Munshis which is not only violation of Land Revenue Act but also violation of the instructions issued by the Board of Revenue from time to time and tentamounts towards disobedience, indifference to the rules and instructions.”</p> <p data-bbox="613 2080 1474 2369">Their departmental appeals were also rejected vide order dated 29.09.2014 and 10.09.2014 hence, these separate service appeals. In view of common questions of law and facts, both will be decided by this single judgment.</p>

3. Arguments heard and record perused.

4. According to the record, appellant Amjad Khan was suspended vide order No. 3034-40/DC(P)/DK, dated 25.03.2014 on the basis of the above charge. It is thus evident that appellant was placed under suspension a day earlier than the day of inspection of Patwar Khana by Assistant Commissioner, Peshawar on 26.03.2014. In the report of Mr. Muhammad Fawad Addl. Assistant Commissioner-VII who prepared his preliminary enquiry report dated 14.4.2014 he has stated that the charges leveled against the accused official seem weak. It seems that as Assistant Commissioner had made surprise visit to Patwarkhana, therefore, the scribe of report, the Addl. Assistant Commissioner simply sent report, to the competent authority to take appropriate action and did not recommend something from his own. An enquiry committee comprising of Mr. Sardar Asad Haroon AC Peshawar and Muhammad Sohail Aziz Addl.A.C was appointed who conducted the enquiry and submitted report which revealed that this committee did not collect any evidence against the appellant to prove that in fact the appellant had employed Munshi and was involved in corrupt practices through him. No rules/regulations were cited on behalf of the respondent-department that employment of such munshi for one's assistance was illegal and against the service rules. In these circumstances

major penalty of dismissal on the appellant is based on conjectures, is too harsh and unjust, hence the impugned orders cannot be maintained. For the said reasons, the impugned orders are set aside. The case is remitted to the competent authority for denovo departmental proceedings against the appellant but the same should be completed as soon as possible but not later than a month period after receipt of this judgment. For this purpose, the appellant is reinstated into service. Back benefits etc. shall be subject to the outcome of denovo proceedings. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record.

6. This judgment will also dispose of service appeal No. 1165/2014 of Javed Ahmad as stated above.

ANNOUNCED

13.10.2015



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

6.
Appeal No-1251/2014
Mr. Amjid Khani.

05.05.2015

Appellant with counsel and Mr. Mukhtiar Ali, Supdt
alongwith Asstt: AG for the respondents present. Written
reply/comments submitted. The appeal is assigned to D.B for
rejoinder and final hearing for 17.09.2015 before D.B.


Member

2.07.2015

Appellant with counsel and Mr. Muhammad Jan, GP
with Naeem Khan, Assistant and Ayub Khan, Assistant for
the respondents present. Due to rush of work, arguments
could not be heard. To come up for arguments on 05.8.2015.

~~Selected by the Registrar to appear before the Bench on 05.08.2015~~
~~05.08.2015~~


Member


Member

05.08.2015

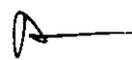
Appellant with counsel and Mr. Mukhtiar Ali, Supdt. alongwith
Mr. Muhammad Jan, GP for respondents present. Arguments heard. To
come up for order on 15-09-2015


Member


Member

15.09.2015

Appellant with counsel and Mr. Mukhtiar Ali, Supdt.
alongwith Mr. Muhammad Jan, GP for respondents present. Since the
Court time is over therefore, case is adjourned to 21-9-15 for
order.


MEMBER


MEMBER

NWFP. Routine 3

No. _____ From _____

Date _____ To _____

Encl: _____

SUBJECT: _____

*Don't want to appoint
this case
[unclear]*

0.31

(1) No one should be a judge in his own case.

(2) Fact & finding inquiry: Exonerated

(3) i) 1989 PLD (SC) 335

ii) 1999 PLC (CS) 1332 (b)

iii) 2002 PLC (CS) 503

- Allegations not proved, Compt: was 1/0

~~(i) No exoneration in pre-trial inquiry~~

(ii) No provision in E & D rules that Compt: cannot be appointed as inquiry officer.

Appeal No. 1257/2014
Mr. Anjil Khan

3. 12.01.2015

Appellant deposited
Process fee & Security


Appellant alongwith his counsel present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 04.08.2014, vide which the major penalty of dismissal from service has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal on 25.08.2014 which was rejected vide order dated 29.09.2014, hence the instant appeal on 21.10.2014.

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 18.03.2015.

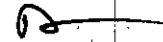

Member

4. 2.01.15

This case be before the Hon'ble Member for the first time

5. 18.03.2015

Appellant in person and Mr. Zafeerullah, Assistant for respondents No.2 and 3 with Asst. AG for the respondents present. Written reply on behalf of respondents No.2 and 3 submitted. Notice be issued to respondent No. 1 for submission of written reply/comments on 05.05.2015 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1251/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21/10/2014	<p>The appeal of Mr. Amjid Khan presented today by Mr. Ijaz Anwar Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	27-10-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>12-1-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1251/2014

Amjid Khan, Ex-Patwar, PH Nauthia, Tehsil & District
Peshawar. (Appellant)

VERSUS

Senior Member Board of Revenue Khyber Pakhtunkhwa
Peshawar and others. (Respondents)

INDEX

S. No	Description of Documents	Annexure	Page No
1	Memo of Appeal		1 - 5
2	Affidavit		6
2	Suspension order dated 25.03.2014 and preliminary inquiry report dated 14.04.2014	A & B	7 - 9
3	Charge Sheet/ statement of allegations & letter dated 30.04.2014	C & D	10 - 12
4	Copy of the inquiry report	E	13
5	Show cause notice and reply to the show cause notice	F & G	14 - 17
6	Order dated 04.08.2014	H	18
7	Departmental Appeal and order dated 29.09.2014,	I & J	19 - 23
8	Vakalatnama		

Through

Amjid Khan
Appellant

Ijaz Anwar
IJAZ ANWAR
Advocate Peshawar

Saeed Amin
SAEED AMIN
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No: 1251 /2014

1278
21-10-2014

Amjid Khan, Ex-Patwar, PH Nauthia, Tehsil & District
Peshawar. (Appellant)

VERSUS

1. Govt of Khyber Pakhtunkhwa through Senior Member Board of Revenue Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Commissioner Peshawar Division, Peshawar.
3. Deputy Commissioner, Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order No. 8582/DC(P)/EA dated 04.08.2014, whereby the appellant has been awarded the major punishment of Dismissal from Service, against which his departmental appeal dated 25.08.2014, has also been rejected vide order dated 29.09.2014.

Prayer in Appeal:

On acceptance of this appeal the impugned final orders dated 04.08.2014 and 29.09.2014 may please be set aside and the appellant may be reinstated into service with all back benefits.

Respectfully Submitted:

1. That the appellant was appointed as Patwari in the year 2012. Ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding his performance.

