

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**FAREEHA PAUL ... MEMBER (Executive)**

*Service Appeal No.178/2012*

**Syed Hamid Shah**, Assistant Sub-Inspector of the Office of Excise & Taxation officer, Bannu.

.....(*Appellant*)

Versus

1. **Director General**, Excise & Taxation, Khyber Pakhtunkhwa Peshawar.
2. **Excise & Taxation officer**, Bannu.
3. **Secretary to Government of Khyber Pakhtunkhwa, Excise & Taxation Department**, Peshawar.

.....(*Respondents*)

Present:

Mr. Abdul Hameed,  
Advocate.....For appellant.

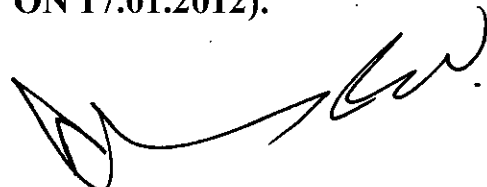
Mr. Kabirullah Khattak,  
Additional Advocate General.....For respondents.

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Date of Institution.....02.02.2012

Dates of Hearing.....10.10.2022

Date of Decision.....10.10.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST office ORDER NO.8185/ESTT:/P-FILE DATED 19.04.2011 OF RESPONDENT NO.1, WHEREBY MINOR PENALTY OF STOPPAGE OF THREE ANNUAL INCREMENTS WAS IMPOSED UPON THE APPELLANT AND HIS DEPARTMENTAL APPEAL DATED 23.05.2011. PREFERRED TO RESPONDENT NO.3 WAS REJECTED ON 07.01.2012 (THIS OFFICE ORDER WAS RECEIVED BY THE APPELLANT THROUGH THE OFFICE OF EXCISE & TAXATION OFFICER, BANNU ON 17.01.2012).**



## **JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Brief facts, as per memorandum of appeal, are that the appellant was appointed as Assistant Sub-Inspector in the respondent department; that some false, baseless and fabricated illegal charges were leveled against the appellant and as a result respondent No.1 placed the appellant under suspension vide order dated 08.06.2010; that respondent No.1, without ascertaining the authenticity of the alleged charges leveled against the appellant, initiated departmental proceedings against the appellant; that the appellant was served with show cause notice, which was replied by him; that the appellant was imposed minor penalty of stoppage of three annual increments falling in December, 2011, 2012 and 2013 vide impugned order dated 19.04.2011. Against the impugned order, the appellant filed departmental appeal on 23.05.2011 which was rejected on 07.01.2012, hence the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.



4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG controverted the same by supporting the impugned order(s).

5. The impugned order No. 8185/ESTB/P.File dated 19.04.2011 shows that the appellant was awarded minor penalty of stoppage of three annual increments falling in the year 2011,2012 and 2013 under Rule-4 sub-Rule-1 clause (a) minor penalty, sub-clause(iii) of the Government Servants (Efficiency & Discipline) Rules 1973 on the basis of some inquiry report submitted by one Javed Khilji, Deputy Director-V, Excise and Taxation Department. The reply of the Department has been perused, which also speaks about some inquiry but no inquiry report regarding the allegations leveled in this matter has been annexed with the reply rather enquiry of some subsequent event conducted by the same enquiry officer, signed by him on 29.09.2017, much after the present episode and having no relevance with it, has been placed on the file by the respondents. In such a situation the allegation of the appellant, made in the departmental as well as this appeal, that the enquiry officer and the authority went on totally wrong premises by applying wrong law which was not in existence after the promulgation of the Removal from Service (Special Powers) Ordinance, 2000 as amended in 2001, rings true and finds support. Section-11 of the above Ordinance shows that the provisions of the Ordinance were having overriding effect on other laws and



rules. Similarly Section-13 of the Ordinance provides that for the removal of doubts, it is hereby provided that all proceedings pending immediately before the commencement of the above Ordinance against any person, whether in government service or service of a corporation, under the Khyber Pakhtunkhwa Civil Servants Act, 1973, and rules made there-under, or any other law or rules, shall continue under the said laws and rules in the manner provided there-under. But initially when the proceedings were initiated against the appellant in the shape of show cause notice No. 5072/ESTB/P-file dated 07.01.2011, the appellant was proceeded under the provisions of the Ordinance which was repealed on 16.09.2011 by an Act called the Khyber Pakhtunkhwa Removal From Service (Special Powers) (Repeal) Act, 2011. Whereas the impugned order was passed on 19.04.2011 imposing the minor penalty of stoppage of three annual increments falling in the years 2011, 2012 and 2013 under Rule-4, Sub-Rule(1) clause (a) minor penalty, sub clause (iii) of the Government Servants (Efficiency & Disciplinary) Rules, 1973 i.e. at the time when the Ordinance was very much in the field and it had overriding effect on the rules under which the appellant was penalized.

6. Last but not the least there is no enquiry report conducted by the department against the appellant, placed before the court to make assessment as to whether the department had proceeded in accordance with law and rules or not. Despite clear directions given in the order



dated 17.01.2019 for production of complete record of enquiry alongwith statements and connected documents, they failed to produce the same on the next date. Again on 13.05.2019 the Tribunal observed, that the respondents were directed to produce record as per order sheet dated 17.01.2019 but that was not produced. The Tribunal further observed that the case was being unnecessary delayed by the respondents on one pretext or the other. Last chance was given to the respondents to produce the relevant record failing which the case was to be decided on the available record. The order sheet of 21.08.2019 shows that the respondents submitted record but the same, as aforesaid, was not annexed with any enquiry report and statements as well as other record supporting the same. It is, therefore, observed that the department is either intentionally not producing the record or it does not have the same or for that matter no such enquiry was conducted. In the circumstances the impugned order is not sustainable and on allowing this appeal we set aside the same. Costs shall follow the event. Consign.

**7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 10<sup>th</sup> day of October, 2022.***



**KALIM ARSHAD KHAN**  
Chairman



**FAREEHA PAUL**  
Member (Executive)

**ORDER**

10<sup>th</sup> Oct, 2022

1. Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

2. Vide our detailed judgement of today placed on file (containing 05 pages), in the circumstances the impugned order is not sustainable and on allowing this appeal we set aside the same. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 10<sup>th</sup> day of October, 2022.*



**(Kalim Arshad Khan)**  
**Chairman**



**(Kareeha Paul)**  
**Member(Executive)**

DFA

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**FAREEHA PAUL ... MEMBER (Executive)**

*Service Appeal No.178/2012*

**Syed Hamid Shah**, Assistant Sub-Inspector of the Office of Excise & Taxation officer, Bannu.

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1. **Director General**, Excise & Taxation, Khyber Pakhtunkhwa Peshawar.
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3. **Secretary to Government of Khyber Pakhtunkhwa, Excise & Taxation Department**, Peshawar.

.....(*Respondents*)

Present:

Mr. Abdul Hameed,  
Advocate.....For appellant.

Mr. Kabirullah Khattak,  
Additional Advocate General.....For respondents.

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Date of Institution.....02.02.2012

Dates of Hearing.....10.10.2022

Date of Decision.....10.10.2022

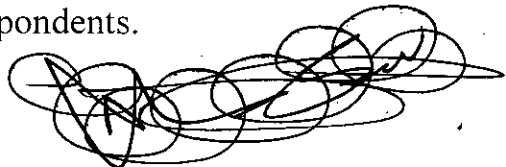
**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST office ORDER NO.8185/ESTT:/P-FILE DATED 19.04.2011 OF RESPONDENT NO.1, WHEREBY MINOR PENALTY OF STOPPAGE OF THREE ANNUAL INCREMENTS WAS IMPOSED UPON THE APPELLANT AND HIS DEPARTMENTAL APPEAL DATED 23.05.2011. PREFERRED TO RESPONDENT NO.3 WAS REJECTED ON 07.01.2012 (THIS OFFICE ORDER WAS RECEIVED BY THE APPELLANT THROUGH THE OFFICE OF EXCISE & TAXATION OFFICER, BANNU ON 17.01.2012).**

## **JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Brief facts, as per memorandum of appeal, are that the appellant was appointed <sup>as</sup> Assistant Sub-Inspector in the respondent department; that ~~due to~~ some false, baseless and fabricated illegal charges were leveled against the appellant and as a result ~~therefore,~~ respondent No.1 placed the appellant under suspension vide order dated 08.06.2010; that ~~the~~ respondent No.1, without ascertaining the authenticity of the alleged charges leveled against the appellant, initiated departmental proceedings against the appellant; that the appellant was served with show cause notice, which was replied by him; that the appellant was imposed minor penalty of stoppage of three annual increments falling in December, 2011, 2012 and 2013 vide impugned order dated 19.04.2011. Against the impugned order, the appellant filed departmental appeal on 23.05.2011 which was rejected on 07.01.2012, hence the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

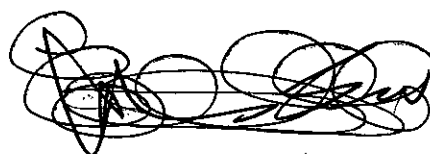
3. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.





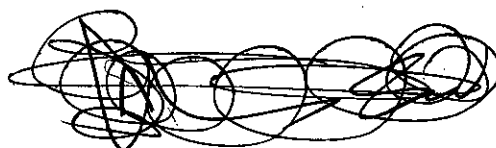
4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG controverted the same by supporting the impugned order(s).

5. The impugned order No. 8185/ESTB/P.File dated 19.04.2011 shows that the appellant was awarded minor penalty of stoppage of three annual increments falling in the year 2011,2012 and 2013 under Rule-4 sub-Rule-1 clause (a) minor penalty, sub-clause(iii) of the Government Servants (Efficiency & Discipline) Rules 1973 on the basis of some inquiry report submitted by <sup>one</sup> Javed Khilji, Deputy Director-V, Excise and Taxation Department. The reply of the Department has been perused, which also speaks about some inquiry but no inquiry report regarding the allegations leveled in this matter has been annexed with the reply rather enquiry <sup>a</sup> of some subsequent event <sup>conducted</sup> by the same enquiry officer, signed by him on 29.09.2017, much after the present episode and having no relevance with it, has been placed on the file by the respondents. In such <sup>a</sup> situation the allegation of the appellant, made in the departmental as well as this appeal, that the enquiry officer and the authority went on totally wrong premises by applying wrong law, which was not in existence after the promulgation of the Removal from Service (Special Powers) Ordinance, 2000 as amended in 2001, rings true and finds support. Section-11 of the above Ordinance shows that <sup>the</sup> provisions of the Ordinance were having overriding effect on other laws and rules.



Similarly Section-13 of the Ordinance provides that for the removal of doubts, it is hereby provided that all proceedings pending immediately before the commencement of the above Ordinance against any person, whether in government service or service of a corporation, under the Khyber Pakhtunkhwa Civil Servants Act, 1973, and rules made there-under, or any other law or rules, shall continue under the said laws and rules in the manner provided there-under. But initially when the proceedings were initiated against the appellant in the shape of show cause notice No. 5072/ESTB/P-file dated 07.01.2011, the appellant was proceeded under the provisions of the Ordinance which was repealed on 16.09.2011 by an Act called <sup>the</sup> Khyber Pakhtunkhwa Removal From Service (Special Powers) (Repeal) Act, 2011. Whereas the impugned order was passed on 19.04.2011 imposing the minor penalty of stoppage of three annual increments falling in the years 2011, 2012 and 2013 under Rule-4, Sub-Rule(1) clause (a) minor penalty, sub clause (iii) of the Government Servants (Efficiency & Disciplinary) Rules, 1973 i.e. at the time when the Ordinance was very much in the field and it had overriding effect on the rules under which the appellant was penalized.

6. ~~For what has been discussed above~~ last but not the least there is no enquiry report conducted by the department against the appellant, place before the court to make assessments as to whether the department had proceeded in accordance with law and rules or not. Despite clear directions given in the order dated 17.01.2019 for



production of complete record of enquiry alongwith statements and connected documents, they failed to produce the same on the next date. Again ~~the~~ on 13.05.2019 the Tribunal observed, that the respondents were directed to produce record as per order sheet dated 17.01.2019 but that was not produced. The Tribunal further observed that the case was being unnecessary delay <sup>by</sup> the respondent<sub>s</sub> on pretext or the other. Last chance was given to the respondents to produce the relevant record failing which the case was to be decided on the available record. The order sheet of 21.08.2019 shows that the respondents submitted record but the same, as aforesaid, was not annexed with any enquiry report and statement as well as other record supporting the same. It is, therefore, observed that the department is either intentionally not producing the record or it does not have the same or for that matter no such enquiry was conducted. In the circumstances the impugned order is not sustainable and on allowing this appeal we set aside the same. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 10<sup>th</sup> day of October, 2022.*



**KALIM ARSHAD KHAN**  
Chairman

**FAREEHA PAUL**  
Member (Executive)

11<sup>th</sup> May, 2022

None present on behalf of the appellant. Mr. Muhammad Riaz Khan Paindakhel, Assistant A.G alongwith Zeeshan, Inspector for the respondents present.

Last opportunity is granted. Notice be issued to appellant and his counsel for arguments on the next date, otherwise the case will be decided on the basis of available record. To come up for arguments on 27.06.2022 before the D.B.



(Fareeha Paul)  
Member(E)



(Kalim Arshad Khan)  
Chairman

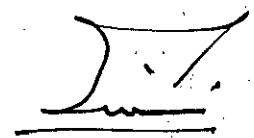
10.06.2022

Clerk of learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 01.09.2022 before the D.B.



(Fareeha Paul)  
Member (E)



(Salah-ud-Din)  
Member (J)

01.09.2022

Bench is incomplete, therefore, case is adjourned to 10.10.2022 for the same as before.




Reader

26.01.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 18.02.2022 before the D.B.

  
(Rozina Rehman)  
Member (J)

  
(Salah-ud-Din)  
Member (J)

18-2-22

Due to Retirement of the Honble Chairman  
The case is adjourned to come up for the  
same as before on 10-6-22

  
Reader

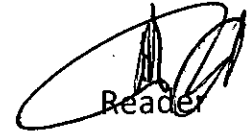
15-4-2022

As per direction of the worthy Chairman  
the <sup>instant</sup> case be refixed on 11-5-2022 instead of  
10-6-2022. Notices of prosecution of appeal  
be issued to the parties for the date  
fixed.

  
Reader

06.04.2021

Due to demise of Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned to 07.06.2021 for the same.

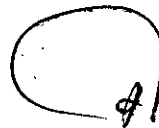
  
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07.06.2021

Nemo for the appellant.

Kabirullah Khattak, learned Additional Advocate General for the respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today, therefore, the case is adjourned to 27.09.2021 for arguments before D.B. Appellant be put on notice for the date fixed.



(ROZINA REHMAN)  
MEMBER (J)

27.9.21

DB is on Tour case to come up  
For the same on Dated, 26-1-22

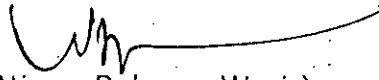
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07.10.2020

Appellant in person present.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Appellant submitted application for adjournment on the ground that his counsel is busy before Hon'ble Supreme Court of Pakistan. Application is placed on file. Adjourned. To come up for arguments on 30.11.2020 before D.B.



(Atiq ur Rehman Wazir)  
Member (E)



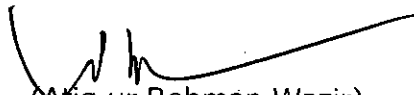
(Rozina Rehman)  
Member (J)

30.11.2020

Appellant present through counsel.

Muhammad Jan learned Deputy District Attorney for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 22.01.2021 before D.B.



(Atiq ur Rehman Wazir)  
Member (E)



(Rozina Rehman)  
Member (J)

22.01.2021

Due to COVID-19, the case is adjourned for the same on 06.04.2021 before D.B.



READER

Service Appeal No. 178/2012

30.10.2019

None present on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Called for several times but no one appeared on behalf of the appellant, therefore, the appeal in hand is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED

30.10.2019

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

06.02.2020

Vide order of today i.e. on 06.02.2020, passed in restoration application No.410/2019, the present service appeal has been restored. To come up for arguments on 02.04.2020 before D.B.

