

16.05.2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

2. In pursuance of the judgement of Service Tribunal dated 02.09.2021, three withheld increments, have been restored to the petitioner vide office order dated 22.02.2022 and as such Service Tribunal judgement to that extent stands implemented. Consign.

3. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 16<sup>th</sup> day of May, 2022.



  
(MIAN MUHAMMAD)  
MEMBER (E)




OFFICE OF THE DEPUTY COMMISSIONER BANNU

No. 4466 /DC/AE/F-26

Dated: 27 /02/2022

OFFICE ORDER:

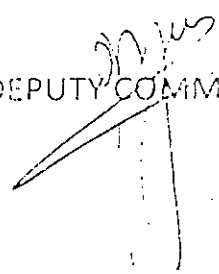
In pursuance of the Khyber Pakhtunkhwa Service Tribunal Peshawar, judgment dated 02.09.2021 in Service Appeal No. 04/2019 in case titled "Musharaf Khan vs Commissioner, Bannu Division and others", three withheld increments of Mr. Musharaf Khan Girdawar vide this office order No. 6518/DC/AE, dated: 5.10.2017, is hereby restored subject to the decision in CPLA No. 566-P/2021 pending before August Supreme Court of Pakistan. In case of decision in CPLA against him, the paid amount shall be recovered from him accordingly.

  
DEPUTY COMMISSIONER

Even No & Date:

Copy forwarded for information to the:-

1. Commissioner Bannu Division Bannu.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. Additional Advocate General, Khyber Pakhtunkhwa, Service Tribunal Peshawar.
4. Additional Deputy Commissioner Bannu.
5. District Comptroller of Accounts Bannu.
6. PS to SMBR Khyber Pakhtunkhwa Peshawar.
7. Bill Clerk, DC office Bannu for necessary action.
8. Official concerned.
9. D.C LAKKI MATWAL.
10. DCA LAKKI MATWAL.

  
DEPUTY COMMISSIONER


۳۱ جنوری ۲۰۲۲ء

Implimentation

01.02.2022

Petitioner in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Gul Rehman, AC (P) and Mr. Zulfiqar Khan, Additional AC (Revenue) for respondents present.

Implementation report not submitted. Representative of the respondents seeks further time to submit proper implementation report. Respondents are directed to submit proper implementation report on the next date otherwise coercive measure in the shape of attachment of salary will be taken against them. To come up for further proceedings on 21.03.2022 before S.B.

  
(Mian Muhammad)  
Member(E)

25.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 16.05.2022 for the same as before.

  
Reader.

13.12.2021

Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Wali Muhammad, Reader to DC Bannu for respondents present.

Learned AAG seeks time to submit implementation report on the next date of hearing. Adjourned. To come up for implementation report on 13.01.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

13.01.2022.

Petitioner present through counsel.

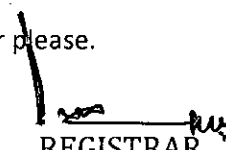

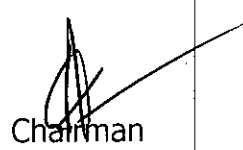
Muhammad Adeel Butt, learned Additional Advocate General alongwith Gul Rehman AC (P) for respondents present.

Learned AAG seeks time to submit implementation report on the next date. Last chance is given. To come up for proper implementation report/conditional order on or before the next date fixed as 01.02.2022 before S.B.

  
(Rozina Rehman)  
Member (J)

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Execution Petition No. 225 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15.10.2021	<p>The execution petition of Mr. Musharraf Khan submitted today by Naila Jan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench on <u>12/11/21</u>.</p> <p> CHAIRMAN</p>
	12.11.2021	<p>Petitioner in person present.</p> <p>Notices be issued to the respondents for the date fixed. To come up for implementation report on 13.12.2021 before S.B.</p> <p> Chairman</p>

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

Execution petition No. 225 /2021

In

Service Appeal No: 1566/2018

Musharaf Khan

**V**ersus

Commissioner Bannu Division and others

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2.	Addresses of Parties		4
3.	Copy of Judgment	"A"	5-10
4.	Wakalat Nama		11