2. That while serving in the said capacity, the appellant while posted at Nauthia, on 26.03.2014, the Assistant Commissioner, Peshawar visited his Patwar Khana situated at Usman Tower, Railway Road, Nauthia Peshawar. The Patwar Khana was locked as the appellant was on visit to Hayatabad on the direction of the Tehsildar in connection with some official work, however, the appellant was telephonically informed by the Assistant Commissioner to come back. When he came back the Assistant Commissioner unlocked the Patwar Khana and after search no irregularity or illegality was found nor was any illegal document/ recovered. It is also pertinent to mention here that the Assistant Commissioner also arrested one student who was residing in the adjacent room to the Patwar Khana, mistakenly taking him as his Munshi. However after necessary verification he was allowed to go.
3. That surprisingly the appellant was suspended from service vide order dated 25.03.2014, allegedly on the ground of keeping Munshi and recovery of Part-e-Patwar and Part-e-Sarkar from his Patwar Khana. Initially a preliminary inquiry was conducted and the inquiry officer after recording the statement of the appellant and that of the student, submitted his report dated 14.04.2014 wherein he gave certain recommendations, however it was clearly stated that the charges leveled against the patwari seems weak. *(Copies of the suspension order dated 25.03.2014 and preliminary inquiry report dated 14.04.2014 are attached as Annexure A & B)*
4. That the appellant was served with charge sheet and statement of allegations containing certain unfounded and baseless allegations and an inquiry committee was also constituted vide letter dated 30.04.2014. The appellant duly replied the charge sheet and refuted the allegations as false and baseless. *(Copies of the Charge Sheet/ Statement of allegations and letter dated 30.04.2014, are attached as Annexure C & D)*
5. That a partial inquiry was conducted and the inquiry committee submitted its report wherein the appellant was recommended for minor/major punishment. *(Copy of the inquiry report is attached as Annexure E)*

6. That thereafter the appellant was served with show cause notice dated 02.06.2014, which he duly replied and again denied the allegations leveled against me. (*Copies of the Show Cause Notice and reply to the show cause notice is attached as Annexure F & G*)
7. That the Competent Authority without considering his defence reply, awarded him the major penalty of "*Dismissal from Service*" the appellant vide order dated 04.08.2014. (*Copy of the order dated 04.08.2014, is attached as Annexure H*)
8. That aggrieved from the order dated 04.08.2014, the appellant submitted his departmental appeal dated 25.08.2014, before the respondent No. 2, his departmental appeal has also been rejected vide order dated 29.09.2014. (*Copies of the departmental Appeal and order dated 29.09.2014, are attached as Annexure I & J*)
9. That the penalty imposed upon the appellant is illegal unlawful against law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF APPEAL .

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding the appellant the major penalty of *Dismissal from service*, no proper inquiry has been conducted, statement of witnesses if any, were never taken in his presence nor he has been allowed opportunity of cross examination, thus the whole proceedings are conducted in violation of the Govt. Servants (E & D) Rules, 2011 and thus not tenable in the eye of law.
- C. That the appellant has not been given opportunity of personal hearing before awarding him penalty of *Dismissal from service* hence he has been condemned unheard.
- D. That the charges leveled against the appellant were never proved during the inquiry, the inquiry committee gave its finding on surmises and conjunctures.

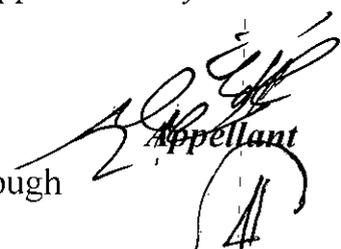
- E. That during the inquiry no witness has been examined or if so examined their statements have not been recorded in presence of the appellant nor he has been allowed opportunity to cross examine those who may have deposed against me.
- F. That the inquiry committee also comprised of Assistant Commissioner, Peshawar, on whose complaint/report, departmental proceedings were initiated against the undersigned, thus being complainant, legally he could not conduct inquiry against the appellant, thus the inquiry committee so constituted is illegal and against the established principles of law that no one could be judge in his own case.
- G. That the appellant has not been provided the copy of the inquiry report before the imposition of penalty upon him so as to know on what grounds/evidence the inquiry committee held him guilty of the charges leveled against him, thus not providing him copy of the finding of the inquiry report has denied the appellant the fair opportunity to defend himself.
- H. That the student namely Mr. Muhammad Jalal S/O Shaukatullah R/O Deh Bahadur, Peshawar, who resided in an adjacent room to the Patwar Khana along with two other students, was under misunderstanding taken/considered as the Munshi of the appellant. The said student also denied any connection with the appellant in his statement during the Preliminary inquiry, however during the regular inquiry he was never associated nor his statement was recorded. It is also pertinent to mention that the Patwar Khana was located in Usman Tower, Nauthia, Peshawar where many other people also resides, needless to mention that during the surprise visit of the Assistant Commissioner, the Patwar Khana was locked.
- I. That as regard, recovery of certain record from the Patwar Khana, it is submitted that no illegal document was ever recovered from the Patwar Khana, only certain revenue record was taken from patwar Khana so that it may be tallied with the documents allegedly recovered from the student, however the same revenue record was returned to the appellant after verification/ examination. It is also pertinent to mention that after examination of the record, no irregularity or illegality has been pointed out, thus all the charges leveled against the

appellant remained unproved albeit the appellant has been dismissed from service. The documents that were allegedly recovered from the student were never produced in the inquiry.

- J. That the appellant has never violated any Rule / Law or any instruction of the Superior Authority, nor has he committed any act or omission which could be termed as misconduct, albeit he has been awarded the penalty of "*Dismissal from service.*"
- K. That the facts and grounds mentioned in the replies to the Charge Sheet, Show Cause Notice and departmental appeal may also be read as integral part of the instant appeal.
- L. That the appellant is jobless since the illegal penalty imposed upon him.
- M. That the appellant has at his credit an unblemished and spotless service career, the penalty imposed upon him is too harsh and liable to be set aside.
- N. That the appellant also seek permission of this Honourable Tribunal to rely on additional grounds at the time of hearing of the appeal.
- O. That the appellant seeks the permission to rely on additional ground at the hearing of this appeal.

It is, therefore, very humbly prayed that on acceptance of this appeal the impugned final orders dated 04.08.2014 and 29.09.2014, may please be set aside and the appellant may be reinstated into service with all back benefits.

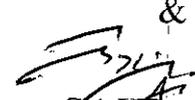
Through


Appellant

IJAZ ANWAR

Advocate, Peshawar

&


SAJID AMIN

Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. _____/2014

Amjid Khan, Ex-Patwar, PH Nauthia, Tehsil & District
Peshawar.

(Appellant)

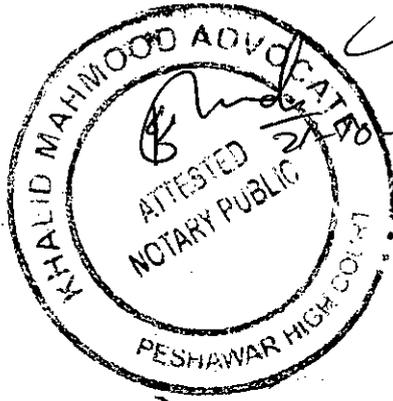
VERSUS

Senior Member Board of Revenue Khyber Pakhtunkhwa
Peshawar and others.