  
Member

  
Member

03.07.2020

Due to COVID-19, the case is adjourned to 06.08.2020 for the same.

  
Reader

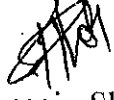
06.08.2020

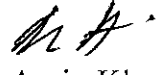
Due to summer vacation case to come up for the same on 07.10.2020 before D.B.

  
Reader

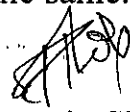


02.07.2019 Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Usman Ghani learned District Attorney for the respondents present. Adjourned. To come up for further proceeding on 21.08.2019 before D.B

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

21.08.2019 Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Noman Akhtar, Inspector for the respondents present. Representative of the department submitted record, which is placed on record. Copy of the same was also handed over to learned counsel for the appellant. Learned counsel for the appellant sought adjournment to examine the same. Adjourned to 30.09.2019 for arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

30.09.2019 Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Adjourned to 30.10.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

13.05.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Noman Akhtar, Inspector for the respondents present. Legal counsel on behalf of respondent no. 1 did not attend the proceeding of this Tribunal on 17.01.2019 and 12.03.2019. Respondents were directed to produce record as per order sheet dated 17.01.2019, but neither Legal Counsel for the above respondent was present nor record produced. It appears that the case is being unnecessarily delayed by the respondents on one pretext or the other. Last chance is given to the respondents to produce the relevant record failing which the case would be decided on the available record. Legal Counsel for respondent no. 1 should also ensure his presence on the next date of hearing. Adjourned to 14.06.2019 for record and arguments before D.B.


  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

14.06.2019

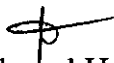
Due to general strike by the Pakistan Bar Council, the case is adjourned. To come up for arguments on 02.07.2019 before D.B


  
Member

  
Member

17.01.2019

Counsel for the appellant present. Mr. Riaz Ahmad Paindakhel, Assistant AG for the respondents present. Perusal of the para-wise comments submitted by respondents revealed that proper inquiry under the invogue rules was conducted against the appellant and thereafter, impugned order dated 19.04.2011 was passed. However, record of inquiry was not annexed with the para-wise comments referred to above. Respondents are directed to produce complete record of inquiry alongwith statements and connected documents on or before the next date of hearing. To come up for record and arguments on 12.03.2019 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

12.03.2019

Counsel for the appellant, and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Representative of the department namely Mr. Bilal Shah, Inspector is absent. He be summoned with the direction to furnish complete record of inquiry alongwith statement on the next date. Adjourn. To come up for record and arguments on 11.04.2019 before D.B.

  
(M. AMIN KHAN KUNDI)  
MEMBER

  
(M. HAMID MUGHAL)  
MEMBER

11.04.2019

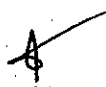
Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Due to strike <sup>on the cell</sup> of Pakistan Bar Council, learned counsel for the appellant is not available today. Adjourned. To come up for record and arguments on 13.05.2019 before D.B.


  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

16.07.2018

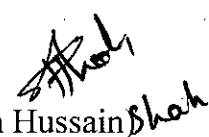
Clerk to counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Arguments could not be heard due to general strike of the Bar. Adjourned. To come up for arguments on 07.09.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

07.09.2018


Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Bilal Shah, Inspector for the respondents present. Appellant submitted application for adjournment on the ground that his counsel is ill today and cannot attend the Tribunal today. Adjourned. To come up or arguments on 22.10.2018 before D.B.

  
(Shah Hussain Shah)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

22.10.2018


Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. To come up for same as before on 05.12.2018.

  
Reader

05.12.2018


Appellant in person present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel is busy before the Hon'ble Peshawar High Court. Adjourned. Case to come up for arguments on 17.01.2019 before D.B.

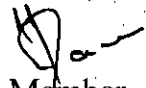
  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

19.10.2017


Counsel for the appellant and Mr. Usman Ghani, D.A for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 05.01.2018 before D.B..


  
Member  
(Executive)

  
Member  
(Judicial)

05.01.2018


Counsel for the appellant present. Asst: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.02.2018 before D.B.


  
(Ahmad Hassan)  
Member(E)

  
(M. Amin Khan Kundi)  
Member (J)

28.02.2018

Counsel for the appellant present. Mr. Zia Ullah, DDA for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 02.05.2018 before D.B.

  
(Gul Zeb Khan)  
Member

  
(M. Hamid Mughal)  
Member


02.05.2018


Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate present. The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come up for the same on 16.07.2018

  
READER

03.01.2017

Counsel for the appellant present and Additional AG, Mr. Adil Butt for respondent present. And requested for time to file rejoinder request accepted. Case to come up for rejoined and arguments on 19.05.2017.


  
(ASHFAQUE TAN)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

19.05.2017


Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for rejoinder and arguments on 11.09.2017 before D.B.


  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

11.09.2017

Counsel for the appellant and Mr. Ziaullah DDA alongwith Mr. Noman Akhtar, Inspector for the respondents present. Rejoinder submitted. Learned Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 19.10.2017 before D.B.

  
Member  
(Executive)

  
Member  
(Judicial)

31.03.2015

Counsel for the appellant and legal Advisor alongwith Arshed Javed, Inspector (Lit.) for respondents present. Written reply not submitted despite last chance. Requested for adjournment. Last opportunity is extended. To come up for written reply on behalf of respondents No. 1 and 3 on 14.5.2015 before S.B.

  
Chairman

14.05.2015

None present for appellant. Mr. Haq Nawaz, AETO for respondents present. Written reply not submitted despite repeated opportunities including last chance as such no further adjournments are granted to respondents for written statements. The appeal is assigned to D.B for final hearing for 30.10.2015.

  
Chairman

30.10.2015

Counsel for the appellant, Mr. Muhammad Jan, GP and Legal Advisor for respondents present. Arguments could not be heard due to shortage of time. To come up for arguments on

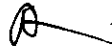
S-S-16

  
Member

  
Member

05.05.2016

Appellant in person and Mr Arshad Javid, Inspector alongwith Mr. Muhammad Jan, GP for respondents present. Representative of the respondents submitted an application for setting aside ex-parte proceedings alongwith written reply/comments, copy of which is place on file. To come up for reply/arguments on application for setting aside ex-parte proceedings 01.09.2016.



Member



Member

01.09.2016

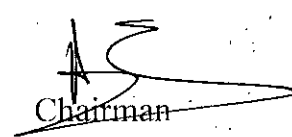
Counsel for the appellant and Mr. Usman Ghani, Sr.GP alongwith Abdur Rahman, ETO for the respondents present. Arguments on application for setting aside ex-parte proceedings heard and record perused.

According to order sheet dated 31.3.2015 respondents did not submit the written statement despite last chance and another chance was given to them for submission of written reply on 14.05.2015 on which date they again did not submit written reply and case was therefore assigned to D.B for hearing without affording further chance to the respondents.

Vide application under discussion the respondents are seeking submission of written reply, already annexed with the application. Keeping in view the circumstances of the case the application is allowed subject to payment of cost of Rs. 2000/- which shall be borne by the respondents from their own pockets on or before the next date of hearing. In case they fail to pay the cost then the application of the respondents for submission of written statement shall be deemed to have been rejected. To come up for payment of cost of Rs. 2000/- and rejoinder as well as arguments before the D.B on 3.1.2017.



Member



Chairman



17.6.2014

Counsel for the appellant, Mr. Muhammad Jan, GP with Syed Hammad Ali Shah, Legal Advisor for the respondents No. 1 & 3 present and requested for further time. Last chance is given to respondents No. 1 and 3 for submission of written reply on 8.8.2014.

MEMBER

MEMBER

08.08.2014

Counsel for the appellant and Legal Advisor Syed Hammad Ali Shah for respondents No. 1 & 3 with Mr. Muhammad Jan GP for the respondents present. The learned Member is on leave, therefore, case to come up for the same on 29.10.2014.

READER

29.10.2014

Counsel for the appellant and Arshad Khan, Inspector (Legal) for the respondents No. 1 & 3 present and needs further time. To come up for written reply on 15.01.2015 by way of last chance.

MEMBER

15.1.2015

Junior to counsel for the appellant and Mr. Muhammad Jan, GP present. Written reply of respondent No. 2 has already been received. Fresh notices be issued to respondents No. 1 & 3 for submission of their written reply on 31.3.2015.

MEMBER

178/12

19.9.2013

Counsel for the appellant and Mr. Muhammad Jan, GP present. Respondents No. 1 and 3 have already been placed ex-parte. Notice be issued to the respondent No. 2 for submission of written reply on 5.12.2013.

MEMBER

5.12.2013

Appellant with counsel and Mr. Muhammad Jan, GP with Fareedullah, ETO Bannu for the respondents present and reply filed on behalf of respondent No.2. Copy handed over to counsel for the appellant for submission of rejoinder on 23.1.2014.

MEMBER

MEMBER

23.1.2014

Counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG with Arshad Javed, Inspector for the respondents No. 1 and 3 present. Counsel for the appellant filed rejoinder to written reply of respondent No.2, copy handed over to the learned AAG. Counsel for the appellant wants to contest application for setting aside ex-parte proceedings against the respondents No.1 and 2. Copy of application handed over to counsel for the appellant for reply/arguments on 9.4.2014.

MEMBER

MEMBER

9.4.2014.

Counsel for the appellant, and Mr. Muhammad Jan, GP present. Counsel for the appellant have no objection on setting aside ex-parte proceedings against respondents No. 1 & 2. Hence, ex-parte proceedings against the respondents are set aside. Notices be issued to them for submission of written reply on 17.6.2014.

MEMBER

MEMBER

18.2.2013

No one is present on behalf of the appellant. AAG for the respondents present. Written reply on behalf of respondent No. 2 received through post which is returned to the learned AAG for vetting. Neither any one is present on behalf of respondents No. 1 and 3 nor written reply has been received on their behalf, hence proceeded against ex-parte. To come up for written reply on behalf of respondent No. 2 on 18.4.2013.

Member

Member

18.04.2013

Counsel for the appellant and Mr. Arshad Alam, GP for the respondents present. The learned GP stated that the reply was not on proper format and already returned to the respondents for correction and submission after the needful. The learned GP is directed to contact them for submission of written reply on 24.06.2013.

MEMBER

MEMBER

24.6.2013

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 19.9.2013.

READER

24.9.2012

Counsel for the appellant and learned AAG is present.  
Notices be issued to the respondents through registered post.  
To come up for written reply on 29.11.2012 positively.

MEMBER

MEMBER

29.11.2012.

Junior to counsel for the appellant and Mr. Sherafgan  
Khattak AAG present. The learned AAG is directed to contact the  
respondents. To come up for written reply by way of last chance  
on 19.12.2013.

MEMBER

MEMBER

19.12.2012.

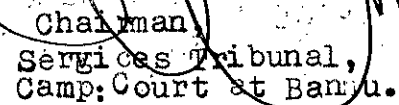
None for the appellant and Mr. Sherafgan Khattak, AAG  
present and requested for time to contact only respondent No. 3  
for attendance and submission of written reply. Notices be issued  
to other respondents. To come up for written reply by way of last  
chance on 18.2.2013.

MEMBER

MEMBER

28/4/2012.

Neither the appellant nor the respondents present. Notices have already been issued for written reply of respondents for 21/5/12. To come up for written reply of the respondents before the learned Bench-II at Peshawar on 21/5/12.

  
Chairman,  
Services Tribunal,  
Camp: Court at Bannu.

21.5.2012

Counsel for the appellant, Mr. Muhammad Zubair, AGP and Mr. Gohar Rahman, Advocate/Legal Advisor with Daud Jan, Deputy Director for the respondents present. Respondents need further time. To come up for written reply on 6.7.2012.

  
MEMBER

  
MEMBER

6.7.2012

Appellant in person and Mr. Arshad Alam, AGP with Safdar Iqbal Khattak, Advocate/legal Advisor for the respondents present. Respondents need time. To come up for written reply positively on 24.9.2012.

  
MEMBER

  
MEMBER

22.3.2012.

Counsel for the appellant contended that the appellant has not been treated in accordance with the law. No proper enquiry conducted as required under the law. Nether charge sheet/statement of allegations issued to him. Action has been taken under the Khyber Pakhtunkhwa Government Services (E&D) Rules, 1973 while Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 was in the field. Thus the entire procedure against the appellant is illegal, void ab-initio and corrum-non-juduce. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections, including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply on 21.5.2012.

*Appellant deposited  
Process fee & Security  
Rs. 2000/- Bank Receipt  
attached with file.*

MEMBER

29.3.2012.

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

CHAIRMAN

25.4.2012



In pursuance of order dated 24.4.2012, this case is fixed for reply at camp court Bannu on 28.4.2012. Parties may be informed accordingly.

CHAIRMAN

Form- A  
FORM OF ORDER SHEET

Court of -----

Case No. 178/2012

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/02/2012	<p>The appeal of Mr. Syed Hamid Shah submitted today by Mr. Abdul Hameed 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	13-2-2012	<p>This case is entrusted to Primary Bench for Preliminary Hearing to be put up there on <u>22-3-2012</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOONKHWA, PESHAWAR.

Service Appeal No. 178 / 2012



Syed Hamid Shah ..... Appellant

Versus

Director General, Excise & Taxation  
and others ..... Respondents.

I N D E X

S.No.	Description of documents	Annexures	Pages
1.	Grounds of appeal		1 - 5
2.	Copy of suspension order dated 8-06-2010.	'A'	0 - 6
3.	Copy of letter dated 18-08-2010	'B'	0 - 7
4.	Copy of show cause notice dated 7-01-2011.	'C'	8 - 9
5.	Copy of reply dated 24-01-2011	'D'	10 - 11
6.	Copy of impugned order dated 19-4-2011	'E'	0 - 12
7.	Copy of departmental appeal dated 23-05-2011.	'F'	13 - 16
8.	Copy of rejection order dated 7-01-2012.	'G'	17 - 18
9.	Vakalat Nama		

  
Appellant  
through  
  
( Abdul Hameed )  
Advocate, Peshawar



BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOONKHWA, PESHAWAR

Service Appeal No. 179 / 2012

Syed Hamid Shah, Assistant Sub-Inspector of the  
Office of Excise & Taxation Officer, Bannu.....Appellant

Versus

- 1. Director General, Excise & Taxation,  
K.P.K. Peshawar.
- 2. Excise & Taxation Officer, Bannu.
- 3. Secretary to Government of K.P.K,  
Excise & Taxation Department, Peshawar.

~~179~~  
179  
dated 02/02/12

Exc. part P  
18-2-13  
Restored  
9-4-14  
Exc. part P  
18-2-13

..... Respondents.

APPEAL UNDER SECTION 4 OF THE K.P.K. SERVICE TRIBUNAL ACT, 1974, AGAINST OFFICE ORDER NO. 8485/Estt./P file dated 19-04-2011 OF RESPONDENT NO.1, WHEREBY MINOR PENALTY OF STOPPAGE OF 3 (THREE) ANNUAL INCREMENTS WAS IMPOSED UPON THE APPELLANT AND HIS DEPARTMENTAL APPEAL DATED 23-05-2011, REFERRED TO RESPONDENT NO.3 WAS REJECTED ON 7-01-2012 (THIS OFFICE ORDER WAS RECEIVED BY THE APPELLANT THROUGH THE OFFICE OF EXCISE & TAXATION OFFICER, BANNU ON 17-01-2012).

P-12  
(ATTN E).

Filed to file  
L. Q. S.  
2/2/12

PRAYER: On acceptance of this appeal, the impugned orders dated 19-04-2011 and 7-01-2012 of respondents No.1 and 3 may be set aside and as a consequence thereof the impugned orders of minor penalty of stoppage of three (3) annual increments falling in December, 2011, 2012 and 2013 imposed upon the appellant be withdrawn. Any other relief deemed fit and proper in the circumstances of the case may also be granted.