Dated: 15/10/2021

  
Petitioner

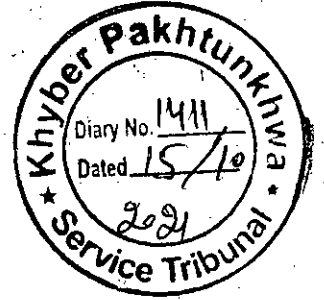
Through

  
Naila Jan

Advocate, High Court  
Peshawar

D

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



Execution petition No. 225 /2021

In

Service Appeal No: 1566/2018

Musharaf Khan S/o Aziz Khan, presently working as  
District Qanungo/ Naib Tehsildar, Tehsil & District  
Bannu.

.....Petitioner

**V**ersus

1. Commissioner Bannu Division.
2. Deputy Commissioner Bannu.
3. Additional Deputy Commissioner Bannu.
4. Assistant Commissioner Revenue Bannu.

.....Respondents

**EXECUTION PETITION FOR**  
**IMPLEMENTATION OF THE**  
**JUDGMENT OF THIS HON'BLE**  
**TRIBUNAL IN APPEAL No.**  
**1566/2018 DECIDED ON**  
**02/09/2021**

**Respectfully Sheweth,**

1. That the above mention appeal was decided by  
this Hon'ble Tribunal vide Judgment dated  
02/09/2021. (Copy of the judgment is annexed as  
annexure "A")

2

2. That the Petitioner after getting of the attested copy of same approached the Respondents several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.

3. That the respondent are legally and morally bound to obey order of this Hon'ble Tribunal and implement judgment of this Hon'ble Tribunal. But there are reluctant to implement the same.

4. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal.

5. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.



*It is, therefore, requested that on acceptance of this petition the Respondents may directed to implement the judgment of this Hon'ble Tribunal by reinstating the Petitioner with all back benefits.*

Dated: 15/10/2021

Petitioner

Through

Naila Jan

&

Huma Khan

Advocate, High Court

Peshawar

**AFFIDAVIT:-**

I, Musharaf Khan S/o Aziz Khan, presently working as District Qanungo/ Naib Tehsildar, Tehsil & District Bannu, do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.

  
Deponent

4

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

Execution petition No. \_\_\_\_\_/2021

In

Service Appeal No: 1566/2018

Musharaf Khan

**V**ersus

Commissioner Bannu Division and others

**ADDRESSES OF PARTIES**

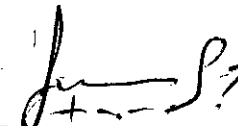
***PETITIONER***

Musharaf Khan S/o Aziz Khan, presently working as  
District Qanungo/ Naib Tehsildar, Tehsil & District  
Bannu


**RESPONDENTS**

1. Commissioner Bannu Division.
2. Deputy Commissioner Bannu.
3. Additional Deputy Commissioner Bannu.
4. Assistant Commissioner Revenue Bannu

Dated: 15/10/2021

  
Petitioner

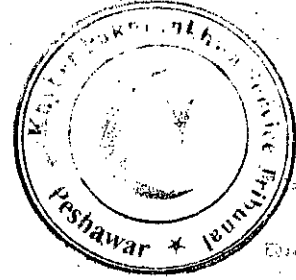
Through

  
Naila Jan  
Advocate, High Court  
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 1566/2018



Musharaf Khan son of Aziz Khan  
presently working as

District Qanungo/ Naib Tehsildar, Tehsil and District Bannu

Appellant

VERSUS

- 1) Commissioner Bannu Division
- 2) Deputy Commissioner Bannu
- 3) Additional Deputy Commissioner Bannu
- 4) Assistant Commissioner Revenue Bannu..... Respondents

Appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned original order endorsement No. 7371/AE/BC dated 13.11.2017 whereby the penalty of "WITHHOLDING TWO ANNUAL INCREMENTS WITH ACCUMOLATIVE EFFECT" was imposed upon the appellant against which departmental appeal dated 02.02.2018, was dismissed by respondent No.1, vide order dated 29.11.2018 and the same was communicated to the appellant on 30.11.2018 hence the instant appeal file before this Honourable Tribunal within 30 days which is well within time.