(Respondents)

AFFIDAVIT

I, *Amjid Khan*, Ex-Patwar, PH Nauthia, Tehsil &
District Peshawar, do hereby solemnly affirm and declare on
oath that the contents of the *above noted appeal* are true and
correct and that nothing has been kept back or concealed from
this Honourable Court.



Amjid Khan
DEPONENT



(7)

ANNEX-A

OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR.
Dated Peshawar the 25/03/2014.

OFFICE ORDER.

During surprise visit of your Patwar Khana by the Assistant Commissioner, Peshawar, you Mr. Amjad Khan Patwari Halqa Nauthia have been found in keeping Munshi and ~~part-patwars~~ & sarkars duly thumb impressed were recovered from your Patwar Khana, which comes within ambit of mis-conduct and is clear violation of the Land Revenue Act as well as instructions passed by the Board of Revenue (Special Initiatives).

In view of the above allegations, you are hereby suspended with immediate effect.

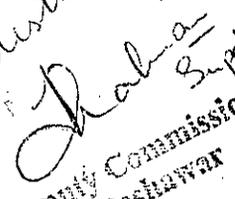
Tehsildar Peshawar is directed to hand over the charge of the Patwar Halqa Nauthia to the contiguous Patwari in the same circle.


Deputy Commissioner,
Peshawar.

No. 3034-42/DC(P)/DK Dated Peshawar the 25/03/2014

Copy forwarded to:-

1. Commissioner, Peshawar Division Peshawar.
2. Addl. Deputy Commissioner, Peshawar.
3. Mr. Mohammad Fawad, AAC-VII Peshawar to conduct enquiry into the matter and submit his findings/recommendations within 15 days.
4. PS to Senior Member Board of Revenue Khyber Pakhtunkhwa, Pesh.
5. Tehsildar Peshawar.
6. Patwari concerned.
7. Revenue Bill Clerk.

Attested

Deputy Commissioner
Peshawar


Deputy Commissioner,
Peshawar.

Attested


⑧ Amjad B

OFFICE OF THE ADDITIONAL ASSISTANT COMMISSIONER-VII,
PESHAWAR.

No. 619 IAAC-VII/DC

Dated 14/04-2014

INQUIRY AGAINST MR. AMJAD KHAN, PH NAUTHIA FOR KEEPING MUNSHI.

Mr. Amjad Khan, patwari halqa Nauthia was suspended from service vide office order bearing No.3034-40/DC(P)/DK dated 25-03-2014 for keeping munshi in the patwar khana which is clear violation of standing instructions on the subject. The undersigned has been appointed as inquiry officer for conducting inquiry and submission of report.

It has been reported in above suspension order that the Assistant Commissioner, Peshawar conducted a surprise raid on patwar khana Nauthia and found that Mr. Amjad Khan has kept munshi in the patwari khana. It has been further reported that Part-e-Patwar and Parth-e-Sarkar duly thumb impressed were recovered from him. This act of the accused patwari Mr. Javed Ahmed is clear violation of Land Revenue Act and instructions issued by the Board of Revenue, Khyber Pakhtunkhwa under the Special Initiatives.

In order to give the opportunity of defence, the accused official was summoned. He was heard in person and his written statement recorded to this effect.

Statement of the accused patwari.

The accused patwari has contended in his written statement that on 26th March, 2014 at 2:30pm Assistant Commissioner raided on patwar khana Nauthia. However, the patwar khana was locked as the patwari was in Hayatabad on the direction of Tehsildar in connection with some Registry. He was telephonically called back.

It has been stated that the patwar khana is located on third floor in Usman Tower Nauthia where 8 rooms are located and occupied by different people. Adjacent to the patwar khana some students are living and the Assistant Commissioner arrested one of the student mistakenly taking him as munshi. Furthermore, some documents were also recovered however, no irregularity can be proved against him. The patwar khana was opened by AC Peshawar himself and took away register of mutation with him.

In the suspension order two accusations have been leveled against the accused patwari. Firstly, that he has kept a munshi in the patwar khana and secondly that part-e-sarkar and patwar duly thumb impressed has been recovered from him.

Statement of the alleged Munshi.

In order to confirm the veracity of the statement of the patwari, the student Mr. Muhammad Jalal s/o Shaukatullah R/o Deh Bahadar, Peshawar was also summoned. His student ID card was checked and statement also record. It has been contended that he is student of First Year in the Global Degree college and is residing in one of the room in Usman Tower

Amjad B
Deputy Commissioner
Peshawar

Amjad B

Findings & Recommendations.

Mr. Muhammad Jalal, accused munshi appeared before the undersigned. He is merely a fifteen or sixteen year boy and a student of 1st year in the Global Degree College and as such he cannot have a command over the complex revenue work to serve as munshi with the patwari. Furthermore, the patwar khana was locked and the student/munshi was residing alongwith two other students in a separate room. Furthermore, as regard, recovery of part-e-patwar and Sarkar, it has been reported that they were thumb impressed and no further irregularity has been pointed out. Thus the charges levelled against the accused patwari seem weak though no doubt there may be some truth in it since the since Assistant Commissioner has raided on the patwar khana himself.

In light of the above, the inquiry is sent herewith to the competent authority for any appropriate action deemed fit and just. Either, the patwari can be proceeded further or an in depth scrutiny of the registers may be carried out to form a strong charge sheet or the patwari may exonerated from the charges levelled.

Inquiry report is submitted to the competent authority for further action judged appropriate please.

Attested
Rahim
Deputy Commissioner
Peshawar

(Signature)
(MUHAMMAD FAWAD)
ADDL:ASSTT.COMMISSIONER-VII/
INQUIRY OFFICE
11/4/14

Attested
(Signature)

(10)
Amjad Ede. C
CHARGE SHEET

I, S. Zaheer-ul-Islam, Deputy Commissioner, Peshawar as con authority, hereby charge you, Mr. Amjad Khan, Patwari Halqa Nauthia, Pes (Under suspension), as follows:-

That you were posted as Patwar Halqa Nauthia Peshawar commit following irregularities:

- (a) That during inspection of Patwar Khana by Assistant Commi Peshawar on 26/03/2014 at 2:30pm, official record i.e. Patwar and Part-e-Sarkar duly thumbed impressed were n from your Munshi, which is clear violation of the Land Rever as well as instructions issued by the Board of Revenue un Special Initiatives.
- (b) You were suspended vide this office order No.3034-40/DC dated 25/03/2014 and a preliminary inquiry was ordered ; you and Mr.Fawad Khan AAC-VII Peshawar was appoin Inquiry Officer.
- (c) That the Inquiry Officer AAC-VII Peshawar in his recommended that you were keeping Mr. Muhammad J. Munshi which is not only voilation of Land Revenue Act b violation of the instruoions issued by the Board of Revent time to time and tentamounts towards disobedience, indiffer the rules and instructions.
- (d) That Inquiry Officer concerned has recommended for con detail/indepth inquiry under E&D Rules 2011.

2. By reasons of the above, you appear to be guilty of misconduct under n the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011 an rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

3. You are, therefore, required to submit your written defense within days of the receipt of this Charge Sheet to the Inquiry Committee.