Respectfully sheweth:

Short facts giving rise to this appeal are as under :-

1. That the appellant was initially inducted as Assistant Sub-Inspector in the Excise & Taxation Department, K.P.K. and since then the appellant has been performing his duties honestly and diligently to the best of his capabilities.
2. That unfortunately some misunderstandings/differences were cropped up with respondent No.2 and false, baseless and fabricated illegal charges were levelled against the appellant and as a result thereof, respondent No.1 placed appellant under suspension by an order dated 8-06-2010 with this direction to the respondent No.2 to this effect that an F.I.R. be lodged against the appellant in the Anti-Corruption Establishment K.P.K. However, till this date no F.I.R. was lodged against the appellant in the above charges alleged against him, as there were no solid proof of the alleged charges/complaints thereof. (Copy of the suspension order dated 8-06-2010 is attached as Annexure 'A').
3. That thereafter the authority/respondent No.1 without ascertaining the authenticity of the alleged charges levelled against the appellant, initiated departmental proceedings against the appellant and appointed Deputy Director, Excise and Taxation, K.P.K. Peshawar as Inquiry Officer to conduct an inquiry in the matter and submit a report in this behalf. (Copy of letter dated 18-06-2010 is attached as Annexure 'B').
4. That it is pertinent to mention here that neither charge sheet nor statement of allegations were served upon the appellant and thus the authority/respondent No.1 as well as the Inquiry Officer, conducted the whole departmental proceedings against the appellant illegally and unlawfully and in a unilateral way, without observing the codal formalities submitted a one-sided inquiry report to the

authority with a view to implicate the appellant in the alleged episode by hook or crook.

5. That all the evidence in the so called inquiry report conducted by the Enquiry officer were recorded at his back in his absence and thus the appellant was neither afforded an opportunity to cross examine the witnesses produced by the prosecution nor was he given a chance to produce the defence witnesses and thus a fabricated so-called inquiry report was submitted by the Enquiry officer to the authority/respondent No.1 without observing the legal formalities as required to be done under removal from service (Special Powers) ordinance, 2000 as amended in 2004.
6. That thereafter the authority/respondent No.1 served upon the appellant a show cause notice without an inquiry report which inquiry report is mandatory to be annexed to the accused officer/appellant while issuing show cause notice to him and thus the authority has violated the settled law/rules in this behalf. (Copy of the show cause notice dated 7-01-2011 is attached as Annexure 'C').
7. That after receiving the show cause notice in the case, the appellant approached to respondent No.1/authority to provide him a copy of an inquiry report for the purpose of preparing a reply in the matter but all in vain.
8. That the appellant however, without an inquiry report and knowing the factual position of the case submitted a reply to the show cause notice to the authority/respondent No.1 wherein the appellant has refuted/repudiated the alleged charges levelled against the appellant in this behalf. (Copy of reply dated 24-01-2011 is attached as Annexure 'D').

9. That consequently on the basis of the so-called inquiry report, the authority/respondent No.1 without observing the legal formalities and particularly under the wrong law, i.e. Government servants (E&D) Rules, 1973, which has no existence after the promulgation of Removal from Service (Special Powers) Ordinance, 2000 as amended in 2001, imposed on the appellant a minor penalty of stoppage of three annual increments falling in December, 2011, 2012 and 2013 by an order dated 19-04-2011. (Copy of order dated 19-04-2011 is attached as Annexure 'E').
10. That the appellant submitted a departmental appeal dated 23-05-2011 to respondent No.3 against the impugned order dated 19-04-2011 however, respondent No.3 vide letter dated 7-01-2012 has regretted his departmental appeal, hence this appeal, inter-alia on the following grounds :  
(Copy of the departmental appeal dated 23-05-2011 and rejection order dated 7-01-2012 are attached as Annexure 'F&G' respectively).

G R O U N D S

- a) That the impugned orders dated 19-04-2011 and 7-01-2012 of the respondents/Department are against facts, void ab-initio having been passed without application of judicial mind and thus all these orders are without lawful authority and jurisdiction, and these orders are in violation of settled rules/law and hence are not tenable.
- b) That the alleged charges levelled against the appellant were false, frivolous and unfounded. The whole inquiry conducted against the appellant was defective and against the spirit of RSO 2000.
- c) That neither charge sheet nor statement of allegations were served upon the appellant and the whole departmental proceedings were initiated under a wrong law i.e.

Government servants (E&D) Rules, 1973, while SRO 2000 was already in the field and thus the entire proceedings initiated against the appellant were unlawful, void ab-initio, coram-non-judice, without jurisdiction and hence are not sustainable in the eye of law. (Reliance is placed on authority reported 2007 SCMR 229 and 2007 PLC (CS) 251).

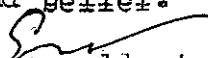
- d) That no regular inquiry under SRO 2000 was conducted against the appellant nor was he associated with the inquiry to defend himself or cross examine the witnesses of the prosecution and as such the whole departmental proceedings were initiated at the back of the appellant on the basis of false, incorrect and distasteful facts/allegations levelled against the appellant. No inquiry report was furnished with the show cause notice to the appellant and thus he was condemned unheard.
- e) That the appellant seeks leave of this Hon'ble Tribunal to rely/argue on additional grounds at the time of final hearing of this appeal.


It is, therefore, most humbly prayed that the appeal of the appellant may please be accepted as prayed for in the heading of the appeal.

Dated 02-02-2012

VERIFICATION

verified on oath that the contents of the appeal are true and correct to the best of my knowledge and belief.

  
Appellant.

  
Appellant  
through  
( Abdul Hameed )  
Advocate, Peshawar.

6

Ann: "A"

DIRECTORATE GENERAL, EXCISE & TAXATION KHYBER  
PAKHTUNKHWA, PESHAWAR.

ORDER

Dated the 18/06/2010.

No. 8059 /Estb/XXV-D-246. Consequent upon complaints received from Excise & Taxation Officer, Bannu vide Order No.4756-85, dated 27-05-2010 and followed by Enquiry conducted by Mr. Eid Badshah, Deputy Director (S&T), Khyber Pakhtunkhwa, Peshawar, Mr. Hamid Shah, Assistant Sub-Inspector in the office of Excise & Taxation Officer, Bannu has been found illegally involved in the issuance of registration books to the vehicles with forged/bogus signatures of Excise & Taxation Officer, Bannu and hence his service are placed under suspension with immediate effect till further orders.

Excise & Taxation Officer, Bannu is directed to lodge FIR against the accused in Anti Corruption Department as per rules.

**ATTESTED**

*[Signature]*  
**ADVOCATE**

*[Signature]* 18/6/10  
**DIRECTOR (ADMN),**  
**EXCISE & TAXATION**

Dated Peshawar the 18/08/2010.

From

Inquiry Officer

To

Excise & Taxation Officer,  
Bannu.

Subject:

INQUIRY / SUMMON.

Memo


Please refer to the subject cited above.

Consequent upon complaints received from ETO Bannu and followed by inquiry conducted by Mr. Eid Badshah, Dy. Director (South), the competent authority has placed the services of Mr. Hamid Shah, ASI of ETO Bannu Office under suspension as he has been found illegally involved in the issuance of registration books to the vehicle, with forged / bogus signatures of ETO Bannu.

Moreover, the competent authority has assigned the task to the undersigned of inquiring into the matter and submit report accordingly.

Therefore, you are requested to provide list of vehicles whose books are illegally signed by the alleged Mr. Hamid Shah, ASI, alongwith the attested photocopies of the Registration Books, within two weeks time positively.

You are also requested to convey progress report in connection of Order No. 8059/Estb/XXV-D-246 issued by Director Admn, Excise & Taxation, Khyber Pakhtunkhwa dated 08-06-2010.

  
DEPUTY DIRECTOR - V,  
EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA,  
PESHAWAR.

No. 1318-20

Copy for information to:

Dated Peshawar the 18/08/2010.

1. PS to Director Admn, Excise & Taxation, Khyber Pakhtunkhwa.
2. Mr. Hamid Shah, ASI with the direction to attend the office of the undersigned in connection of above mentioned inquiry on dated 21-09-2010 at 11:00 Hrs positive.

**ATTESTED**

ADVOCATE

SHOW CAUSE NOTICE

I, Syed Nazar Hussain Shah, Director General, Excise & Taxation Khyber Pakhtunkhwa, being the Competent Authority under the North West Frontier Province, Removal from Service (Special Powers) Ordinance, 2000, do hereby serve you, Mr. Hameed Shah, Assistant Sub Inspector, as follows:-

- (i) That consequent upon the completion of inquiry conducted against you by the Inquiry Officer for which you were given the opportunity for personal hearing on 21-09-2010.
- (ii) On going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including your defence before the said Inquiry Officer, you have been found guilty of misconduct as follows:
- (iii) That you did not obey the orders nor perform your duties as reported vide letter No. 4808 dated 03-06-2010 issued by the Excise & Taxation Officer, Bannu.
- (iv) That you have illegally signed the transfer of ownership of vehicle No. C- 9706 Bannu, in the name of Mr. Abdul Jabbar S/O Muhammad Sadeq on 08-04-1998 under your own signature.
- (v) That you signed temporary registration books of vehicle No. 2009-12-0434 and No. 2009-12-0040 and regular Registration Book of vehicle No. C-1053 (Bannu) without any authority, thus violating amended Rule-28 of the Motor Vehicle Rules, 1969.

In the light of the above, I am satisfied that you have committed the following acts/omissions specified in Section-3 of the said Ordinance.

- (a) Guilty of misconduct.
- (b) Disobedience.
- (c) Non obedience of Government orders.

As a result thereof, I, being the Competent Authority have tentatively decided to impose upon you a penalty of dismissal from service under Section-3 Sub Section (1) of the aforesaid Ordinance.

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.

**ATTESTED**

*[Signature]*  
ADVOCATE



If no reply to this notice is received within fifteen days of its delivery; in the normal course of circumstances, it shall be presumed that you have no defence to put in.

DIRECTOR (GENERAL)  
EXCISE & TAXATION  
KHYBER PAKHTUNKHWA,  
PESHAWAR.

No. 5072/Estb/P.File.

Dated Peshawar the 07/12/2011

Mr. Hameed Shah, Assistant Sub Inspector Office of Excise & Taxation Officer, Bannu.

DIRECTOR (GENERAL)  
EXCISE & TAXATION  
KHYBER PAKHTUNKHWA,  
PESHAWAR.

**ATTESTED**

**ADVOCATE**

The Director General,  
Excise & Taxation, Khyber Pakhtunkhwa,  
Peshawar.

Subject: SHOW CAUSE NOTICE.

Sir,

Please refer to your office letter No.5072/Estb/P.File, dated 07-01-2011, on the subject cited above.

The reply of Show Cause Notice is submitted for favourable consideration :

- 1- I was appointed as Junior Clerk in the Excise & Taxation Department with effect from 15-06-1987 and during the service I have not received any single explanation from my superiors, which show that I worked with entire satisfaction of my superiors.
- 2- I was placed under suspension from service vide order No.8059/Estb/XXXV-D-246, dated 18-06-2010 and Excise & Taxation Officer, Bannu was directed to lodge FIR against me in Anti-Corruption but Excise & Taxation Officer Bannu have no proof and he has not lodged any FIR against me. It is a valid proof and due to misunderstanding Excise & Taxation Officer reported against me.
- 3- It is pointed out that the Show Cause Notice issued to me by your goodself is direct addressed to me but the envelop was received by the Excise & Taxation Officer Bannu and opened by him and after receipt of Show Cause Notice only photo copy of the same was delivered to me on 17-01-2011. As provided in the Efficiency & Discipline Rules, a copy of the Inquiry report must be provided to the accused with Show Cause Notice but I have not received any kind of inquiry report, which is against the law and shows personal grudge of the Excise & Taxation Officer.
- 4- I have always obey order of my immediate boss i.e. Excise & Taxation Officer, as Excise & Taxation Officer Bannu has not called my explanation during his one year stay at Bannu.
- 5- In pursuance of law/rules, the Inquiry Officer was required to conduct day to day hearing of the accused but the same was not done. On 21-9-2010 the Inquiry Officer only handed over a question paper of Four (04) questions to answer and I have replied on the same day, which is not legal way of the inquiry as per law/rules.

**ATTESTED**  
  
**ADVOCATE**

11

As for as the transfer of ownership of vehicle No.C-9706-Bannu is concerned, it is submitted the act was for the year 1998. When the then Excise & Taxation Officer i.e. Mr. Asmatullah Khan was seriously sick and he has verbally authorized me to look-after office work in my absence.

7- I have never signed registration of two motor cycles bearing temporary registration No.2009-12-0434 and 2009-12-0040. I have signed only payment computer receipt of both the motor cycles. Furthermore, I have also denied regarding signing of Registration Certificate of vehicle No.C-1053-Bannu, as the proof of the same has not been provided to me.

8- In this connection, I will be very thankful if I may please be given your valuable time for personal hearing to explain the entire situation to your goodself.

In light of the above, you are requested to please considered my reply in light of the law and I may kindly be exonerated from the charges leveled against me.


Yours obediently,

Dated: 24-01-2011

  
(SYED HAMID SHAH)  
A.Si. Office of Excise & Taxation Officer,  
BANNU.

*Received*

*24/01/2011*

**ATTESTED**  
  
**ADVOCATE**

**DIRECTORATE GENERAL, EXCISE & TAXATION KHYBER  
PAKHTUNKHWA, PESHAWAR.**

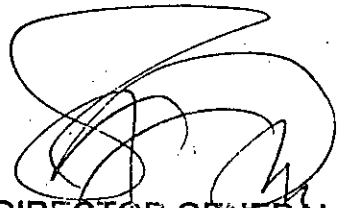
**ORDER**

Peshawar, dated the 19/04/2011.

No. 8185 /Estb/P.File. Consequent upon the Inquiry report made by Mr. Javed Khiljee Deputy Director-V, Excise & Taxation department and in pursuance to the personal hearing, a minor penalty of stoppage of three (3) Annual Increments falling in years December, 2011, 2012 & 2013 under Rule-4 Sub-Rule- (1) Clause (a) minor penalty, Sub Clause (iii) of the Government Servants (Efficiency & Disciplinary ) Rules, 1973 is hereby imposed on Mr. Hamid Shah, Assistant Sub-Inspector office of the Excise & Taxation Officer, Bannu due to his illegal involvement in the issuance of Registration Book to the vehicles with forged/bogus signature.

The official who was suspended is hereby re-instated in service with immediate effect and his suspension period will be treated as on duty.


Mr. Hamid Shah, Assistant Sub-Inspector is hereby warned to be careful in future from such activities/disobedience accordingly.

  
**DIRECTOR GENERAL,  
EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA,  
PESHAWAR.**

No. 8186-90 /Estb/P.File.

Copy forwarded to :

- 1- PS to Minister for Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.
- 2- PS to Secretary, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.
- 3- Excise & Taxation Officers, Bannu for information and implementation.
- 4- District Accounts Officer, Bannu.
- 5- Mr. Hamid Shah, Assistant Sub-Inspector office of Excise & Taxation Officer, Bannu.

  
**DIRECTOR GENERAL,  
EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA,  
PESHAWAR.**

**ATTESTED**

  
**ADVOCATE**

Received on 14-5-2011

NO-1854  
14/5/11

To,

The Secretary, Excise & Taxation,  
Khyber Pakhtunkhwa Peshawar.

Subject: DEPARTMENTAL APPEAL FOR SETTING ASIDE IMPUGNED ORDER NO.8185/ESTABLISHMENT/P-5 DATED 19/04/2011 (RECEIVED TO THE PETITIONER ON 14/05/2011) PASSED BY THE DIRECTOR GENERAL EXCISE AND TAXATION KPK PESHAWAR WHEREBY A MINOR PENALTY OF STOPPAGE OF THREE (3) ANNUAL INCREMENTS FALLING IN THE YEAR 2011, 2012 AND 2013 UNDER THE GOVT SERVANTS (E&D) RULES 1973 HAS BEEN IMPOSED ON THE PETITIONER ON ACCOUNT OF ILLEGAL INVOLVEMENT IN THE ISSUANCE OF REGISTRATION BOOK TO THE VEHICLES WITH FORGED / BOGUS SIGNATURE, ILLEGALLY AND UNLAWFULLY.