Photo-day  
Registrar  
28/12/18

ATTESTED

REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

6

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

Service Appeal No. 1566/2018

Date of Institution ... 28.12.2018

Date of Decision ... 02.09.2021



Musharaf Khan S/o Aziz Khan, Presently working as District Qanungo/Naib Tehsildar, Tehsil and District Bannu.

... (Appellant)

VERSUS

Commissioner Bannu Division and three others.

... (Respondents)

Mr. INAYAT ULLAH KHAN,  
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,  
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN

---

MEMBER (JUDICIAL)

MR. ATIQ-UR-REHMAN WAZIR

---

MEMBER (EXECUTIVE)

JUDGMENT:


SALAH-UD-DIN, MEMBER:-

Precise facts of the instant service appeal are that the one Balqiaz Khan S/o Haji Muhammad Ayaz Khan R/o Sabo Khel Mandan District Bannu had submitted a complaint to the Deputy Commissioner for review of mutations No. 1481, 1482, 1483 and 1484 Mouza Sabo Khel, wherein besides other facts, the applicant had alleged that the appellant in connivance with Afsar Ali Shah, had intentionally omitted the giving of reference of the above mentioned mutations in the remarks column of Jamabandi pertaining to the year 2008-09 by violating the relevant rules of Land Record Manual for the

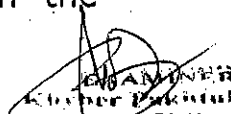
ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

purpose of defeating the right of pre-emption of complainant namely Balqiaz Khan. On the basis of the said review petition, inquiry was initiated against the appellant and consequently major penalty of reduction to a lower scale was awarded to the appellant. The appellant challenged the same through filing of the departmental appeal before Commissioner Bannu Division, who vide order dated 22.11.2016 remanded back the matter to the Deputy Commissioner Bannu with the directions to conduct a proper inquiry into the matter in accordance with rules. On conclusion of the de-novo inquiry, minor penalty of withholding of two annual increments with accumulative effect was imposed upon the appellant, which was challenged by the appellant through filing of departmental appeal, however the same was also dismissed, hence the instant service appeal.

2. Notice was issued to the respondents, who submitted their comments.

 3. Learned counsel for the appellant has contended that the concerned mutations were though entered during the tenure of the appellant as Patwari Halqa Mouza Sabo Khel, however the same were pending attestation, therefore, the appellant by complying the relevant rules/law, had given the reference of the same through pencil in the relevant column of Jamabandi; that in the meanwhile, the appellant was transferred to Halqa Bazar Ahmed Khan, therefore, he relinquished charge of Patwari Halqa Mouza Sabo Khel on 06.08.2014, while the concerned mutations were attested on 25.08.2014, therefore, as per relevant law/rules, it was the duty of his successor to have given reference of the concerned mutations with red ink in the relevant column of Fard Jamabandi; that the de-novo inquiry was conducted in a slipshod manner and no opportunity of cross-examination was afforded to the appellant; that no final show-cause notice or opportunity of personal hearing was afforded to the appellant, which has caused prejudice to the appellant; that the impugned penalty of deduction of two increments is neither in accordance to nor in consonance with the

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

dictates of F.R-29 because specific time has not been mentioned, while awarding the impugned penalty. Reliance was placed on 1989 SCMR 861, 2002 PLC (C.S) 1388, 1990 PLC (C.S) 95 and 2006 PLC (C.S) 489.

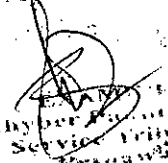
4. On the other hand, learned Additional Advocate General for the respondents has argued that as the departmental appeal of the appellant was time barred, therefore, the instant service appeal is also hit by limitation and is liable to be dismissed on this score alone; that proper inquiry was conducted against the appellant, who was found guilty of the allegations leveled against him, therefore, the impugned penalty has been rightly imposed upon him.

5. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.