4. Your written defense, if any, should reach the Inquiry Committee, wit specified period, failing which it shall be presumed that you have no defense to put in that case ex-parte action shall follow against you.

5. Intimate whether you desire to be heard in person.

6. A Statement of allegations is enclosed.

[Handwritten signature]

Attested
Rahim
Sept.
Deputy Commissioner
Peshawar

[Handwritten signature]
Deputy Commissioner
Peshawar
(COMPETENT AUTHORITY)

11

ANNEXED - D

DISCIPLINARY ACTION

I, S. Zaheer-ul-Islam, Deputy Commissioner Peshawar, as competent authority, am of the opinion that Mr. Amjad Khan, Patwari Halqa Nauthia, Peshawar (Under suspension), has rendered liable to be proceeded against, as he committed the following acts/omissions with in the meaning of rule-3 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- (a) That during inspection of Patwar Khana by Assistant Commissioner Peshawar on 26/03/2014 at 2:30pm, official record i.e. Part-e-Patwar and Part-e-Sarkar duly thumbed impressed were received from your Munshi, which is clear violation of the Land Revenue Act as well as instructions issued by the Board of Revenue under the Special Initiatives.
- (b) You were suspended vide this office order No.3034-40/DC(P)/DK dated 25/03/2014 and a preliminary inquiry was ordered against you and Mr.Fawad Khan AAC-VII Peshawar was appointed as Inquiry Officer.
- (c) That the Inquiry Officer AAC-VII Peshawar in his report recommended that you were keeping Mr. Muhammad Jalal as Munshi which is not only violation of Land Revenue Act but also violation of the instructions issued by the Board of Revenue from time to time and tentamounts towards disobedience, indifference to the rules and instructions.
- (d) That Inquiry Officer concerned has recommended for conducting detail/indepth inquiry under E&D Rules 2011.

2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the ibid rules.

- i. Sardar Asad Hassan A.C (P)
- ii. Mr. Sohail Aziz AAC Peshawar

3. The inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/inquiry committee.

[Handwritten signature]

Attended
[Handwritten signature]
Deputy Commissioner
Peshawar

[Handwritten signature]
Deputy Commissioner
Peshawar
(COMPETENT AUTHORITY)



12 ANNEX D

OFFICE OF THE
DEPUTY COMMISSIONER
PESHAWAR

No. 4645 /DC(P)/EA
Dated Pesh. the 30 /14 /2014

From: The Deputy Commissioner,
Peshawar.

To: Sardar Asad Haroon,
Assistant Commissioner, Peshawar.

Subject: DISCIPLINARY PROCEEDINGS AGAINST MR. AMJAD KHAN
PATWARI HALQA NAUTHIA, PESHAWAR (UNDER SUSPENSION)

I, the undersigned, in the capacity as the Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, have approved initiation of disciplinary proceeding against Mr. Amjad Khan, Patwari Halqa Nauthia, Peshawar (Under suspension)) vide attached Statement of allegation. Consequently, the competent authority has been further pleased to appoint an Inquiry Committee consisting of you and the following member to scrutinize the conduct of the aforesaid accused official vis-à-vis the statement of allegations:

Mr. Sohail Aziz,
Add. Assistant Commissioner-IV, Peshawar.

And desire that the Inquiry Committee, so constituted, should take further necessary action and submit its findings, recommendations and report in accordance with the provision of the rules mentioned above within 30 days positively.

Encls: As Above


Deputy Commissioner
Peshawar

Attested. No. 4646-49 /DC(P)/EA.

Deputy Commissioner
Peshawar

Copy forwarded to the:-

1. The Assistant Commissioner, Peshawar alongwith copy of charge sheet & statement of allegations for similar necessary action.
2. Mr. Sohail Aziz, Add. Assistant Commissioner-IV, Peshawar for necessary action.
3. Mr. Amjad Khan, Patwari Halqa Nuathia, Peshawar (the accused official) through DK of this office alongwith copy of charge sheet & statement of allegations with the direction to appear before the Inquiry Committee on the date, time and place fixed by the Committee for the purposes of inquiry proceedings.
4. District Kanungo of this office with the direction to be present during the inquiry proceedings.



THROUGH REGISTERED AD

(14)

ANNEX-1-F

IMMEDIATE



OFFICE OF THE
DEPUTY COMMISSIONER
PESHAWAR

No. 6195 /DC(P)/EA
Dated Pesh. the 02/06/2014

To

Mr. Amjad Khan,
Patwari, C/O DK of this office.

Subject: SHOW CAUSE NOTICE

Memo:

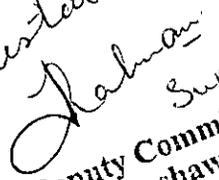
Enclosed please find herewith 2 copies of "SHOW CAUSE NOTICE" alongwith copy of Enquiry Report with the direction that one copy may be retained and the other copy be signed as a token of receipt and returned to this office for record immediately.

Encls:(As above)

Endst: No. 6196 /DC(P)/EA.


Deputy Commissioner
Peshawar

Copy to the Additional Deputy Commissioner, Peshawar.

Attested

Deputy Commissioner
Peshawar



SHOW CAUSE NOTICE

15

I, S. Zaheer-ul-Islam, Deputy Commissioner Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby serve you, Amjad Khan, Patwari Halqa Nuthia (Arazi) Peshawar (under suspension), as follows:

1. (i) That consequent upon the completion of inquiry conducted against you by the Inquiry Committee for which you were given opportunity of hearing vide office communication which was availed by you and
- (ii) On going through the findings and recommendations of the Inquiry Committee, the material on record and other connected papers.

I am satisfied that you have committed the following acts /omissions specified/falls under the purview of Section 3 of the said Ordinance:

- (a) That during inspection of Patwar Khana by Assistant Commissioner Peshawar on 26/03/2014 at 2:30pm, official record i.e. Part-e-Patwar and Part-e-Sarkar duly thumbed impressed were recovered from your Munshi, which is clear violation of the Land Revenue Act as well as instructions issued by the Board of Revenue under the Special Initiatives.
You were suspended vide this office order No.3034-40/DC(P)/DK dated 25/03/2014 and a preliminary inquiry was ordered against you and Mr.Fawad Khan AAC-VII Peshawar was appointed as Inquiry Officer.
- (c) That the Inquiry Officer AAC-VII Peshawar in his report recommended that you were keeping Mr. Muhammad Jalal as Munshi which is not only violation of Land Revenue Act but also violation of the instructions issued by the Board of Revenue from time to time and tentamounts towards disobedience, indifference to the rules and instructions.
- (d) That Inquiry Officer concerned has recommended for conducting detail/indepth inquiry under E&D Rules 2011.
- (e) That an inquiry committee comprising of M/s Sardar Asad Haroon AC Peshawar and Sohail Aziz AAC-IV Peshawar was constituted to thoroughly investigate the matter.
- (f) The Inquiry Committee in its report also recommended for imposing a minor/major penalty under E & D Rules 2011.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you Major Penalty of Dismissal from service under section-4 of the said Rules.

3. 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.

4. 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 defense to put in and in that case an exparte action shall be taken against you.