Respectfully Sheweth:

Kindly refer to the impugned order No.8185/Establishment / P-5 dated 19/04/2011 (Received on 14/05/2011 to the petitioner) vide Annexure "A". The petitioner assails the impugned order, inter-alia on the following grounds:

GROUND:

- A) That the petitioner was initially inducted as ASI in the Excise & Taxation <sup>Ref. A</sup> w.e.f 15/06/1987 and that since his appointment the petitioner is performing his duties diligently, honestly to the entire satisfaction of his superior officers.

**ATTESTED**

*[Signature]*  
ADVOCATE

- B) That during his entire service no complaint nor any FIR has been lodged against the petitioner and thus he has an unblemished service record throughout his service career.
- C) That due to some misunderstanding the petitioner was placed under suspension from service vide an order No.8059/Establishment - 246 Dated 18/06/2010 and that the Excise and Taxation Officers Bannu was directed to lodge an FIR against the petitioner in the Anticorruption Establishment. But till date that FIR has not so far been lodged against the petitioner and thus the whole case was manufactured against the petitioner in order to involve him in a false, concocted and fabricated case without any proof and evidence thereof.
- D) That the alleged charges leveled against the petitioner are false, incorrect and misleading and the petitioner has not committed the alleged offence nor he is involved in the case in which he has been implicated falsely at the behest of the interested person for his ulterior motives.
- E) That the authority, without ascertaining the factual position of the case, initiated an inquiry against the petitioner under Govt Servants (E&D) Rules 1973. The Inquiry Officer as well as the authority proceeded against the petitioner against departmentally under a wrong law which has no existence after the promulgation of the removal from service (Special Powers) Ordinance 2000 as amended in 2001. The inquiry officer conducted the whole inquiry illegally and unlawfully and in a unilateral way in a colourable way with a view to involve

**ATTESTED**  
**ADVOCATE**

the petitioner in the alleged episode by hook or crook. All the evidence in the so called inquiry conducted by the Inquiry Officer were recorded at his back in his absence and by this way the petitioner was neither afforded an opportunity to cross examine the witnesses produced by the prosecution nor he was given a chance to produce his defense witnesses and thus a so-called inquiry report was submitted by the Inquiry Officer to the authority without observing the legal formalities required to be done in such cases.

- F) That the petitioner has always obeyed the legal orders of his immediate superior officer and has not displayed any disobedience of any order during his stay at Bannu.
- G) That so far as the transfer of ownership of vehicle No.C-9706 - Bannu is concerned it is submitted that this act relates to the year 1998 which pertains to period of the then Excise & Taxation i.e. Mr. Asmat Ullah Khan who was on sick leave and during this period the petitioner was authorized to look after office work during his absence.
- H) That the petitioner never signed registration of two motorcycles bearing temporary Registration No.2009-12-0434 and 2009 - 12 - 0040. The petitioner has signed only payment computer receipt of both the motorcycles and the petitioner has denied regarding signing of registration certificate of Vehicle No.C - 1053 - Bannu as the proof of the same has not been provided to the petitioner by the Inquiry Officer.

**ATTESTED**  
**ADVOCATE**

- I) That the whole inquiry procedure was conducted by the Inquiry Officer under a wrong law and thus the whole procedure being vitiated under the wrong law is not sustainable at the law and hence is liable to be set aside forthwith.
- J) That the petitioner is innocent and has been involved in the whole case falsely, unlawfully in order to spoil his career and thus the impugned minor punishment inflicted upon him is too harsh and as such is liable to set at naught.

In view of the foregoing, it is, therefore, most humbly prayed on acceptance of this departmental representation / appeal, the minor penalty of stoppage of three (3) increments may kindly be withdrawn and the petitioner be absolved of all the charges leveled against him in this behalf.

Thanking you in anticipation

Yours most obedient servant

Dated 23/05/2011

**ATTESTED**

*[Signature]*  
**ADVOCATE**

*[Signature]*  
Syed Hamid Shah  
Assistant Sub-Inspector  
Office of the Excise and Taxation  
Officer, Banna.



**DIRECTORATE GENERAL, EXCISE & TAXATION,**  
**KHYBER PAKHTUNKHWA, PESHAWAR.**

No. 5038 /Estb/P.File

Peshawar, dated 07/01/2012

To


The Excise & Taxation Officer,  
Bannu.

Subject:

**DEPARTMENTAL APPEAL FOR SETTING ASIDE IMPUGNED ORDER NO.8185/ESTABLISHMENT/P-5 DATED 19-04-2011 (RECEIVED TO THE PETITIONER ON 14-05-2011) PASSED BY THE DIRECTOR GENERAL EXCISE AND TAXATION KHYBER PAKHTUNKHWA, PESHAWAR WHEREBY A MINOR PENALTY OF STOPPAGE OF THREE (3) ANNUAL INCREMENTS FALLING IN THE YEAR, 2011, 2012 AND 2013 UNDER THE GOVERNMENT SERVANTS (E&D) RULES 1973 HAS BEEN IMPOSED ON THE PETITIONER ON ACCOUNT OF ILLEGAL INVOLVEMENT IN THE ISSUANCE OF REGISTRATION BOOK TO THE VEHICLES WITH FORGED/BOGUS SIGNATURE, ILLEGALLY AND UNLAWFULLY.**


Reference appeal dated 23-05-2011 in respect of Syed Hamid Shah, Assistant Sub-Inspector of your office on the subject cited above.

2. The appeal has been regretted by the Administrative Department and you are directed to inform the said official accordingly.

  
 DEPUTY DIRECTOR (ADMN),  
 EXCISE & TAXATION,  
 KHYBER PAKHTUNKHWA,  
 PESHAWAR

No. 5040 /Estb/P.File.

Copy forwarded to PA to Director General, Excise & Taxation, Khyber Pakhtunkhwa.

  
 DEPUTY DIRECTOR (ADMN),  
 EXCISE & TAXATION,  
 KHYBER PAKHTUNKHWA,  
 PESHAWAR

*Hamid Shah*

*21  
17/1/12*

*No-10038  
17/01/2012*

**ATTESTED**

*[Signature]*  
**ADVOCATE**

GOVT OF KHYBER PAKHTUNKHWA  
EXCISE & TAXATION DEPARTMENT


No.SO(Estt)E&T/1-20/2010  
Dated Peshawar the 2<sup>ND</sup> Jan: 2012

To ✓  
The Director General,  
Excise & Taxation, Khyber Pakhtunkhwa,  
Peshawar:

Subject: DEPARTMENTAL APPEAL FOR SETTING ASIDE IMPUGNED ORDER NO.8185/ESTABLISHMENT/P-5 DATED 19.04.2011 (RECEIVED TO THE PETITIONER ON 14.05.2011 PASSED BY THE DIRECTOR GENERAL, EXCISE & TAXATION KHYBER PAKHTUNKHWA, PESHAWAR WHEREBY A MINOR PENALTY OF STOPPAGE OF THREE (03) ANNUAL INCREMENTS FALLING IN THE YEAR, 2011, 2012 AND 2013 UNDER THE GOVERNMENT SERVANTS (E&D) RULES 1973 HAS BEEN IMPOSED ON THE PETITIONER ON ACCOUNT OF ILLEGAL INVOLVEMENT IN THE ISSUANCE OF REGISTRATION BOOK TO THE VEHICLES WITH FORGED / BOGUS SIGNATURE, ILLEGALLY AND UNLAWFULLY.

I am directed to refer to Departmental appeal of Syed Hamid Shah, ASI, O/O ETO Bannu dated 23.05.2011 addressed to Secretary, Excise & Taxation Department and your letter No.4713/Estt/P.File dated 24-12-2011 on the subject noted above and to state that the same was considered by the Appellate Authority and regretted being devoid of merits.

The official may be informed accordingly.

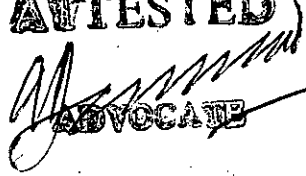
  
(USMAN SHAH)  
SECTION OFFICER (ESTT:)

Endst No. & date even.

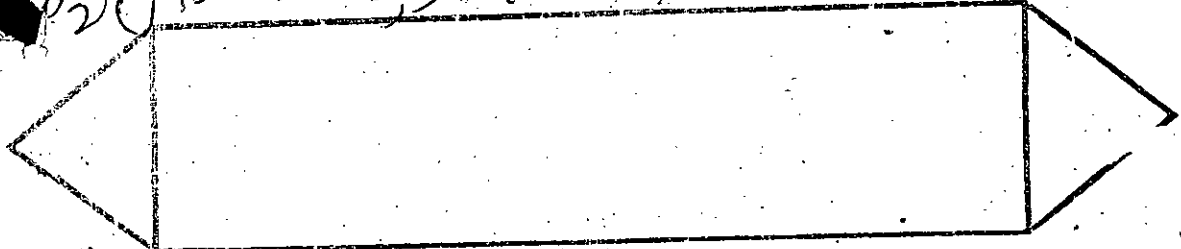
Copy forwarded to the P.S to Secretary, Excise & Taxation Department, Khyber Pakhtunkhwa, Peshawar.

*Handwritten notes:*  
DNC-2253  
3/1/2012  
P.S. (TA) for a/c M  
4/1/2012  
P.S. (TA) for a/c M

SECTION OFFICER (ESTT:)

**ATTESTED**  
  
ADVOCATE

بعد الت جاہ جہنہ صاحبہ خدیجہ بیگم صاحبہ



2012ء مکان اپیل

EXAS & Taxation  
PK

دو ذریعہ

محمد شاہ

Assistant Sales Inspector  
Office of the Excise & Taxation  
Office, Bannu.

مورثہ  
مقدمہ  
دعویٰ  
جرم

### باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیروی میں جواب دہی وکل کاروائی متعلقہ  
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوفہ کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیروی 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 تقریر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ و ہرجانہ التوا نے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ بیروی  
مذکورہ کس میں لہذا اوقات نامہ لکھ دیا کہ سند ہے۔

المرقوم 2 ماہ فروری 2012ء

کے لئے منظور ہے۔

بمقام

Accepted  
Khalid  
Adv. Peshawar.

Syad Hamid Shah  
AST office of excise & taxation  
OFFICE BANNU



EXCISE  
0928-9270125

**GOVERNMENT OF KHAYBER PAKHTUNKHWA**  
**OFFICE OF THE EXCISE & TAXATION OFFICER**  
**MOTOR REGISTERING AUTHORITY**  
**BANNU**

No. 585

Date: 2/2/2013

To,

The Honorable Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar

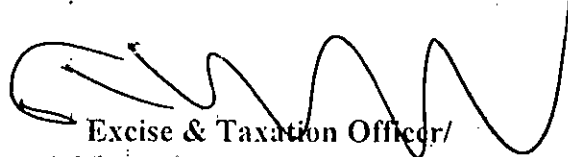
Subject: **APPEAL NO. 178/2012 OF SYED HAMID SHAH V/S D.G EXCISE & TAXATION K.P.K PESHAWAR IN THE COURT OF SERVICE TRIBUNAL PESHAWAR**

Respected Sir,

Reference to the above mentioned appeal my comments are as under:-

- a. That my predecessor in office sent complaints against Mr. Hamid Shah ASI of Excise & Taxation Office Bannu to the high-ups for further and necessary action / proceeding according to law, thereafter inquiry was conducted and Hamid Shah ASI was suspended by in order dated 08/06/2010 No 8059 Estb: /XXV-D-246 G.D Excise & Taxation K.P.K Peshawar.
- b. That the D.G Excise & Taxation initiated departmental proceedings against Hamid Shah ASI through the Deputy Director Excise & Taxation K.P.K and after the final report of the inquiry the honorable Director General Excise & Taxation Khyber Pakhtunkhwa Peshawar served a show cause notice to the said Hamid Shah ASI under N.W.F.P. Removal from services (Special Powers) ordinance 2000.
- c. That after submitting the reply of show cause notice by Hamid Shah ASI on 24/01/2011, the competent authorities / high-ups imposed a minor penalty of stoppage of 3 Annual increments falling in the years 2011, 2012 & 2013 respectively on Hamid Shah ASI and directed him to performed his duties well in future.
- d. That against the above said penalty order, Hamid Shah ASI preferred a departmental appeal on 23/05/2011 to Secretary Excise & Taxation Khyber Pakhtunkhwa Peshawar which was regretted by the competent form and at present Hamid Shah ASI approached to the service tribunal Khyber Pakhtunkhwa Peshawar.

The act done by the concerned authorities / officials are in their capacity / jurisdiction and further the honorable competent Court / Service Tribunal can decide the matter to much better on merits and circumstances as the Court deems fit.

  
Excise & Taxation Officer/  
Motor Registering Authority  
Bannu  
(Respondent No.2)

BEFORE THE K.P.K. SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 173/2012

Syed Hamid Shah, Assistant Sub-Inspector,  
office of Excise & Taxation officer, Bannu  
.....

Appellant

versus

Director General,  
Excise & Taxation, K.P.K. Peshawar etc ..... Respondents.

RE-JOINDER ON BEHALF OF APPELLANT.

Respectfully sheweth;

All the comments as drafted by answering respondent No.2 are totally false, incorrect, frivolous, mis-leading and misconceived.

As a matter of fact, the former Excise & Taxation officer, Bannu (Respondent No.2) had developed some differences with the appellant and because of this grudge, respondent No.2 was bent upon to implicate the appellant in a false and fabricated case manufactured by him for his ulterior motives in order to remove the appellant from service.

The appellant was/is innocent and the alleged charges levelled against the appellant are baseless and unfounded, therefore, the impugned order passed by respondent No.1 is liable to be set aside on the following reasons :-

- a) Because the orders of initiation of disciplinary proceedings against the appellant was passed by an incompetent authority.
- b) Because no charge sheet/statement of allegation were served upon the appellant and thus the appellant was proceeded against without any charge sheet which is required to be served upon the appellant before conducting the inquiry.

entire proceedings including final order of the competent authority which could not be sustained under the law.

5) Because respondent No.1 and 3 had already been proceeded against "exparte" by an order of this hon'ble Tribunal, because of their lethargy and non-appearance before the Tribunal on several occasions and thus this non-interest of both the authorities depict that the whole case is not based on facts and therefore, on this score alone the impugned orders are liable to be set aside.

It is, therefore, humbly prayed that on acceptance of the contents of the above re-joinder/replication on behalf of the appellant, ~~may kindly be accepted~~ and the impugned orders passed by the respondents No.1 and 3 may kindly be set aside in the interest of justice.

*[Signature]*  
Appellant

through

*[Signature]*  
( Abdul Hameed )  
Advocate, Peshawar

PESHAWAR

23-01-2014

AFFIDAVIT

I, Abdul Hameed, Advocate, Peshawar as per instruction of my client do hereby declare and affirm that the contents of the above re-joinder are true and correct to the best of my knowledge and belief.

Deponent

*[Signature]*  
( Abdul Hameed )  
Advocate, Peshawar



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

Service Appeal No. 178/2012

Syed Hamid Shah, Assistant Sub- Inspector of the office of Excise & Taxation  
officer, Bannu

(Appellant)

Versus

1. Director General, Excise and Taxation KPK Peshawar.
2. Excise and Taxation Officer, Bannu.
3. Secretary to Government of KPK Excise and Taxation Department, Peshawar.

(Respondents)

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974.**

Application for setting - aside Ex-Parte proceedings initiated against respondents No 1 & 3  
vide order dated 18-2-2013

Respectfully She weth,

The applicants/respondents submit as under,

1. That, the aforesaid appeal is pending/adjudication before this august Tribunal, and is fixed for 23-01-2014.
2. That, on dated 18-02-2013, the applicants/respondents were proceeded Ex-Parte as, they were marked unattended in the court.
3. That, the applicants/respondents were neither served with any notice nor they were informed about the proceedings of appeal.
4. That, due to the said reason, the applicants/respondents totally remained unaware about the aforementioned date fixed in the appeal, on which the Ex-Parte proceedings were taken against them.
5. That, it is the need of justice and fair play that Ex-Parte proceedings against applicants/respondents may be set-aside and they may be given an opportunity of hearing in the case.
6. That, the instant application is within time as no final order or judgment has been passed in case.