Imtiaz  
6. A perusal of the record would show that the appellant was departmentally proceeded against on the allegations that he had entered sale mutation No. 1477 dated 19.06.2014 from the name of Imtiaz Shah in favour of Afsar Ali Shah and had furnished reference of the same in remarks column of current Jamabandi, however the reference of subsequent alienation of the said property by Afsar Ali Shah vide Mutations No. 1481, 1482, 1483 & 1484 dated 25.08.2014 had not been given in remarks column of Fard Jamabandi, which was essential as per the provisions of Land Record Manual, therefore, the appellant did not fulfill his official responsibility.

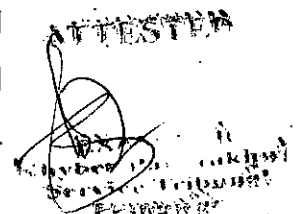
7. Vide Mutation No. 1477 attested on 19.06.2014, Afsar Ali Shah purchased land from Imtiaz Shah and the same was subsequently alienated by Afsar Ali Shah vide Mutations No. 1481, 1482, 1483 & 1484 attested on 25.08.2014. The complainant Balqiaz Khan was intending to file pre-emption suit regarding the sale transaction made vide Mutation No. 1477 attested on 19.06.2014, therefore, he submitted an application for obtaining of attested copies of Fard Jamabandi, which were handed over to him by the then Patwari Halqa

ATTESTED

  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

namely Farid Ullah (Successor of the appellant) on 25.09.2014, wherein the reference of Mutation No. 1477 dated 19.06.2014 was mentioned, however the reference of Mutations No. 1481 to 1484 attested on 25.08.2014, whereby the land purchased by Afsar Ali Shah was further alienated, was not mentioned. The complainant Balqiaz Khan had alleged that the appellant was in league with Afsar Ali Shah and had intentionally not given reference of subsequent mutation, so as to defeat right of pre-emption of the complainant. It is evident from the record that the Mutations No. 1481 to 1484 were attested on 25.08.2014, while the appellant had left the charge of Patwari Mouza Sabo Khel on 06.08.2014 as he was transferred to Mouza Bazar Ahmed Khan. The appellant has specifically alleged during the inquiry that as the Mutations 1481 to 1484 were yet pending attestation till the relinquishment of charge by the appellant, therefore, in accordance with the provisions of Land Record Manual, the reference of the same Mutations was mentioned with pencil in the Jamabandi and as the Mutations were attested after taking of charge by successor of the appellant, therefore, it was the duty of his successor to have made reference of the said Mutations in the Jamabandi with red ink. The inquiry report would show that the successor of the appellant had alleged in his statement before the inquiry officer that the Mutations No. 1481 to 1484 were taken away by the appellant at the time of relinquishment of charge. The aforementioned contention of the successor of the appellant does not carry any weight for the reason that no complaint in this respect was made by him to the high-ups. The copies of Fard Jamabandi were also admittedly issued by successor of the appellant. No credible material has been collected during the inquiry, which could saddle the appellant with breach of any official responsibility.

8. The available record does not show that the appellant was afforded an opportunity of cross-examination of the witnesses examined during the inquiry. Similarly, the record also does not show that the appellant was issued any final show-cause notice, which is a blatant violation of rule-14


ATTESTED  
  
Secretary  
Patwari

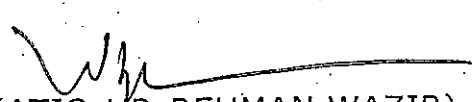
sub-rule (4) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The non-issuance of the final show-cause notice and non-affording of opportunity of personal hearing to the appellant has caused him prejudice as he was deprived of ample opportunity of defending himself.

9. So far as the question of limitation is concerned, the issue being one of financial nature is a continuing cause of action, which could be agitated at any time.