5. The copy of the findings of the Inquiry Committee is enclosed.

Attended
Shahbaz
Deputy Commissioner
Peshawar

[Handwritten signature]

[Handwritten signature]
Deputy Commissioner
Peshawar
(Competent Authority)

U.O.No. 6194 /DC (P)/EA.
Dated 02/06/2014.

(16) ANNEX G
(12)

بسم الله الرحمن الرحيم 0

بخدمت جناب اسٹنٹ کمشنر صاحب پشاور

جناب عالی!

مورخہ 26 مارچ 2014ء کو بروز بدھ بوقت تقریباً 2:30 بجے دوپہر کو اے سی صاحب

پشاور نے ہمراہ سٹاف میرے پٹوار خانہ (نوٹھیہ اراضی) پراچانک چھاپہ مارا۔

جناب اس وقت میں تحصیلدار صاحب پشاور کے حکم پر سرکاری تعمیل کے سلسلے میں حیات آباد گیا ہوا تھا۔



لہذا میرے غیر موجودگی کی وجہ سے میرے پٹوار خانہ کو تالا لگا ہوا تھا۔

اے سی صاحب نے مجھے فون پر اطلاع دیکر بلایا۔

نیز تحصیلدار سرکل کی پروانہ کی فوٹو کاپی لف ہذا ہے۔

جناب والا! میرا پٹوار خانہ موضع نوٹھیہ میں ریلوے روڈ پر عثمان ٹاور میں تیسری منزل پر واقع ہے۔ عثمان

ٹاور کے تیسری منزل پر آٹھ کمرے ہیں جو کہ 3 فلیٹ پر مشتمل ہے۔ جس کو مالک جائیداد نے مختلف لوگوں کو

کرایہ پر دیئے ہوئے ہیں۔ پٹوار خانہ کے قریب کمرے میں مجھ سے پہلے طالب علم رہائش پذیر ہے چھاپے

کے وقت ایک طالب علم اپنے کمرے میں موجود تھا۔ اے سی صاحب نے غلط فہمی کی بناء پر طالب علم کو میرا

منشی تصور کر کے گرفتار کر لیا اور ڈپٹی کمشنر صاحب کے سامنے پیش کیا۔ ڈپٹی کمشنر صاحب نے طالب علم

سے پوچھ گچھ کر کے اسی وقت چھوڑ دیا۔

جناب والا! طالب علم کے کمرے جو کاغذات وغیرہ برآمد ہوئے ہیں اس کاغذات کے ساتھ میرا کوئی تعلق ہے

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اور نہ ہی میرے پٹوار خانے سے برآمد ہوئے ہیں اور نہ ہی میرے ریکارڈ کے مطابق ہے اور نہ ہی اس پر میرے دستخط موجود ہے۔

لہذا آپ صاحبان اس کاغذات کو میرے ریکارڈ کے ساتھ ملاحظہ بھی کر سکتے ہیں۔

جناب والا! میرے پٹوار خانے کو اسی صاحب نے اپنے ہاتھوں سے تالا کھول کر صرف اور صرف ریکارڈ انقالات کی جلد دات ساتھ لے گئے ہیں۔

جناب والا! میرے پٹوار خانے سے کوئی غیر قانونی کاغذات وغیرہ برآمد نہیں ہوئے ہیں اور نہ ہی میں کوئی غلط کام کرتا ہوں۔ اور نہ ہی میرے ساتھ کوئی منشی وغیرہ کام کرتا ہے کیونکہ سارا کام میں خود ہی کرتا ہوں۔

جناب والا! میرے ایک سال سروس ریکارڈ کے مطابق مجھ پر اب تک کوئی بھی عوامی شکایات وغیرہ نہیں ہوئی ہے۔

جناب والا! میں ایک غریب تنخواہ دار ملازم ہوں اور اسی تنخواہ پر اپنے بال بچوں کی دیکھ بھال کرتا ہوں۔

لہذا آپ صاحبان مہربانی کر کے مجھے دوبارہ بحالی کے احکامات صادر فرمائیں۔

میں آپ جناب کا تاحیات دعا گو رہے گا۔

(رپورٹ پیش خدمت ہے)۔

امجد خان آف اچر

حلقہ پٹواری نوتھیہ اراضی (ایس)

۱۰/۰۵/۲۰۱۴

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(18) ANNEX-H

**OFFICE OF THE
DEPUTY COMMISSIONER
PESHAWAR**

Dated Pesh. the 04/08/2014

OFFICE ORDER:

No. 8582 /DC(P)/EA.

WHEREAS, Mr. Amjad Khan, Patwari (BPS-09), Patwar Halqa Nuthia (Arazi) Peshawar was proceeded against under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Disciplinary Rules 2011, for charges mentioned in Charge Sheet & Statement of Allegations.

AND WHEREAS, An inquiry committee comprising of M/S Sardar Asad Haroon AC Peshawar and Sohail Aziz AAC-IV Peshawar was constituted to conduct inquiry against the said Patwari.

AND WHEREAS, the inquiry committee after having examined the charges, evidence on record and explanation of the accused Patwari, submitted its report, whereby the charges leveled against the accused Patwari stand proved.

NOW THEREFORE, the undersigned being the competent authority after having considered the charges, evidence on record, the explanation of the accused Patwari and findings of the enquiry committee, and exercising the powers under section-4(b)(iv) read with section-14(5)(ii) of the Khyber Pakhtunkhwa Govt. Servants E&D Rules 2011 has been pleased to impose the major penalty of "Dismissal from service" upon the above named Patwari with immediate effect.

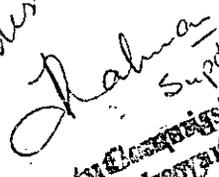

(S. Zaheer-ul-Islam)
Deputy Commissioner
Peshawar

Endst: No. 8583³⁹ /DC(P)/EA.

Copy forwarded to the:

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Commissioner, Peshawar Division Peshawar.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. Additional Deputy Commissioner, Peshawar.
5. Accounts Officer of this office for further necessary action.
6. Tehsildar, Peshawar.
7. Mr. Amjad Khan, Ex-Patwari, Peshawar.


(S. Zaheer-ul-Islam)
Deputy Commissioner
Peshawar



Deputy Commissioner
Peshawar

(19) ANNEX I

To

The Honorable Commissioner,
Peshawar Division; Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER
DATED 04.08.2014, WHEREBY THE APPELLANT HAS
BEEN AWARDED THE MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE.**

Prayer in appeal.

**ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL
THE ORDER DATED 04.08.2014, MAY PLEASE BE SET
ASIDE AND THE APPELLANT MAY BE REINSTATED
INTO SERVICE WITH ALL BACK BENEFITS.**

Respectfully Submitted,

The appellant very humbly submit the following few lines for
your kind and sympathetic consideration:

1. That I was appointed as Patwari in the year 2012. Ever since my appointment, I had performed my duties as assigned with zeal and devotion and there was no complaint whatsoever regarding my performance.
2. That I while serving in the said capacity, on 26.03.2014, the worthy Assistant Commissioner, Peshawar visited my Patwar Khana situated at Usman Tower, Railway Road, Nauthia Peshawar. The Patwar Khana was locked as I was on visit to Hayatabad on the direction of the Tehsildar in connection with some official work, however I was telephonically informed by the Assistant Commissioner to come back. When I came back the Assistant Commissioner unlocked the Patwar Khana and after search no irregularity or illegality was found nor was any illegal document/ recovered. It is also pertinent to mention here that the Assistant Commissioner also arrested one student who was residing in the adjacent room to the Patwar Khana, mistakenly taking him as my munshi. However after necessary verification he was left over.
3. That I was suspended from service vide order dated 25.03.2014, allegedly on the ground of keeping munshi and recovery of part-e-

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patwar and part-e-sarkar from my Partwar Khana. Initially a preliminary inquiry was conducted and the inquiry officer after recording my statement and the statement of the student submitted his report wherein he gave certain recommendations, however it was clearly stated that the charges leveled against the patwari seems weak. *(Copies of the suspension order, and preliminary inquiry report is attached)*

4. That I was served with charge sheet and statement of allegations containing certain unfounded and baseless allegations and an inquiry committee was also constituted vide letter dated 30.04.2014, I duly replied the charge sheet and refuted the allegations as false and baseless. *(Copies of the Charge Sheet Statement of allegations and reply to the Charge Sheet is attached)*
5. That a partial inquiry was conducted and the inquiry committee submitted its report wherein the undersigned was recommended for minor/major punishment. *(Copy of the inquiry report is attached)*
6. That thereafter the undersigned was served with show cause notice dated 02.06.2014, which I duly replied and again denied the allegations leveled against me. *(Copy of the reply to the show cause notice is attached)*
7. That the Competent Authority without considering my defence reply, awarded me the major penalty of "Dismissal from Service" vide order dated 04.08.2014. *(Copy of the order dated 04.08.2014, is attached)*
8. That the penalty imposed upon me is illegal unlawful against law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF DEPARTMENTAL APPEAL.

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding me the major penalty of *Dismissal from service*, no proper inquiry has been conducted, statement of witnesses if any, were never taken in my presence nor I have been allowed opportunity of cross examination, thus the whole proceedings are conducted in

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violation of the Govt. Servants (E & D) Rules, 2011 and thus not tenable in the eye of law.

- C. That I have not been given opportunity of personal hearing before awarding me penalty of Dismissal from service hence I have been condemned unheard.
- D. That the charges leveled against me were never proved during the inquiry, the inquiry committee gave its finding on surmises and conjunctures.
- E. That during the inquiry no witness has been examined or if so examined their statements have not been recorded in my presence nor have I been allowed opportunity to cross examine those witnesses who may have deposed against me.
- F. That the inquiry committee also comprised of Assistant Commissioner, Peshawar, on whose complaint/report, departmental proceedings were initiated against the undersigned, thus legally he could not conduct inquiry against the undersigned, as such the whole inquiry conducted against me is illegal and void abenatio.
- G. That I have not been provided the copy of the inquiry report before the imposition of penalty upon me which is mandatory in case of awarding major penalty.
- H. That the student namely Mr. Muhammad Jalal S/O Shaukatullah R/O Deh Bahadur, Peshawar, who resided in an adjacent room to the Patwar Khana along with two other students, was under misunderstanding taken/considered as my Munshi, he also denied any connection with the undersigned during his statement during the Preliminary inquiry, however during the regular inquiry he was never associated nor his statement was recorded. It is also pertinent to mention that my Patwar Khana was located in Usman Tower, Nauthia, Peshawar where many other people also lived, moreover during the surprise visit of the Assistant Commissioner, the Patwar Khana was locked.
- I. That as regard, recovery of certain record from my Patwar Khana, it is submitted that no illegal document was ever recovered from my Patwar Khana, only certain revenue record was taken from

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from patwar Khana so that it may be tallied with the documents allegedly recovered from the student, however the same revenue record was returned to me after verification/ examination. It is also pertinent to mention that after examination of the record, no irregularity or illegality has been pointed out, thus all the charges leveled against the undersigned remained unproved albeit I have been dismissed from service. It is also pertinent to mentioned that the documents that were allegedly recovered from the student were never brought before the inquiry.

- J. That I have never violated any Rule / Law or any instruction of the Superior Authority, nor have I committed any act or omission which could be termed as misconduct, albeit I have been awarded the penalty of "*Dismissal from service.*"
- K. That the facts and grounds mentioned in my replies to the charge sheet and Show Cause Notice may also be read as integral part of the instant departmental appeal.
- L. That I am jobless since the illegal penalty imposed upon me.
- M. That I have at my credit an unblemished and spotless service career, the penalty imposed upon me is too harsh and liable to be set aside.
- N. That I also seek permission to rely on additional grounds at the time of hearing of the appeal.

It is, therefore, humbly prayed that on acceptance of this departmental appeal the order dated 04.08.2014, may please be set aside and the undersigned may be reinstated into service with all back benefits.

Yours Obediently


AMJID KHAN

Ex-Patwari

Patwar Halqa Nauthia,
Peshawar.


Dated 25 / 08 / 2014



(23) ANNEX J
IN THE COURT OF
COMMISSIONER PESHAWAR DIVISION
PESHAWAR

APPEAL NO: /2014

DATE OF INSTITUTION: 12.08.2014

DATE OF DECISION: 29.09.2014

Amjid Khan Ex Patwari, Patwar Halqa Nauthia, Peshawar.....(Appellant)

VERSUS

Deputy Commissioner Peshawar.....(Respondent)

ORDER

This order will dispose off the instant departmental appeal filed by the above named appellant against the Deputy Commissioner Peshawar order bearing No. 8582/DC(P)/EA dated 04.08.2014, whereby he was awarded major penalty of dismissal from service under section-4(1)(b)(iv) and section-14(5)(ii) of Govt. of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.

Facts of the case are that the then Assistant Commissioner, Peshawar conducted a surprise visit at Patwar Khana Nauthia, Peshawar and found the appellant keeping private person as Munshi in his Patwar Khana and recovered valuable public record, i.e Part-e-Sarkar & Part-e-Patwar from his possession. The Deputy Commissioner, Peshawar vide order No.3034-40/DC(P)/DK dated 25.03.2014 suspended the appellant and appointed Muhammad Fawad, AAC-VII Peshawar as Enquiry Officer to hold a preliminary enquiry and submit report. The Enquiry Officer recommended the appellant for an in-depth Enquiry.

Based on the findings of preliminary enquiry, the Deputy Commissioner Peshawar/Competent Authority constituted an Enquiry Committee under Khyber Pakhtunkhwa, Government Servants(Efficiency & Discipline) Rules-2011 comprising Mr. Sohail Aziz, Additional Assistant Commissioner-IV, Peshawar and Sardar Asad Haroon, Assistant Commissioner Peshawar to record findings and submit report with recommendations within 30 days. After receipt of the recommendations of the Enquiry Committee, the Deputy Commissioner/competent authority imposed a major penalty of dismissal from service upon him u/s 4(1)(b)(iv) read with section 14(5)(ii) of the Government of Khyber Pakhtunkhwa, Government Servants (Efficiency & Disciplinary) Rules-2011.