It is therefore, most humbly prayed that in view of aforesaid facts, the Ex-Parte proceedings against applicants/respondents may kindly be set-aside and they may be given an opportunity to contest the case in accordance with law.

Dated. 06-12-2013

The Applicants/Respondents  
Through



Syed Hamad Ali Shah  
(Advocate)  
Supreme Court of Pakistan  
Legal Advisor Excise & Taxation  
Khyber Pakhtunkhwa  
Peshawar.

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

Service Appeal No. 178/2012

Syed Hamid Shah, Assistant Sub- Inspector of the office of Excise & Taxation  
officer, Bannu

(Appellant)

Versus

1. Director General, Excise and Taxation KPK Peshawar.
2. Excise and Taxation Officer, Bannu.
3. Secretary to Government of KPK Excise and Taxation Department, Peshawar.

(Respondents)

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974.**

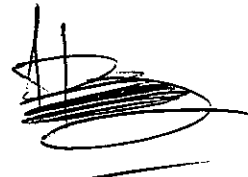
Application for setting - aside Ex-Parte proceedings initiated against respondents no 1 & 3  
vide order dated 18-2-2013

**AFFIDAVIT**

I, Mr. Syed Hamad Ali Shah Advocate Supreme Court of Pakistan, Legal Advisor Excise and Taxation Department Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanying application are true and correct to the best of my knowledge and belief.

Dated. 06-12-2013

The Deponent



Syed Hamad Ali Shah  
(Advocate)  
Supreme Court of Pakistan  
Legal Advisor Excise & Taxation  
Khyber Pakhtunkhwa  
Peshawar.  
CNIC # 17201-9650903-9



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

Service Appeal No. 178/2012

Syed Hamid Shah, Assistant Sub- Inspector of the office of Excise & Taxation  
officer, Bannu

(Appellant)

Versus

1. Director General, Excise and Taxation KPK Peshawar.
  2. Excise and Taxation Officer, Bannu.
  3. Secretary to Government of KPK Excise and Taxation Department, Peshawar.
- (Respondents)

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974.**

Application for setting - aside Ex-Parte proceedings initiated against respondents No 1 &3  
vide order dated 18-2-2013

Respectfully She weth,

The applicants/respondents submit as under,

1. That, the aforesaid appeal is pending/adjudication before this august Tribunal, and is fixed for 23-01-2014.
2. That, on dated 18-02-2013, the applicants/respondents were proceeded Ex-Parte as, they were marked unattended in the court.
3. That, the applicants/respondents were neither served with any notice nor they were informed about the proceedings of appeal.
4. That, due to the said reason, the applicants/respondents totally remained unaware about the aforementioned date fixed in the appeal, on which the Ex-Parte proceedings were taken against them.
5. That, it is the need of justice and fair play that Ex-Parte proceedings against applicants/respondents may be set-aside and they may be given an opportunity of hearing in the case.
6. That, the instant application is within time as no final order or judgment has been passed in case.

It is therefore, most humbly prayed that in view of aforesaid facts, the Ex-Parte proceedings against applicants/respondents may kindly be set-aside and they may be given an opportunity to contest the case in accordance with law.

Dated. 06-12-2013

The Applicants/Respondents  
Through



Syed Hamad Ali Shah  
(Advocate)  
Supreme Court of Pakistan  
Legal Advisor Excise & Taxation  
Khyber Pakhtunkhwa  
Peshawar.

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

Service Appeal No. 178/2012

Syed Hamid Shah, Assistant Sub- Inspector of the office of Excise & Taxation  
officer, Bannu

(Appellant)

Versus

1. Director General, Excise and Taxation KPK Peshawar.
2. Excise and Taxation Officer, Bannu.
3. Secretary to Government of KPK Excise and Taxation Department, Peshawar.

(Respondents)

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974.**

Application for setting - aside Ex-Parte proceedings initiated against respondents no 1 &3  
vide order dated 18-2-2013

**AFFIDAVIT**

I, Mr. Syed Hamad Ali Shah Advocate Supreme Court of Pakistan, Legal Advisor Excise and Taxation Department Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanying application are true and correct to the best of my knowledge and belief.

Dated. 06-12-2013

The Deponent



Syed Hamad Ali Shah  
(Advocate)  
Supreme Court of Pakistan  
Legal Advisor Excise & Taxation  
Khyber Pakhtunkhwa  
Peshawar.  
CNIC # 17201-9650903-9

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

**Service Appeal No. 178/ 2012**

**Syed Hamid Shah**

**-VS-**

**Director General,  
Excise, Taxation and Narcotics Control,  
Khyber Pakhtunkhwa Peshawar & Others**

**(Appellant)**

**(Respondents)**

**REPLY ON BEHALF OF RESPONDENTS NO. 1-3.**

Respectfully sheweth,

**PRELIMINARY OBJECTIONS.**

- 1) That, the appellant has got no locus- stand to file the appeal-in-hand.
- 2) That, the appellant is estopped by his conduct to file the instant appeal as the charge against the appellant has been proved, through positive documentary evidence and in light of such record a minor penalty-in-question was imposed on him, though deserving maximum penalty of compulsory retirement by the recommended inquiry officer.
- 3) That, the instant appeal is not maintainable in the eyes of law.
- 4) That, the appeal of appellant is barred by time specified for appeal under the relevant provisions of law.
- 5) That, the appellant has come to court, with unclean hands.

**FACTS:-**

- 1) Para-I is totally incorrect, against the facts on record and law, hence denied.

The appellant was appointed through letter vide No. D.O. No. PS/Min/Rev/E&T/87 dated 06.06.1987 as Junior Clerk, in Excise & Taxation Department which was issued by the concerned Minister for Revenue, Excise & Taxation, N.W.F.P (KPK).

**(Copy of order dated 06.06.1987 is attached as Annex-A).**

- 2) Para-II is also totally incorrect, against the facts and law, hence denied.

The appellant is a corrupt, dishonest and an inefficient official, who has been involved in illegal and corrupt practices, and to this effect complaints were lodged against him time by time.

The authority of Respondent No. 1 found the appellant to be involved in corruption through maintaining registration book and other documents of transfers of vehicles and receipt etc. with forge and bogus signature of respondent No. 1. Therefore through order vide No. 4756-85/E & T dated 27.05.2010, the respondent No. 1 cancelled the bogus Registration book and other transfer of ownership

documents and Receipts etc. which were maintained with bogus signature of Respondent No. 1 by the appellant.

Consequent to the above letter, the Respondent No. 2 approached the respondent No. 1 for taking legal action against appellant.

In result of initial inquiry, the charge against appellant was proved, and as per recommendation of Inquiry Officer the appellant was suspended through order dated 08.06.2010 by the Respondent No. 1.

The Respondent No.1 through office order dated 12.07.2010 passed order for lodging FIR against appellant, but the same was kept pending till finalization of Departmental Proceedings on the advice of concerned prosecution Inspectors of Anti Corruption Department.

**(Copies of (i) letter No. 4756-85/ E&T dated 27.05.2010  
ii) Order for suspension dated 08.06.2010.  
iii) Office order dated 12.07.2010 by Excise & Taxation Officer Bannu and  
iv) Application dated 21.09.2010  
are attached as Annex- B, C, D and E respectively).**

- 3) Para-III is correct to the extent that in view of departmental proceedings against appellant, the Inquiry Officer concerned was assigned to conduct inquiry against appellant and the detailed report's submission to respondent No. 1.
- 4) Para-IV is incorrect, against the facts and law, hence denied.
- 5) Para-V is also incorrect against the facts and law, hence denied. The whole evidence was recorded with presence of appellant and he was given due opportunity of defence in view of cross examining official witnesses and producing defence, if any. And in result of an impartial inquiry, the charge against appellant was proved and, it resulted into the impugned order which is correct and in accordance with law and facts, both.
- 6) Para-VI is incorrect, against the facts and law, hence denied.
- 7) Para-VII is totally incorrect, against the facts and law, hence it is also denied.
- 8) In reply to para-VIII, it is submitted that though reply to show cause notice was submitted but this was totally unsatisfactory, therefore the same was not considered and such act of respondents is based on facts and law.
- 9) Para-IX is correct to the extent, that the minor penalty of stopping three annual increments was imposed on the appellant. The remaining para is incorrect, against the facts and law, hence denied.
- 10) In reply to para-10, it is submitted that the departmental appeal was without any legal substance, therefore the same was regretted by maintaining the order of minor penalty-in-question. The appeal-in-hand is not competent in the eyes of law, therefore it is liable to be dismissed with costs.

#### **REPLY TO THE GROUNDS:-**


- A. Both, impugned orders are just, legal and in accordance with law. The appellant has been involved in corrupt practices, due to which he was proceeded against, and after inquiry, the charge was proved against him and in result of such proceedings the minor penalty-in-question was imposed upon him. The departmental appeal of appellant was devoid of any legal substance, therefore it was rightly rejected/regretted.


- B. The charge leveled against appellant was based on true facts. The inquiry was conducted in accordance with law and the penalty-in-question is the outcome of due process and application of law and rules.
- C. The referred cases has no relevance to the case-in-hand of appellant as the facts and circumstances of cases are quite different and distinct, by each and every aspect and the "ground-C" is based on misconception of law.
- D. In connection of charge and independent Inquiry was constituted and the Inquiry Officer fully regarded the rules and law in the process of conducting Inquiry. The appellant duly participated in the whole proceedings of Inquiry and he was given an ample opportunity of hearing at all relevant stages. The appellant failed to disprove the charge and the relevant recorded facts proved him guilty.
- E. The appeal-in-hand is not maintainable in the eyes of law, and all the grounds of appeal are baseless and without any legal force, hence it is liable to be dismissed.

It is therefore most humbly prayed, that, in view of aforesaid facts, the appeal of appellant may kindly be dismissed with costs.

Any other relief deemed fit in the circumstances of the case may also be granted in favour of respondents and against the appellant.


Dated 30.04.2015

  
**Respondent No. 1**  
**Director General,**  
**Excise, Taxation and Narcotics**  
**Control,**  
**Khyber Pakhtunkhwa, Peshawar.**

  
**Respondent No. 2**  
**Excise & Taxation Officer**  
**Bannu.**  
 EXCISE & TAXATION OFFICER  
 BANNU  
 MOTOR VEHICLE LICENSING AUTHORITY

  
**Respondent No. 3**  
**Secretary to Government of Khyber Pakhtunkhwa**  
**Excise, Taxation and Narcotics Control Department.**

Through counsel

  
**Syed Hamad Ali Shah**  
**(Advocate)**  
**Supreme Court of Pakistan,**  
**Legal Advisor,**  
**Excise, Taxation and Narcotics Control**  
**Department, Peshawar.**

**Verification:-**

Verified on Oath, that, the contents of this reply are true and correct to the best of my knowledge & belief.

(The Respondents)

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

**Service Appeal No. 178/ 2012**

**Syed Hamid Shah**

**(Appellant)**

**-VS-**

**Director General,  
Excise, Taxation and Narcotics Control,  
Khyber Pakhtunkhwa Peshawar & Others**

**(Respondents)**

**APPLICATION FOR SETTING-ASIDE EX-PARTE PROCEEDINGS  
AGAINST RESPONDENTS NO. 1-3.**

Respectfully Sheweth,

- 1) That, the aforesaid appeal is pending/ adjudication before this august tribunal, and is fixed for today.
- 2) That, on dated *14.5.15*, this august tribunal initiated ex-parte proceedings against respondents due to non-submitting of reply on behalf respondents by the Legal Advisor for Excise & Taxation Department for Government of Khyber Pakhtunkhwa.
- 3) That, the applicant's/ respondents seeks for setting-aside the ex-parte proceedings on the following grounds.
  - I. That, the reply on behalf of respondents could not be submitted by the respondents as the Legal Advisor of Excise & Taxation Department was remained unable to appear before the Court on the said date.
  - II. That, the absence of Legal Advisor was not intentional rather incidental as he was engaged in an emergent matter at home by having appointment with doctor for his wife's check-up.
  - III. That, regarding the said urgency, the Legal Advisor had informed the official of Department, who attended the Court on behalf of respondents on the said fatal date.
  - IV. That, the case proceedings were fixed for reply on behalf of respondents and the same had prepared by the Legal Advisor but could not be signed by the Respondents for want of fairing/ typing. The same are attached with the application-in-hand.
  - V. That, the application-in-hand is within time, as no final decision has been passed so far.
  - VI. That, it is the requirement of law and justice that the appeal of appellant may be decided on merits after considering the reply on behalf of respondents, as the matter-in-question is important and substantial for the smooth functioning of Department, wherein it is essentially required that the menus

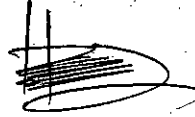
of corruption may be curbed and the corrupt officials be punished in accordance with law.

It is therefore, most humbly prayed that on acceptance of this application the ex-parte proceedings against respondents may kindly be set-aside and the reply of respondents shall be considered for the decision of appeal of appellants.

Any other relief deemed appropriate in the circumstances of the case may also be granted in favour of respondents and against appellant.

Dated 30.04.2015

**The Respondents No. 1-3  
through counsel**



**Syed Hamad Ali Shah  
(Advocate)**

**Supreme Court of Pakistan,  
Legal Advisor,  
Excise, Taxation and Narcotics Control  
Department, (KPK)  
Peshawar.**

**Affidavit:-**

Verified on Oath, that, the contents of this application are true and correct to the best of my knowledge & belief.

(The Respondents)



MINISTER FOR REVENUE,  
EXCISE AND TAXATION, N.-W.F.P.

D.O. No PS/Min/Rev/E&T/87.

Dated the 6th June, 1987.

ORDER.

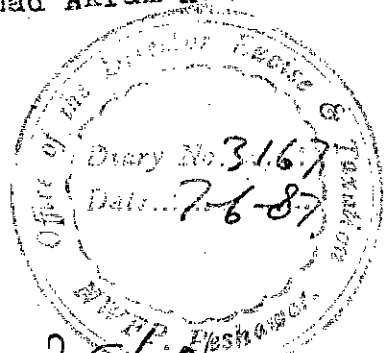
No. PS/Min/Rev/E&T/87. Mr. Hamid Shah son of  
Abdullah Shah Tehsil Lakki Marwat District Bannu  
being the suitable candidate (F.A) is hereby  
appointed as Junior Clerk in the Excise and  
Taxation Department with immediate effect.  
He may be posted at Bannu.

ources  
er your  
andidate  
s under

*(Signature)*  
(Mohammad Akram Khan Minakhel) Minister

- 1) S.M.B.R. NWFP, Peshawar Revenue Excise & Taxation
- 2) The Director of Excise & Taxation, NWFP.

(Mohammad Akram Khan Minakhel)



is

Note part page No-1-35/A

appointed as Junior Clerk.

Yours obediently,

*Hamid Shah*  
(HAMID SHAH)  
S/O

Dated 4-6-1987.

ABDULLAH SHAH  
Tehsil Lakki Marwat District  
Bannu Minakhel.

*7/6*  
*under*



16


OFFICE OF THE EXCISE & TAXATION OFFICER/ MOTOR REGISTERING AU  
BANNU

No. \_\_\_\_\_ E&T/MV Dated: \_\_\_\_\_

**ORDER**

In exercising the powers confirmed on me under Motor Vehicles section 28 (1), (2) and (3), Motor Vehicles Ordinance, 1965, under section 34 from under section (35). I hereby suspended/ cancelled all the entries made in the Register any other documents in relating to transfer of ownership, signature on Registration tax certificate, N.O.C. etc from dated 01/02/2010 to 17/05/2010, without signature undersigned on the above mentioned documents.