10. In light of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is held entitled to all consequential back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
02.09.2021

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

  
(ATIQU-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

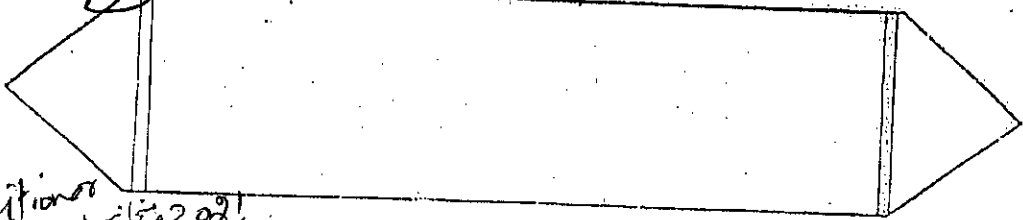
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Urgent ✓  
Total 26/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 07/09/21  
Date of Delivery of Copy 07/09/21

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



بعدالت ضامہ ۴۲ کروٹس ٹریڈنگ سٹور



۲۰۲۱ء پنجاب Petitioners

سرف خان بنام

مورخہ  
مقدمہ  
دعویٰ  
مزم

### باعث تحریر آئندہ

مقدمہ بندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی اوکل کاروائی متعلقہ  
آن مقام سٹور کیلئے سٹور کے لئے  
مقررہ کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے سے قبل تفریق حالت فیصلہ برحلف دیئے جواب وہی اور اقبال دعویٰ اور  
باصورت ڈگری کرنے اجراء اور صولی چیک، روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف سے یا اپیل کی برادگی اور منسوخ  
نیز دائر کرنے اپیل گمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تفریق اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سہولت  
برادختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المترقوم 15 ماہ اکتوبر 2021

کے لئے منظور ہے۔

Attested

Accepted

by  
H.D. Mune Montejun

1

**IN THE SUPREME COURT OF PAKISTAN**  
**(Appellate Jurisdiction)**

CPLA NO. 566-P/2021

1. Commissioner Bannu Division.
2. Deputy Commissioner Bannu.
3. Additional Deputy Commissioner Bannu.
4. Assistant Commissioner Revenue Bannu

.....PETITIONERS

**VERSUS**

Musharaf Khan S/o Aziz Khan presently working as District Qanungo/  
Naib Tehsidlar, Tehsil & District Bannu

.....RESPONDENT

**CIVIL PETITION FOR LEAVE TO APPEAL UNDER**  
**ARTICLE 212(3) OF THE CONSTITUTION OF ISLAMIC**  
**REPUBLIC OF PAKISTAN, 1973 AGAINST THE**  
**IMPUGNED JUDGMENT/ ORDER OF THE LEARNED**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR DATED 02/09/2021 PASSED IN SERVICE**  
**APPEAL NO.04/2019**

**RESPECTFULLY SHEWETH**

Substantial questions of law of general public importance and grounds,  
inter alia, which falls for determination of this august Court are as under:-

(2)

1. Whether the impugned judgment / order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar does not suffer from material illegality, factually and legally incorrect and requires interference by this august Court?
2. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has properly and legally exercised its jurisdiction in the matter in hand?
3. Whether proper inquiry was not conducted against the respondent in which respondent was held responsible for commission of offence?
4. Whether the departmental appeal of respondent was not time barred?
5. Whether the order dated 5/10/2017 of the competent authority is not commensurate with the offence of the respondent?
6. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has got jurisdiction in the matter as minor penalty is imposed on the respondent?
7. Whether the respondent had any statutory right to file service appeal before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar?
8. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar was not required to direct the petitioners to conduct fresh denovo inquiry as the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has held inquiry proceedings were conducted in a slipshod manner?
9. Whether it was not duty of respondent to check the entries in the mutation and if any illegality committed by the patwari halqa be brought to the notice of high ups?
10. Whether the respondent has not facilitated the patwari halqa Mr. Gul Zarif in the commission of offence?

11. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has properly followed, applied and interpreted the law in the subject case?