Aggrieved of the order of Deputy Commissioner Peshawar the appellant filed the instant appeal.

Appellant present and heard. Comments received from Deputy Commissioner Peshawar also examined. Perusal of the record reveals that charge levelled against the appellant regarding keeping private person as Munshi, holding valuable public record(Part-e-Sarkar & Part-e-Patwar duly thumb impressed) has been proved. Therefore, I see no reasons to interfere in the impugned order of the Deputy Commissioner Peshawar dated 04.08.2014 which is thus upheld. The appeal in hand stands rejected. File to ORN.

POWER OF ATTORNEY

In the Court of Khyber Pakhtunkhwa Service Tribunal
Peshawar

Amjid Khan Ex-Patwari } For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Senior member, Board of Revenue } Defendant
Khyber Pakhtunkhwa, Peshawar & others } Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

Sajid Amin Advocate my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

Sajid Amin
SAJID AMIN
ADVOCATE HIGH COURT
Legal Advisor Services & Labour Laws Consultants
FR-3-4, Fourth Floor, Bilour Plaza Peshawar Cantt.
Ph: 091-3272054, Mob: 0333-4584986, 03339155956

Ijaz Anwar
Ijaz Anwar
Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3 &4, Fourth Floor, Bilour Plaza, Soadlar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0333-9107225

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No.1251/2014

Amjid Khan, Ex-Patwari (BPS-09) PH Nauthia,
Tehsil & District Peshawar

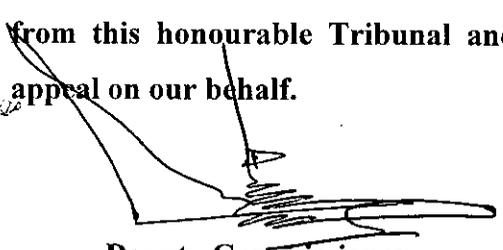
.....(Appellant)

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Senior Member Board of Revenue
Khyber Pakhtunkhwa, Civil Secriteriate Peshawar.
2. The Commissioner Peshawar Division Peshawar
3. The Deputy Commissioner, Peshawar(Respondents)

AFFIDAVIT

We, Respondents No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents accompanying Para-wise comments submitted are true and correct to the best of our knowledge and belief and that nothing has been concealed from this honourable Tribunal and authorize Govt. Pleader to defend the insant appeal on our behalf.


Deputy Commissioner
Peshawar
(Respondent No.3)


Commissioner
Peshawar Division, Peshawar
(Respondent No.2)

Senior Member Board of Revenue,
Govt. of Khyber Pakhtunkhwa
(Respondent No.1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No.1251/2014

Amjid Khan, Ex-Patwari (BPS-09) PH Nauthia,
Tehsil & District Peshawar

.....(Appellant)

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Senior Member Board of Revenue
Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Commissioner Peshawar Division Peshawar
3. The Deputy Commissioner, Peshawar(Respondents)

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 TO 3

Respectfully Sheweth,

Preliminary Objections.

1. That the appellant in the instant case has no locus standi or cause of action to institute present appeal.
2. That the appellant has not come to this honourable Tribunal with clean hands.
3. That the appellant is estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in the present form.
5. That the instant appeal is barred by law.

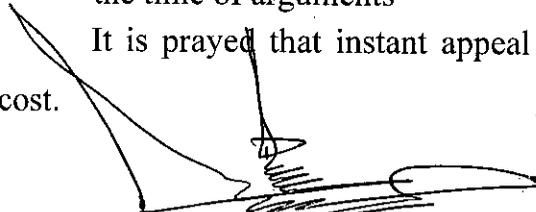
OBJECTION ON FACTS.

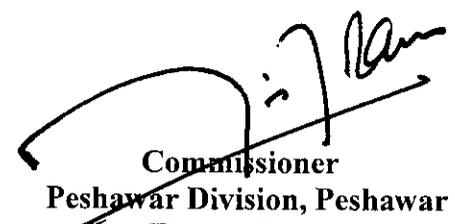
1. Correct to the extent that the appellant was an employee of Revenue Department.
2. Correct to the extent that during the inspection of Patwar Khana of the appellant by the Assistant Commissioner Peshawar on 26/03/2014 at 2:30 PM official record i.e. Part-e-Patwar and Part-e-Sarkar duly thumb impressed were recovered from the Munshi of the appellant which is a clear violation of the Land Revenue Act as well as Instructions issued by the Revenue Department under the Special Initiatives.
3. Correct to the extent that the appellant was suspended from service dated 25/03/2014 and preliminary enquiry was ordered. The enquiry officer recommended a depth enquiry into the matter.
4. Correct to the extent that the charge sheet as well as statement of allegations were served and a detail enquiry committee was ordered.
5. The enquiry committee submitted its report wherein the appellant was recommended minor/major punishment.
6. Correct to the extent that the appellant was served with a show cause notice and accordingly replied by the appellant, however, his reply was found unsatisfactory.
7. Incorrect. The competent authority after considering the charges, evidence on record, the explanation of the appellant and findings of the enquiry committee exercised the power of Dismissal from service under the E&D Rules 2011.
8. The appeal of the appellant was rejected by Respondent No:2 on the ground that charges against the appellant were proved.
9. The appellant has got no cause of action to file the instant appeal

GROUNDS

- A. Incorrect. The appellant has been treated according to the Law/Rules and not violated any Law/Rules.
- B. Incorrect. The appellant was proceeded under E&D Rules 2011 and all the required procedures were carried out accordingly and no violation was made.
- C. Incorrect. The appellant was given full opportunity of personal hearing etc. under E&D Rules 2011 as evident from Show Cause Notice.
- D. Incorrect. In the preliminary enquiry the enquiry officer recommended a depth enquiry into the matter under E&D Rules 2011 which after probing recommended major/minor penalty for the appellant.
- E. Incorrect. The appellant was given full opportunity of defense.
- F. Incorrect. Preliminary enquiry conducted by AAC-VII Peshawar, a regular enquiry committee was constituted which also endorsed the recommendation of preliminary enquiry officer i.e. imposition of major/minor penalty.
- G. Incorrect. A Show cause notice was served upon the appellant alongwith the enquiry report vide letter No.6195/DC(P)/EA dated 02/06/2014.
- H. Incorrect. The detail enquiry committee observed that the appellant could not satisfy the committee and violated Rules/Laws, recommended imposition of major/minor penalty against the appellant.
- I. Incorrect. The official record i.e. Part-e-Patwar and Part-e-Sarkar duly thumbed impressed recovered from the Munshi of the appellant were clear violation of the Land Record Act.
- J. Incorrect. As at Para-I above of the Grounds.
- K. No comments.
- L. The penalty was imposed after following all codal formalities.
- M. Incorrect. The appellant violated the Special Initiatives of the Revenue and Estate Department as well as Land Revenue Act.
- N. The appellant has got no cause of action to file the instant appeal.
- O. That the respondents seek permission to raise additional grounds and proof at the time of arguments

It is prayed that instant appeal of the appellant may please be dismissed with cost.