Furthermore, it is requested you to intimate this office on fax No. 0 through proper letter during the observation/ securitization, if the above documents c

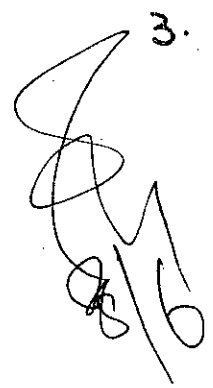
  
Muhammad I  
Motor Register  
Excise & Tax  
Assistant  
Bar

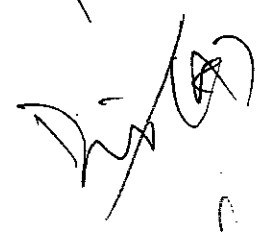
No. 4756-85 /E&T. 01/27-05-2010

Copy to:

- ✓ 1. The Director General, Excise & Taxation Department, Khyber Peshawar.
- ✗ 2. The Director General Excise & Taxation Department, Province Balochistan, Punjab, Azad Kashmir, Gilgit Baltistan, for info request to kindly circulate the same amongst the MRAs under it Please.

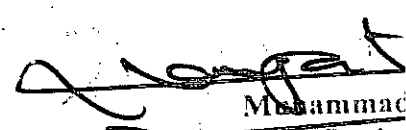
3. All MRAs in KPK





19/6

DOA 6532  
7/6/10

  
Muhammad I  
Motor Register  
Excise & Tax  
Assistant  
Bar  
Engr. Sid Baloch  
DD (South)  
Programmer  
09/06

MUST BE REGISTERED, AI

(2)

D.

D.

D.

(9)

DIRECTORATE GENERAL, EXCISE & TAXATION KHYBER  
PAKHTUNKHWA, PESHAWAR.

ORDER

Dated the 18/06/2010.

No. 8059 /Estb/XXV-D-246. Consequent upon complaints received Excise & Taxation Officer, Bannu vide Order No.4756-85, dated 27-05-2010 and follow up Enquiry conducted by Mr. Eid Badshah, Deputy Director (South), Khyber Pakhtunkhwa, Peshawar, Mr. Hamid Shah, Assistant Sub-Inspector in the office of Excise & Taxation Officer, Bannu has been found illegally involved in the issuance of register books to the vehicles with forged/bogus signatures of Excise & Taxation Officer, Bannu and hence his services are placed under suspension with immediate effect till further orders.

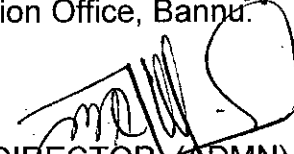
Excise & Taxation Officer, Bannu is directed to lodge FIR against himself accused in Anti Corruption Department as per rules.

  
12/6/10  
DIRECTOR (ADMN),  
EXCISE & TAXATION, KHYBER  
PAKHTUNKHWA, PESHAWAR

No. 8060-65 /Estb/Driver File.

Copy forwarded to :

- 1- PS to Minister for Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.
- 2- PS to Secretary, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.
- 3- PA to Director General, Khyber Pakhtunkhwa, Peshawar.
- 4- Excise & Taxation Officer, Bannu.
- 5- District Accounts Officer, Bannu.
- 6- Mr. Hamid Shah, Assistant Sub-Inspector, Excise & Taxation Office, Bannu.

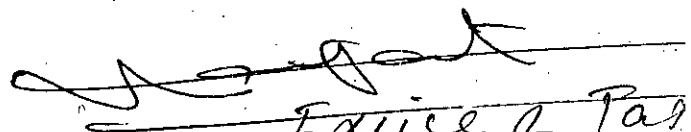
  
12/6/10  
DIRECTOR (ADMN),  
EXCISE & TAXATION, KHYBER  
PAKHTUNKHWA, PESHAWAR

OFFICE OF The EXCISE  
officer Pannu

Office order:

Dated 12-

with reference  
order NO 8059 / Estb / XXV-D-2  
18/06/2010, I hereby directed  
when Inspector of this office to  
legal necessary action as per  
filing / lodging of FIR against  
accused. Further you are directed  
to submit report on the subject  
so that to complete legal  
in time.

  
Excise & Tax  
officer / MRP

12/71

فصل عالی -

گزارش محققان و نویسندگان - در حواله آپ کے حکام

تاریخ 12/7/2010 بیت الزکوٰۃ فیہ شہادہ سبب اسناد

اس سلسلہ میں بتایا گیا ہے کہ اس کو اسناد ہے

اجوعہ - اور فیہ شہادہ اسناد سبب اسناد صرف

اس کو اسناد ہے بتا دیا گیا ہے - اور اس کے Detail

اس کے ساتھ ساتھ - اس کے ساتھ ساتھ اس کے ساتھ ساتھ

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تاریخ 21/9/2010

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

Service Appeal No.178/2012

Syed Hamid Shah ----- Appellant

**VERSUS**

Director General, Excise & Taxation  
and others ----- Respondents

**REJOINDER TO THE REPLY OF RESPONDENTS NO.1 TO 3,  
ON BEHALF OF APPELLANT**

Respectfully Shewth:

**ON PRELIMINARY OBJECTIONS**

All the preliminary objections as raised by the Answering Respondents are incorrect, false, misleading and misconceived.

1. Para-1 of the preliminary objection as raised by official Respondents is incorrect and misleading. The appellant has got a locus standi to file this appeal before this Honorable Tribunal, for redressal of his grievances.
2. Para-2 of the preliminary objection as drafted by answering Respondents is also incorrect, misleading and misconceived. Since the alleged charges levelled against the appellant were false, baseless and concocted, having been manufactured by Respondent No.2 due to his personal grudge and biased attitude developed with the appellant, therefore, the same could not be proved and resultantly no FIR was registered against the appellant in the whole case.
3. Para-3 of the preliminary objection is also incorrect and misleading. This appeal is maintainable and is to be entertained by this Honorable Tribunal.
4. Para-4 of the preliminary objection is incorrect and misleading. The appeal of the appellant is not barred by time and it has been filed before this Honorable Tribunal within the statutory period after rejection of his departmental appeal.
5. Para-5 of the preliminary objection is misleading and incorrect. The appellant has come to this Honorable Tribunal with clean hands and all the material facts have been brought on record and the appellant has concealed nothing from this Honorable Tribunal.

**ON FACTS**

1. Contents of Para-1 of the reply as drafted by answering Respondents are not correct and misconceived. Para-1 of the appeal is correct.
2. Contents of Para-2 of the reply as drafted by official Respondents are absolutely false, incorrect, misleading and misconceived. Para-2 of the appeal is correct.

Since all the alleged complaints/charges levelled against the appellant are false, concocted having been manufactured and designed at the behest of Respondent No.2 due to his personal grudge and prejudiced attitude developed with the appellant, therefore, all these charges after having been investigated were found to be fake and baseless and were not proved and because of this fact till this date no FIR against the appellant has been registered in the Anti Corruption Establishment KPK as per order of the authority in this behalf.

Besides, there are some other crucial legal lacuna and flaws involved in this matter as the departmental actions having been taken against the appellant in the form of his suspension from service and thereafter the order regarding registration of FIR in Anti Corruption Department, were initiated wrongly and illegally by an order of an incompetent authority i.e. Director (Admin) Excise & Taxation, instead of Director General, Excise & Taxation KPK, as required under the provisions of Removal from Service (Special Powers) Ordinance, 2000, and by this way the valid statutory law/Rules laid down under RSO, 2000 have been drastically violated by the official Respondents. Since from the outset the departmental actions have been taken by an incompetent authority, therefore, the subsequent proceedings taken by the department against the appellant are vitiated in the eye of law and are liable to be set aside.

3. Para-3 of the appeal is admitted as correct, hence there is no need of further clarifications.
4. Contents of para-4 of the reply by the answering Respondents are not correct, misleading, hence denied. Para-4 of the appeal is correct.
5. Para-5 of the reply as drafted by answering Respondents is false, incorrect and misleading, hence denied. Para-5 of the appeal is correct.
6. Contents of para-6 of the reply as drafted by answering Respondents are misleading and incorrect, hence denied. Para-6 of the appeal is correct. The show cause notice having been served upon the appellant was without a copy of inquiry report which is mandatory to be annexed with final show cause notice in such cases and by this way a mandatory service law has been violated and the appellant has been deprived of his right of defence as per dictum laid down by the Apex Court of Pakistan in PLD 1981 Supreme Court 176 (Syed Mir Mohammad Vs NWFP Government through Chief Secretary).
7. Para-7 of the reply by official Respondents is not correct. Para-7 of the appeal is correct.
8. Para-8 of the reply as drafted by official Respondents is incorrect, misleading and misconceived, hence denied. Para-8 of the appeal is correct.
9. Contents of para-9 of the reply as drafted by answering Respondents are vague, ambiguous, incorrect and misleading, hence denied. Para-9 of the appeal is correct.

As per record available on the file, it is evident that the final show cause notice having been served upon the appellant was under the law i.e. Removal from Service (Special

Powers) Ordinance, 2000, while the final impugned order which was passed by the competent authority was under the NWFP Government Servants (E&D) Rules, 1973, which was not in the field after promulgation of RSO, 2000 and by this way all the proceedings included the final order are illegal, unlawful having been taken against the appellant by bad law and consequently are liable to be dismissed.

10. Para-10 of the reply as drafted by the answering Respondents is misleading and incorrect and denied. Para-10 of the appeal is correct.

**ON GROUNDS**

The reply underground from "A to E" as submitted by the answering Respondents is not correct, misleading and misconceived and denied. All the grounds of the appeal are correct and based on facts.


The appellant was/is innocent and the alleged charges levelled against the appellant are baseless and unfounded, therefore, the impugned order passed by Respondent No.1 is liable to be set aside on the following reasons:-

- a) Because the orders of initiation of disciplinary proceedings against the appellant was passed by an incompetent authority.
- b) Because no charge sheet/statement of allegation were served upon the appellant and thus the appellant was proceeded against without any charge sheet which is required to be served upon the appellant before conducting the inquiry.
- c) Because neither regular inquiry was conducted by inquiry officer nor the appellant was afforded an opportunity to cross examine the evidence of the prosecution and the whole proceedings of the inquiry were conducted unilaterally by the enquiry officer at his back without giving a chance to the appellant to defend himself and thus the appellant was condemned unheard. In addition to this, all the mandatory provisions laid down in the RSO 2000, as amended in 2001, have blatantly been violated by the enquiry officer.
- d) Because Respondent No.1, being competent authority, while serving a final show cause notice upon the appellant, had not attached the enquiry report with the show cause notice which is mandatory under the law/rules and thus this act of the competent authority has vitiated the entire proceedings including the final order.
- e) Because the appellant was not afforded an opportunity to be heard in person and therefore, the universal principles of natural justice have also been violated in this behalf.
- f) Because as per record the final show cause notice was served upon the appellant under RSO 2000 while the final impugned order dated 19-04-2011 issued by the same authority is under N.W.F.P. Government Servants (Efficiency & Discipline) Rules, 1973. According to a dictum laid down by the apex court of Pakistan as reported in

2007 SCMR 229, the N.W.F.P. Removal from Service (Special Powers) Ordinance 2000, as amended in 2001, has over-riding effect over all other laws and, therefore, all disciplinary proceedings shall be initiated under RSO, rather than Rules enforced in 1973. Since the final order had been issued by the competent authority under a wrong law, therefore, it had vitiated entire proceedings including final order of the competent authority which could not be sustained under the law.

It is, therefore, humbly prayed that on acceptance of the contents of the above rejoinder/replication on behalf of the appellant, the impugned orders passed by the respondent No.1 to 3, may kindly be set aside in the interest of justice.

  
Appellant

Through   
(Abdul Hameed)  
Advocate, Peshawar

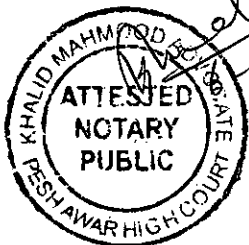
**PESHAWAR**

**11-09-2017**

**AFFIDAVIT**

I, Syed Hamid Shah, Assistant Sub-Inspector of the office of Excise & Taxation Officer, Bannu, do hereby solemnly affirm and declare that the contents of the rejoinder on behalf of appellant are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

  
Deponent





(131)

DIRECTORATE GENERAL, EXCISE & TAXATION KHYBER PAKHTUNKHWA,  
PESHAWAR.

No. 6056 /Estb/P.File.

Dated 08-02-2011


To

Mr. Hamid Shah,  
Assistant Sub-Inspector,  
Office of Excise & Taxation Officer,  
Bannu.

SUB: - SHOW CAUSE NOTICE.

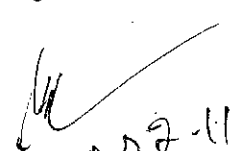
Reference your reply dated 24-01-2011, on the subject cited above.


In this connection you are directed to appear before the Director General, Excise & Taxation ( Competent Authority ) for personal hearing on 10-02-2011, positively.

  
DIRECTOR (ADMIN)  
EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA,  
PESHAWAR

No. 6057-58 /Estb/P.File.  
Copy forwarded to :-

- 1- PA to Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar for information.
- 2- Deputy Director-V, (Inquiry Officer) office of Directorate General, Excise & Taxation, Khyber Pakhtunkhwa, with the request to join personal hearing regarding the accused official.

Received by the  
AEO, Bannu on  
08.02.2011  
  
08.02.11

  
DIRECTOR (ADMIN)  
EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA,  
PESHAWAR

132

DIRECTORATE GENERAL, EXCISE & TAXATION KHYBER PAKHTUNKHWA,  
PESHAWAR.

No. 6052 /Estb/P.File.


Dated 08 -02-2011

To  
Excise & Taxation Officer,  
Bannu.

SUB: - SUSPENSION ORDER.

It is brought to your notice that Mr. Hamid Shah, Assistant Sub-Inspector of your office was suspended vide this office order bearing No.8059/Estb/XXXV-D-246, dated 18-06-2010 wherein you are directed to lodge an FIR against the accused official in the Anti-Corruption Establishment as per rules but you failed to do so. The Director General, Excise & Taxation has shown great concern over this act of non compliance.

You are therefore, directed to explain reasons in black in white and further directed to appear before the Director General, Excise & Taxation on 10-02-2011, positively.


  
DIRECTOR (ADMIN)  
EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA,  
PESHAWAR

No. 6053-54 /Estb/P.File.

Copy forwarded to :-

- 1- PA to Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar for information.
- 2- Deputy Director-V, (Inquiry Officer) office of Directorate General, Excise & Taxation, Khyber Pakhtunkhwa, with the request to join personal hearing regarding the accused official.

*Personally received  
By The ETO, Bannu  
On 08-02-2011*

  
DIRECTOR (ADMIN)  
EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA,  
PESHAWAR

*[Signature]*  
08-02-11

(136)

**DIRECTORATE GENERAL, EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA, PESHAWAR**

No. 6299 /Estb/P.File

Dated Peshawar the 14/02/2011

To

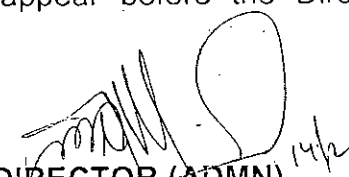
Mr. Hamid Shah  
Assistant Sub-Inspector  
Excise & Taxation Officer,  
Bannu.

**Subject: SUSPENSION ORDER / SHOW CAUSE NOTICE.**

Memo:

Reference to your reply dated 24-01-2011, on the subject cited above and this office letter No. 6056/Estb/P.File, dated 08-02-2011.

In this connection you are directed to appear before the Director General, Excise & Taxation on 23-02-2011 at 11:30 AM.


  
**DIRECTOR (ADMN),  
EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA,  
PESHAWAR**

No. 6300-01 /Estb/P.File

Dated Peshawar the 14/02/2011

Copy forwarded to:

1. PA to Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar for information.
2. Deputy Director-V (Inquiry Officer), Director General, Excise & Taxation, Peshawar with the request to join personal hearing regarding the accused official.

  
**DIRECTOR (ADMN),  
EXCISE & TAXATION,  
KHYBER PAKHTUNKHWA,  
PESHAWAR**



EXCISE  
0928-9270125

108

GOVERNMENT OF KHAYBER PAKHTOON KHWA  
OFFICE OF THE EXCISE & TAXATION OFFICER  
MOTOR REGISTERING AUTHORITY  
BANNU

No. 2366

Date: 9/2/11


To: The Director General,  
Excise & Taxation Khayber Pakhtoon Khwa,  
Peshawar.