FACTS

II- Facts relevant to the above points of law, inter alia, are as under:-

1. That respondent was serving as District Qanungo in the Revenue Department in Tehsil & District Bannu.
2. That one Mr. Muhammad Nawaz Khan filed complaint on 14/7/2017 against patwari halqa and Qanungo to the Deputy Commissioner, Bannu.
3. That proper regular inquiry was conducted in the instant case and on recommendation of the inquiry officer a show cause notice was issued to the respondent by the competent authority and the respondent made reply to the show cause notice.
4. That the competent authority vide order dated 5/10/2017 imposed minor penalty of withholding of three annual increments with accumulative effect.
5. That the respondent being aggrieved against order dated 5/10/2017 of the competent authority filed departmental appeal which was dismissed by the appellate authority vide appellate order dated 29/11/2018 being time barred.
6. That the respondent being aggrieved filed Service Appeal No.04/2019 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar in which comments of petitioners were called which were filed accordingly by denying the stance of respondent.

(4)

7. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar accepted Service Appeal No.04/2019 of respondent vide impugned judgment/ order dated 02/09/2021.
8. That the petitioners being aggrieved from the impugned judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 02/09/2021 in Service Appeal No.04/2019, prefer this CPLA before this august Court.
9. That the petitioners seek leave to appeal against the impugned judgment / order dated 02/09/2021 in Service Appeal No.04/2019.

It is, therefore, prayed that on acceptance of this petition, leave to appeal against the impugned judgment and order dated 02/09/2021 in service appeal No.04/2019 may graciously be granted.

(Moin-ud-Din Humayun)  
Advocate-on-Record  
Supreme Court of Pakistan  
For Government

**NOTE:**

Learned Advocate General, Khyber Pakhtunkhwa/ Addl. AG /State Counsel shall appear at the time of hearing of this petition.

**ADDRESS**

Office of the Advocate General, Khyber Pakhtunkhwa, High Court Building, Peshawar. (Telephone No.091-9210119, Fax No.091-9210270)

**CERTIFICATE** Certified that no such petition has earlier been filed by Petitioners/ Government against the impugned judgment mentioned above.

Advocate-On-Record

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**IN THE SUPREME COURT OF PAKISTAN**  
**(Appellate Jurisdiction)**

CMA NO. \_\_\_\_\_/2021

IN

CPLA NO. \_\_\_\_\_/2021

Commissioner Bannu Division & others

-----PETITIONERS

VERSUS

Musharaf Khan

-----RESPONDENT

-----  
APPLICATION UNDER ORDER XX RULE 1 OF THE  
SUPREME COURT ORDERS & RULES 1980 FOR  
SUSPENSION OF OPERATION OF THE IMPUGNED  
JUDGMENT OF THE LEARNED SERVICE TRIBUNAL,  
PESHAWAR DATED 02/09/2021 IN SERVICE APPEAL NO.  
NO.04/2019 AND MAINTAIN THE STATUS-QUO TILL THE  
FINAL DECISION OF THE CASE.  
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**RESPECTFULLY SHEWETH:-**

1. That respondent was serving as District Qanungo in the Revenue Department in Tehsil & District Bannu.
2. That one Mr. Muhammad Nawaz Khan filed complaint on 14/7/2017 against patwari halqa and Qanungo to the Deputy Commissioner, Bannu.
3. That proper regular inquiry was conducted in the instant case and on recommendation of the inquiry officer a show cause notice was issued to the respondent by the competent authority and the respondent made reply to the show cause notice.

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4. That the competent authority vide order dated 5/10/2017 imposed minor penalty of withholding of three annual increments with accumulative effect.
5. That the respondent being aggrieved against order dated 5/10/2017 of the competent authority filed departmental appeal which was dismissed by the appellate authority vide appellate order dated 29/11/2018 being time barred.
6. That the respondent being aggrieved filed Service Appeal No.04/2019 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar in which comments of petitioners were called which were filed accordingly by denying the stance of respondent.
7. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar accepted Service Appeal No.04/2019 of respondent vide impugned judgment/ order dated 02/09/2021.
8. That the petitioner has a good prima facie case and balance of convenience also lies in maintaining status-quo.
9. That if the impugned judgment and order is not suspended and status-quo is not granted the very purpose of this petition would be lost.

It is, therefore, humbly prayed that the operation of the impugned judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No.04/2019 Dated 02/09/2021 may graciously be suspended and to maintain status quo till the final decision of the case.

(Moin-ud-Din Humayun)  
Advocate-on-Record  
Supreme Court of Pakistan  
For Government