Deputy Commissioner
Peshawar
(Respondent No.3)


Commissioner
Peshawar Division, Peshawar
(Respondent No.2)

Senior Member Board of Revenue,
Govt. of Khyber Pakhtunkhwa
(Respondent No.1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No.1251/2014

Amjid Khan, Ex-Patwari (BPS-09) PH Nauthia,
Tehsil & District Peshawar

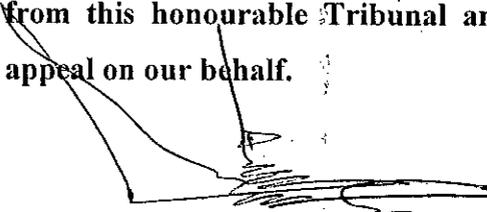
.....(Appellant)

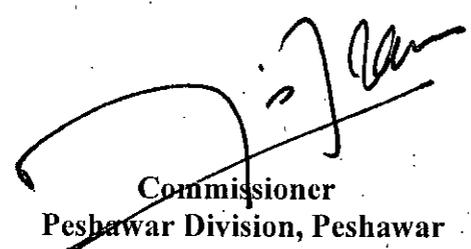
VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Senior Member Board of Revenue
Khyber Pakhtunkhwa, Civil Secriteriate Peshawar.
2. The Commissioner Peshawar Division Peshawar
3. The Deputy Commissioner, Peshawar(Respondents)

AFFIDAVIT

We, Respondents No. 2 to 3 do hereby solemnly affirm and declare on oath that the contents accompanying Para-wise comments submitted are true and correct to the best of our knowledge and belief and that nothing has been concealed from this honourable Tribunal and authorize Govt. Pleader to defend the instant appeal on our behalf.


Deputy Commissioner
Peshawar
(Respondent No.3)


Commissioner
Peshawar Division, Peshawar
(Respondent No.2)

Senior Member Board of Revenue,
Govt. of Khyber Pakhtunkhwa
(Respondent No.1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 1251/2014

Amjid Khan, Ex-Patwari, PH Nauthia Tehsil and District PeshawarAppellant

VERSUS

Senior Member Board of Revenue and othersRespondent

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 IS AS UNDER: -

PRELIMINARY OBJECTIONS

1. Appellant has got no cause of action to file instant appeal.
2. That the appellant has concealed material facts from the Hon'able Tribunal.
3. The Appeal is badly time barred.

RESPECTFULLY SHEWETH.

ON FACTS.

1. Pertains to record.
2. Relates to Respondent No. 3
3. Incorrect. The Enquiry Officer in his fact finding enquiry recommended initiation of disciplinary action under Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011.
4. Correct to the extent that charge sheet and statement of allegation was served upon the appellant under Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011.
5. Incorrect. The impartial enquiry committee has recommended imposition of penalty upon appellant under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.
6. Pertains to Respondent No. 3
7. Incorrect. Major penalty of dismissal from service was imposed upon the appellant on the basis of recommendations of the Enquiry Committee when charges against him were proved.
8. Incorrect. Respondent No. 2 has rightly rejected the Departmental appeal of the appellant.
9. Incorrect. Penalty was imposed upon the appellant on the basis of recommendation of Enquiry Committee when charges against him were proved.

GROUNDS

- A. Incorrect. The appellant has been treated in accordance with law.
- B. Incorrect. All the proceedings have been carried out as prescribed in Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.
- C. Incorrect. Proper opportunity of hearing was afforded to the appellant.
- D. Incorrect. Charges against the appellant have been proved.
- E. Incorrect. Proper opportunity of hearing was provided to the appellant.
- F. Incorrect. Enquiry Committee was constituted by the Competent Authority under Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011.
- G. Incorrect. Para – 5 of the show cause notice clearly shows that copy of findings of the Enquiry Committee was provided to the appellant.
- H. Incorrect. Important Revenue documents entrusted to the appellant by law were recovered from a private person.
- I. As in “H” above.
- J. Incorrect. Keeping of private munshi/clerk is unlawful and practice has been banned by Government. Acting contrary to law and Government directions constitutes misconduct.
- K. Incorrect. Grounds mentioned in the replies to charge sheet and show cause notice cannot be treated as part of appeal.
- L. No comments.
- M. Incorrect. Penalty imposed upon the appellant is in accordance with rules.
- N. That the respondents also seek permission to raise additional grounds and proof at the time of arguments.
- O. As in “N” above.

It is requested that the appeal having no legal footing may be dismissed with costs.


Respondent No.1 ³⁰⁻³⁻²⁰¹⁵

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1251/14

Amjid Khan, Ex-Patwari, PH Nauthia.....Appellant
Tehsil & District Peshawar

VERSUS

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

AFFIDAVIT

I Mir Qasim Assistant Secretary (Lit;II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me, and noting has been deliberately concealed from this Hon'able Tribunal.


Assistant Secretary (lit;II)
Board of Revenue

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

In the matter of

Appeal No. 1251 /2014

*Put up with the
identical case
on 2/7/2015
Notice to
26/6*

Amjad ~~Rahman~~

..... Appellant

VERSUS

SMBR and others

..... Respondents

APPLICATION FOR EARLY HEARING.

Respectfully Sheweth,

1. That the titled appeal is pending adjudication before this Honourable Tribunal in which 17/09/2015 is the next date fixed for final arguments.
2. That previously on 05/05/2015, the case was fixed for arguments, however, due to the rush of work, the turn of the instant case did not come till the closing hours of the court and the case was left over and adjourned to 17/09/2015.
3. That since the appellant is jobless, therefore, he is suffering financially, moreover, the instant appeal being an old case filed in the year 2012, therefore, deserves to be fixed at the earliest.

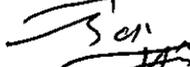
4. That even otherwise a very short point of law is involved in the instant ~~CASE~~ ~~IN~~ ~~THE~~ ~~TITLED~~ ~~APPEAL~~ ~~AS~~ ~~SUCH~~ ~~THE~~ ~~INSTANT~~ ~~APPEAL~~ ~~CAN~~ ~~BE~~ ~~DISPOSED~~ ~~OFF~~ ~~IN~~ ~~THE~~ ~~SHORT~~ ~~TIME~~ ~~IF~~ ~~FIXED~~ ~~AT~~ ~~AN~~ ~~EARLIER~~ ~~DATE~~.

5. That there is no legal impediment in early fixation of the title appeal.

It is therefore, humbly prayed that on acceptance of instant application the next date in the titled appeal i.e. 17/9/2015 may kindly be expedited and the appeal may kindly be fixed at earlier date as convenient to this Honourable Tribunal.

Dated: 19/05/2015

Appellant
Through


SAJID AMIN
Advocate, Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 1640 /ST

Dated 22/10/2015

To,

The Deputy Commissioner,
Peshawar.

Subject:-

APPEAL NO. 1165/2014 JAVED AHMED VS SMBR AND OTHERS

I am directed to forward herewith a certified copy of order dated 13/10/2015 passed by this Tribunal on the above cited above for strict compliance and further necessary action.


REGISTRAR
KPK SERVICE TRIBUNAL
PESHAWAR