Subject: SUSPENSION ORDER

Memo: With reference to you letter No 6052/Estb/Pfile Dated 08-02-2011 on the subject mentioned above and hereby submitted, that the task was assigned to Inspector Sardaraz Khan to proceed as per rules on lodging of FIR against the accused. (Copy enclosed)

Furthermore, the Inspector concerned submitted report on the same subject which is self explanatory (copy enclosed).

In this connection, it is pertinent to mention here that as the inquiry is under process in this Deptt. Therefore, on finalization/conclusion of the said inquiry, the legal process will be initiated as per rules, as advised.

  
Excise & Taxation Officer  
Bannu

*14/2*

*We have already submitted the name in for revision. P.u one day before personal hearing 15/2*

*Dr. (A)*

*All shut up*

*Syalt-i*

139

Office order:

Dated 12-07-2010

with reference to

order NO 8059 / Estb / XXV-D-246 dated  
18/06/2010, I hereby directed Mr Sardar  
Iqbal Inspector of this office to do  
legal necessary action as per rules in  
filing / lodging of FIR against the  
accused. Further you are directed  
to submit report on the subject immediately  
so that to complete legal process  
in time.

~~Signature~~  
Excise & Tax Officer

12/07/10  
officer / MRA Bannu

12/7/10

فتاویٰ عالی -

گزارش حضور اقدس - نہ جو الہ آباد کے جلسہ

تاریخ 12/2/2010 بیت انوار فیروزہ سہ ماہیہ

اس جلسہ میں اس وقت اس وقت

اجلاس 19/1/2010 میں اس وقت کے

مذکورہ اجلاس میں اس وقت کے

کے اجلاس میں اس وقت کے

مذکورہ اجلاس میں اس وقت کے

مذکورہ اجلاس میں اس وقت کے

مذکورہ اجلاس میں اس وقت کے

صفحہ 21-09  
2010

Handwritten signature and date 21/9/10

Handwritten signature and date 21/9/10

DIRECTORATE GENERAL, EXCISE & TAXATION KHYBER PAKHTUNKHWA,  
PESHAWAR.

145

No. 8191 /Estb/S.R-2011, Peshawar, dated the 15/04/2011.

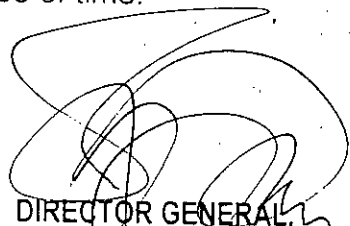
To

Excise & Taxation Officer,  
Bannu.

Subject: SUSPENSION ORDER/SHOW CAUSE NOTICE.

Reference personal hearing of Mr. Hamid Shah, Assistant Sub-Inspector of your office with the Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar held on 14-04-2011.

You are therefore directed to keep the progress of Mr. Hamid Shah Assistant Sub-Inspector under close eye/observation and his monthly progress report may be sent to this Directorate in due course of time.

  
DIRECTOR GENERAL,  
EXCISE & TAXATION  
KHYBER PAKHTUNKHWA,  
PESHAWAR.

not  
K. G. D. T. (A/D) A. V. K.

**OFFICE OF THE DEPUTY DIRECTOR EXCISE TAXATION & NARCOTICS CONTROL, HAZARA (REGION) ABBOTTABAD.**

Phone: 0992-9310350  
Email: ddhazara@yahoo.com

Dated Abbottabad, The 20/04/2016  
NO. 899 /DDH

To  
✓ Director General,  
Excise, Taxation & Narcotics Control,  
Khyber Pakhtunkhwa, Peshawar.

DIRECTOR GENERAL	AD. DIR. (LIT)
AD. DIR. (ASST)	AD. DIR. (LIT)
AD. DIR. (LIT)	AD. DIR. (LIT)
AD. DIR. (LIT)	AD. DIR. (LIT)
AD. DIR. (LIT)	AD. DIR. (LIT)
AD. DIR. (LIT)	AD. DIR. (LIT)
AD. DIR. (LIT)	AD. DIR. (LIT)
AD. DIR. (LIT)	AD. DIR. (LIT)
AD. DIR. (LIT)	AD. DIR. (LIT)
AD. DIR. (LIT)	AD. DIR. (LIT)

Subject: **COMPLAINT AGAINST HAMID SHAH (ASI)-BANNU.**

Kindly refer to your office letter No.5091/Estb dated 04/04/2016 on the subject cited above, it is submitted that the complainant i.e. Mr. Rasheed Khan S/o Mr. Asghar Ali, R/o Meeran Shah Road, Bannu & the official Mr. Hamid Shah (ASI), O/o ET&NCO, Bannu, were summoned vide this office letter Nos. 793-95/DDH, 796-99/DDH dated 07/04/2016 respectively (**Flag-A**) for digging out the factual position.

While going through the statement of the complainant (**Flag-B**) it was found that he had met some outsider at the office and who had demanded the amount of him for processing his official work as he states that, "when I visited O/o ET&NCO, Bannu for getting his Rickshaw registration there I met a person who introducing himself as Mr. Hamid Shah i.e. the ASI, who had demanded Rs. 7000/- extra of the prescribed registration fee and that is why I lodged a complaint against him but when I actually visited him it was dawned upon me that the person demanding the amount was someone else, exploiting the name of Mr. Hamid Shah and was deceiving me. So I render my apology as it was based on misunderstanding".

Similarly, Mr. Hamid Shah (ASI), submitted that "neither I had demanded nor he had paid extra amount of the registration fee" (**Flag-C**).

While going through both the statements of the complainant and of the official, it becomes clear that the complainant had initially some misunderstanding regarding his inconvenience while processing his rickshaw registration case at the office. And as the complainant submits that when he visited the official it was disclosed that the person demanding the amount was not Mr. Hamid Shah and it was another person so he had lodged his complaint unknowingly.

Keeping in mind the above mentioned statements it comes to the fore that the allegation leveled against the official seems based on misunderstanding so it is proposed that it may be filed. However, it is suggested that besides directives of displaying various fee/rates at district offices on visible places so that such malpractices and exploitation could be avoided, still seems inaccessible to the tax payers which generate such misunderstandings so the Excise, Taxation & Narcotics Control Officer, Bannu may be directed to display the rates at a visible place and to personally keep a vigilant eye on tax payment mechanism at the office. Furthermore, he should keep touts/agents out of office premises for avoiding such complaints and in the best public interest.

*Said-Ul-Amin*  
Said-Ul-Amin 20-4-16  
Deputy Director/Inquiry Officer,  
Excise Taxation & Narcotics Control,  
Hazara (Region), Abbottabad.

Copy for information to:

1. Office file.

DIARY NO. 5670  
DATED 25-04-2016  
DIRECTORATE GENERAL,  
EXCISE TAXATION & NARCOTICS CONTROL,ISLAMABAD.



**OFFICE OF THE DEPUTY DIRECTOR EXCISE TAXATION & NARCOTICS CONTROL, HAZARA (REGION) ABBOTTABAD.**

Phone: 0992-9310350

Email: ddhazara@yahoo.com

226

Dated Abbottabad, The 07/ 03/ 2016  
NO. 793-95/DDH

To

✓ Mr. Rashhed Khan S/o  
Mr. Asghar Ali Khan R/o Meeran Shah Road,  
Opposite Cantt Police Station,  
Bannu.

Subject: **COMPLAINT AGAINST HAMID SHAH (ASI)-BANNU.**

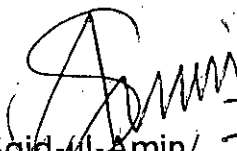
Refer to Director General, Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa office letter No. 5091/Estb dated 04/04/2016 on the subject cited above. You have lodged a complaint against Mr. Hameed Shah (ASI), O/o ET&NCO, Bannu.

In this context, undersigned is nominated as Inquiry Officer, so, you are hereby directed to appear before the undersigned to record your statement in the instant case as per scheduled given below.

Venue: O/o Deputy Director, Excise, Taxation & Narcotics Control, Hazara (Region), Chinar Road, Abbottabad.


Date: 15/04/2016, Friday.

Time: 11.00 a.m

  
Said-ul-Amin/ 7-4-16  
Inquiry Officer,  
Deputy Director,  
Excise Taxation & Narcotics Control,  
Hazara (Region), Abbottabad.

Copy for information to:

1. Director General, Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa, vide his office letter No. mentioned above for information please.
2. Deputy Director, South (Region), Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa for information please.
3. Excise, Taxation & Narcotics Control Officer, Bannu for information.
4. Office file.

  
Said-ul-Amin/ 7-4-16  
Inquiry Officer,  
Deputy Director,  
Excise Taxation & Narcotics Control,  
Hazara (Region), Abbottabad.

**OFFICE OF THE DEPUTY DIRECTOR EXCISE TAXATION & NARCOTICS CONTROL, HAZARA (REGION) ABBOTTABAD.**

(227)

Phone: 0992-9310350  
Email: ddhazara@yahoo.com

Dated Abbottabad, The 07/04/2016  
NO. 796-99/DDH

To

✓ Mr. Hamid Shah (ASI),  
O/o ET&NCO, Bannu.

Subject: **COMPLAINT AGAINST HAMID SHAH (ASI)-BANNU.**

Refer to Director General, Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa office letter No. 5091/Estb dated 04/04/2016 on the subject cited above, enclosed, find herewith a copy of complaint submitted by one Mr. Rasheed Khan S/o Mr. Asghar Ali, R/o Meeranshah Road, Opposite Cantt Police Station, Bannu.

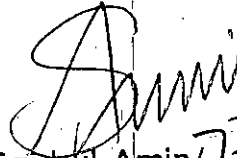
In this context, undersigned is nominated as Inquiry Officer, so, you are hereby directed to appear before the undersigned as per schedule given below.

Venue: O/o Deputy Director, Excise, Taxation & Narcotics Control, Hazara (Region), Chinar Road, Abbottabad.

Date: 15/04/2016, Friday.

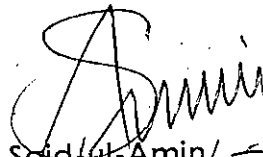
Time: 11.00 a.m

Enclosures: (01)

  
Said-ul-Amin/7-4-16  
Inquiry Officer  
Deputy Director,  
Excise Taxation & Narcotics Control,  
Hazara (Region), Abbottabad.

Copy for information to:

1. Director General, Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa, vide his office letter No. mentioned above for information please.
2. Deputy Director, South (Region), Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa for information please.
3. Excise, Taxation & Narcotics Control Officer, Bannu for information.
4. Office file.

  
Said-ul-Amin/7-4-16  
Inquiry Officer  
Deputy Director,  
Excise Taxation & Narcotics Control,  
Hazara (Region), Abbottabad.



ڈیپٹی ڈائریکٹر انکوائریز آف پولیس (229)

Complaint Agent,   
 Homid plot Asi

مخبرانہ قلم نمبر ۲۲-۲۶-۶ مورخہ ۱۶/۹/۶

مذکورہ ہے کہ آپ مورخہ ۹/۱۶ کو حاضر ہو جائیں

میں آج مورخہ ۱۶/۹ کو خود حاضر ہوں۔ اور یہاں

دے دیا کہ مذکورہ رشتہ داران جبکہ رکتہ کے کاغذات

جمع کئے گئے ہیں میں نے سرکاری دائرہ کے علوہ

بچے کسی نے زیادہ رقم نہیں دیا ہے۔ اور نہ ہی

رشتہ داران بچے زیادہ رقم دیا ہے۔

اس لئے آپ صاحبان سے گزارش کی جاتی ہے کہ

مذکورہ درخواست رشتہ داران کا نام لیں کر دیں

اور میرا انکوائریز فہم کر دیں۔ بندہ نا بعد از رہنے کا

بشرط صریح ہوگی

سائنس سر محمد شاہ آسی ریلیٹو سٹریٹ سیکشن  
آفس قلم نمبر

۱۵/۹/۱۶



**DIRECTORATE GENERAL,**  
**EXCISE, TAXATION & NARCOTICS CONTROL,** (239)  
**KHYBER PAKHTUNKHWA, PESHAWAR.**

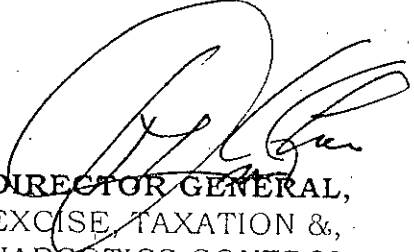
Auqaf Complex, Shami Road, Peshawar.  
Phone. 091-9212260

**ORDER**

Dated Peshawar the 28/08/2017

No. 8158- /Estb/P.file The services of Mr. Hamid Shah Assistant Sub-Inspector office of Excise & Taxation Office, Kohat is hereby placed under suspension with immediate effect on the basis of willful absence from official business w.e.f 09-08-2017, as reported by Excise & Taxation Officer, Kohat,

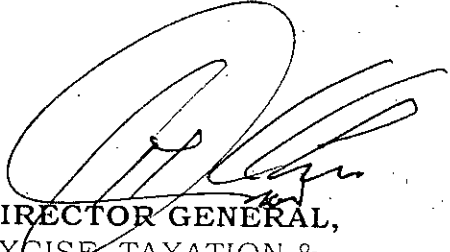
2. Mr. Javed Khilji Deputy Director, Excise & Taxation, Peshawar Region, Peshawar is hereby appointed an Inquiry Officer to probe into the matter and submit the fact finding report within ten (10) days positively for further proceeding in the matter against the accused official.

  
DIRECTOR GENERAL,  
EXCISE, TAXATION &,  
NARCOTICS CONTROL,  
KHYBER PAKHTUNKHWA,  
PESHAWAR

8159-64  
No. /Estb/P.file.

Copy forwarded for information and further necessary action to:

1. Director (Admn), Directorate General, Excise, Taxation & Narcotics Control, Peshawar
2. Deputy Director/Inquiry Officer, Excise & Taxation, Peshawar Region, Peshawar.
3. Excise & Taxation Officer, Kohat with reference to his letter No.1274-76/E&T, dated 24-08-2017.
4. District Accounts Officer, Kohat.
5. Mr. Hamid Shah Assistant Sub-Inspector office of Excise & Taxation Office, Kohat.
6. Office copy

  
DIRECTOR GENERAL,  
EXCISE, TAXATION &,  
NARCOTICS CONTROL,  
KHYBER PAKHTUNKHWA,  
PESHAWAR



**DIRECTORATE GENERAL,  
EXCISE, TAXATION & NARCOTICS CONTROL,  
KHYBER PAKHTUNKHWA, PESHAWAR.**

Auqaf Complex, Shami Road, Peshawar.  
Phone. 091-9212260


241

**ORDER**

Dated Peshawar the 28/08/2017

No. 8158- /Estb/P.file The services of Mr. Hamid Shah Assistant Sub-Inspector office of Excise & Taxation Office, Kohat is hereby placed under suspension with immediate effect on the basis of willful absence from official business w.e.f 09-08-2017, as reported by Excise & Taxation Officer, Kohat.

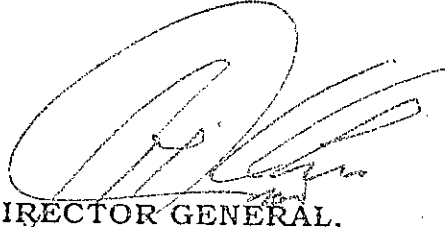
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DIRECTOR GENERAL,  
EXCISE, TAXATION &  
NARCOTICS CONTROL,  
KHYBER PAKHTUNKHWA,  
PESHAWAR.

8159-64  
No. /Estb/P.file.

Copy forwarded for information and further necessary action to:

1. Director (Admn), Directorate General, Excise, Taxation & Narcotics Control, Peshawar
- ✓ 2. Deputy Director/Inquiry Officer, Excise & Taxation, Peshawar Region, Peshawar.
3. Excise & Taxation Officer, Kohat with reference to his letter No.1274-76/E&T, dated 24-08-2017.
4. District Accounts Officer, Kohat.
5. Mr. Hamid Shah Assistant Sub-Inspector office of Excise & Taxation Office, Kohat.
6. Office copy

  
DIRECTOR GENERAL,  
EXCISE, TAXATION &  
NARCOTICS CONTROL,  
KHYBER PAKHTUNKHWA,  
PESHAWAR



**DEPUTY DIRECTOR, EXCISE, TAXATION  
AND NARCOTICS CONTROL, (PESHAWAR REGION), PESHAWAR**  
Auqaf Complex, Shami Road, Peshawar  
Phone. 091-9211209

256

**FACT FINDING REPORT REGARDING MR. HAMID SHAH, ASSISTANT SUB INSPECTOR  
OFFICE OF THE EXCISE & TAXATION OFFICER-KOHAT**

The services of Mr. Hamid Shah - Excise Taxation & Narcotics Control Officer-Kohat Peshawar, were placed under suspension, vide Order No. 8158/Estb/P.file, dated 28-08-2017, by the competent authority on the basis of willful absence from official business (Annexure-A).

**PROCEDURE:-**

Mr. Hamid Shah Assistant Sub Inspector recorded written statement regarding illness and produced Medical Prescription & Laboratory Report in support of his claim placed as (Annexure-B). Medical Prescription & Laboratory Report was sent to the quarter concern for verification vide NO. 2017/DD(Pesh) dated 12-09-2017 copy as (Annexure-C).

**FINDINGS:-**

It was found from medical report, that Mr. Hamid Shah A.S.I was ill and the doctor advised him bed rest for one month w.e.f 10-08-2017 to 18-09-2017, due to which he Shah remained absent from official duties.

Moreover, the medical certificate and laboratory report was also confirmed from the DHQ Hospital Lakki Marwat, vide No. 2863 dated 16-09-2017, as (Annexure-D).

**RECOMMENDATION**

As the official was on bed rest and assumed the charge of his official duties according to office transfer order dated 20-07-2017.

Mr. Hamid Shah violated official decorum and Rules, for not informing his high ups in time from his illness.

He may be warned and his suspension may be withdrawn and re-instated in service.

*Handwritten initials: Δg, ΔD*

*Handwritten notes: I agree, Supdt-I, As directed by DG, 29/9, 02/10*

**(JAVED KHILJI)**  
INQUIRY OFFICER/  
DEPUTY DIRECTOR (REGIST.),  
Excise, Taxation & Narcotics Control,  
Khyber Pakhtunkhwa.

29/09/2017

06.02.2020

Learned counsel for the petitioner present. Mr. Muhammad Jan learned Deputy District Attorney present.

Arguments heard. File perused.

Learned counsel for the petitioner raised the plea that the instant application for restoration of service appeal No.178/2012 was filed within time and in the interest of justice, the same may be allowed, to which learned DDA showed his no objection.

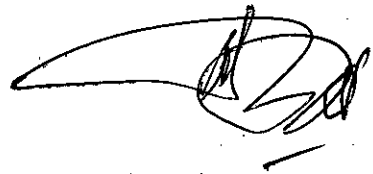
In view of above the present application for restoration of Service Appeal No. 178/2012 is allowed and the main service appeal is restored. To come up for arguments on main service appeal on 02.04.2020 before D.B. No order as to costs. File of the instant application be consigned to the record room.

  
Member

  
Member

2.4.20

*Due to public health and account of (COVID 19). The case is adjourned. To come up for the same on 3.7.2020.*



03.07.2020

Due to COVID-19, the case is adjourned to 06.08.2020 for the same.

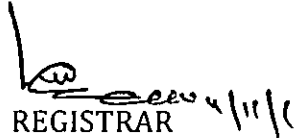



  
Reader



Form-A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Appeal's Restoration Application No. 410/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	04.11.2019	<p>The application for restoration of appeal No. 178/2012 submitted by Mr. Abdul Hameed Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This restoration application is entrusted to D. Bench to be put up there on <u>9-12-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>
09.12.2019		<p>Due to general strike of the Bar the case is adjourned. To come up for further proceedings on 06.02.2020 before D.B.</p> <p style="text-align: center;"> Member</p> <p style="text-align: right;"> Member</p>

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

*Restoration Application No. 410/2019*

**Khyber Pakhtunkhwa  
Service Tribunal**

C.M.No \_\_\_\_\_/2019

Diary No. 1131

IN

Service Appeal No.178/2012

Dated 4-11-2019

Syed Hamid Shah.....Applicant/Petitioner

VERSUS

Director General, Excise & Taxation KP, Peshawar & others....Respondents

**APPLICATION FOR RESTORATION OF THE ABOVE NOTED  
APPEAL FOR NON PROSECUTION IN DEFAULT ON 30.10.2019**

Respectfully Sheweth;

Applicant submits as under:

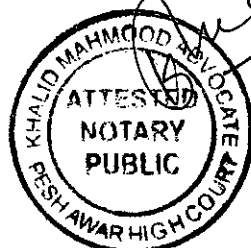
- 1) That the above noted appeal was fixed for 30.10.2019 for arguments, which has since been dismissed, in default for non-prosecution.
- 2) That the applicant/petitioner was seriously ill and my counsel was also engaged in his professional work at Peshawar High Court, Peshawar in some important cases and could not appear on the date fixed due to reasons mentioned above.
- 3) That this application is within time and there is no any impediment/hurdle for its restoration as per law.

It is, therefore, most humbly prayed that on acceptance of the instant application, the instant appeal may graciously be restored as valuable rights of the appellant/applicant are involved in this appeal in the interest of justice.

*[Signature]*  
Applicant/Petitioner  
Through *[Signature]*  
Abdul Hameed  
Advocate Supreme Court of Pakistan

**AFFIDAVIT**

I, do, hereby, affirm and declare on oath that the contents of the accompanying application are true and correct and nothing has been concealed from this Hon'ble Tribunal.



*[Signature]*  
Deponent

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOONKHA, PESHAWAR

Service Appeal No. 179 / 2012

Syed Hamid Shah, Assistant Sub-Inspector of the Office of Excise & Taxation Officer, Bannu..... Appellant



Versus

1. Director General, Excise & Taxation, K.P.K. Peshawar.

2. Excise & Taxation Officer, Bannu

3. Secretary to Government of K.P.K, Excise & Taxation Department, Peshawar.

179  
02/02/12

..... Respondents.

APPEAL UNDER SECTION 4 OF THE K.P.K. SERVICE TRIBUNAL ACT, 1974, AGAINST OFFICE ORDER NO. 8185/Estt./P file dated 19-04-2011 OF RESPONDENT NO. 1, WHEREBY MINOR PENALTY OF STOPPAGE OF 3 (THREE) ANNUAL INCREMENTS WAS IMPOSED UPON THE APPELLANT AND HIS DEPARTMENTAL APPEAL DATED 23-05-2011, PREFERRED TO RESPONDENT NO. 3 WAS REJECTED ON 7-01-2012 (THIS OFFICE ORDER WAS RECEIVED BY THE APPELLANT THROUGH THE OFFICE OF EXCISE & TAXATION OFFICER, BANNU ON 17-01-2012).

P-12  
(Ann E)

PRAYER:

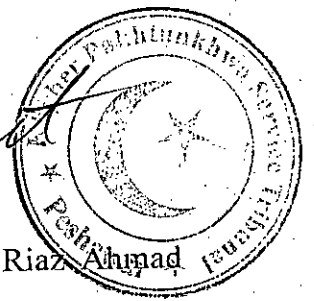
On acceptance of this appeal, the impugned orders dated 19-04-2011 and 7-01-2012 of respondents No.1 and 3 may be set aside and as a consequence thereof the impugned orders of minor penalty of stoppage of three (3) annual increments falling in December, 2011, 2012 and 2013 imposed upon the appellant be withdrawn. Any other relief deemed fit and proper in the circumstances of the case may also be granted.

Certified to be true copy

*[Signature]*  
Peshawar

*[Signature]*  
2/2/12

Ex-part 1  
18-2-13  
Rest of  
9-11-14  
Ex-part 2  
18-2-13



30.10.2019

None present on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Called for several times but no one appeared on behalf of the appellant, therefore, the appeal in hand is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED

30.10.2019

*[Signature]*  
(Ahmad Hassan)  
Member

*MA*  
(M. Amin Khan Kundi)  
Member

*Certified to be true copy*  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 31-10-19  
 Number of Words 800  
 Copying Fee 10-00  
 Urgent \_\_\_\_\_  
 Total 10-00  
 Name of Copyist [Signature]  
 Date of Completion of Copy 04-11-19  
 Date of Delivery of Copy 04-11-19

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

Restoration Appli. no. 410/19

C.M.No \_\_\_\_\_/2019

IN

Service Appeal No.178/2012

Syed Hamid Shah.....Applicant/Petitioner

VERSUS

Director General, Excise & Taxation KP, Peshawar& others....Respondents

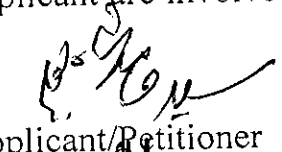
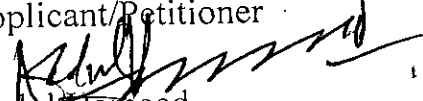
**APPLICATION FOR RESTORATION OF THE ABOVE NOTED  
APPEAL FOR NON PROSECUTION IN DEFAULT ON 30.10.2019**

Respectfully Sheweth;

Applicant submits as under:

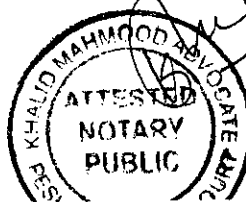
- 1) That the above noted appeal was fixed for 30.10.2019 for arguments, which has since been dismissed, in default for non-prosecution.
- 2) That the applicant/petitioner was seriously ill and my counsel was also engaged in his professional work at Peshawar High Court, Peshawar in some important cases and could not appear on the date fixed due to reasons mentioned above.
- 3) That this application is within time and there is no any impediment/hurdle for its restoration as per law.

It is, therefore, most humbly prayed that on acceptance of the instant application, the instant appeal may graciously be restored as valuable rights of the appellant/applicant are involved in this appeal in the interest of justice.

  
Applicant/Petitioner  
Through   
Abdul Hameed  
Advocate Supreme Court of Pakistan

AFFIDAVIT

I, do, hereby, affirm and declare on oath that the contents of the accompanying application are true and correct and nothing has been concealed from this Hon'ble Tribunal.

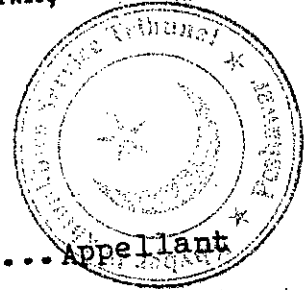


  
Deponent

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOONKHWA, PESHAWAR

Service Appeal No. 177 / 2012

Syed Hamid Shah, Assistant Sub-Inspector of the  
Office of Excise & Taxation Officer, Bannu.....Appellant



Versus

1. Director General, Excise & Taxation,  
K.P.K. Peshawar.

2. Excise & Taxation Officer, Bannu

3. Secretary to Government of K.P.K,  
Excise & Taxation Department, Peshawar.

..... Respondents.

*Ex parte*  
18-2-13  
Restored  
9-11-14

*Ex parte*  
18-2-13

*179*  
*02/02/12*

APPEAL UNDER SECTION 4 OF THE K.P.K. SERVICE  
TRIBUNAL ACT, 1974, AGAINST OFFICE ORDER  
NO. 8485/Estt./P file dated ~~19-04-2011~~ OF  
~~RESPONDENT NO.1, WHEREBY MINOR PENALTY OF~~  
~~STOPPAGE OF 3 (THREE) ANNUAL INCREMENTS WAS~~  
~~IMPOSED UPON THE APPELLANT AND HIS DEPARTMENTAL~~  
~~APPEAL DATED 23-05-2011, REFERRED TO RESPONDENT~~  
~~NO.3 WAS REJECTED ON 7-01-2012 (THIS OFFICE ORDER~~  
~~WAS RECEIVED BY THE APPELLANT THROUGH THE OFFICE~~  
~~OF EXCISE & TAXATION OFFICER, BANNU ON 17-01-2012).~~

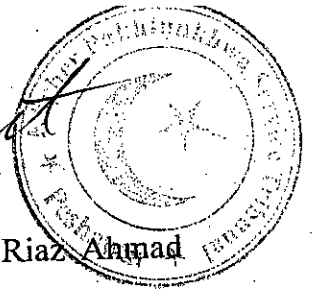
*P-12*  
*(Ann E)*

*2/2/12*

PRAYER: On acceptance of this appeal, the impugned orders  
dated 19-04-2011 and 7-01-2012 of respondents  
No.1 and 3 may be set aside and as a consequence  
thereof the impugned orders of minor penalty of  
stoppage of three (3) annual increments falling  
in December, 2011, 2012 and 2013 imposed upon  
the appellant be withdrawn. Any other relief deemed  
fit and proper in the circumstances of the case may  
also be granted.

Certified to be true copy

*[Signature]*  
Peshawar



30.10.2019

None present on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Called for several times but no one appeared on behalf of the appellant, therefore, the appeal in hand is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED

30.10.2019

*[Signature]*  
(Ahmad Hassan)  
Member

*MA*  
(M. Amin Khan Kundi)  
Member

*[Signature]*  
Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 31-10-19  
 Number of Words 800  
 Copying Fee 10-00  
 Urgent \_\_\_\_\_  
 Total 10-00  
 Name of Copyist [Signature]  
 Date of Completion of Copy 04-11-19  
 Date of Delivery of Copy 04-11-19

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

*Restoration Appli. no. 410/2019*

C.M.No \_\_\_\_\_/2019

IN

Service Appeal No.178/2012

Syed Hamid Shah.....Applicant/Petitioner

VERSUS

Director General, Excise & Taxation KP, Peshawar& others....Respondents

**APPLICATION FOR RESTORATION OF THE ABOVE NOTED  
APPEAL FOR NON PROSECUTION IN DEFAULT ON 30.10.2019**

Respectfully Sheweth;

Applicant submits as under:

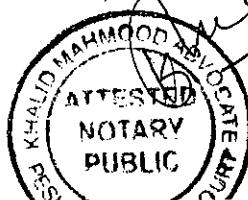
- 1) That the above noted appeal was fixed for 30.10.2019 for arguments, which has since been dismissed, in default for non-prosecution.
- 2) That the applicant/petitioner was seriously ill and my counsel was also engaged in his professional work at Peshawar High Court, Peshawar in some important cases and could not appear on the date fixed due to reasons mentioned above.
- 3) That this application is within time and there is no any impediment/hurdle for its restoration as per law.

It is, therefore, most humbly prayed that on acceptance of the instant application, the instant appeal may graciously be restored as valuable rights of the appellant/applicant are involved in this appeal in the interest of justice.

*[Signature]*  
Applicant/Petitioner  
Through *[Signature]*  
Abdul Hameed  
Advocate Supreme Court of Pakistan

**AFFIDAVIT**

I, do, hereby, affirm and declare on oath that the contents of the accompanying application are true and correct and nothing has been concealed from this Hon'ble Tribunal.



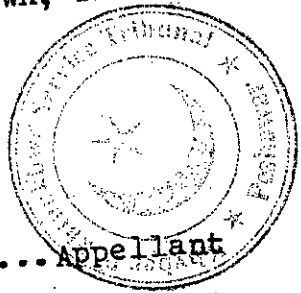
*[Signature]*  
Deponent



BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOONKHWA, PESHAWAR

Service Appeal No. 179 / 2012

Syed Hamid Shah, Assistant Sub-Inspector of the  
Office of Excise & Taxation Officer, Bannu.....Appellant



Versus

1. Director General, Excise & Taxation,  
K.P.K. Peshawar.

2. Excise & Taxation Officer, Bannu

3. Secretary to Government of K.P.K,  
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02/02/12

..... Respondents.

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P-12  
(Ann E)

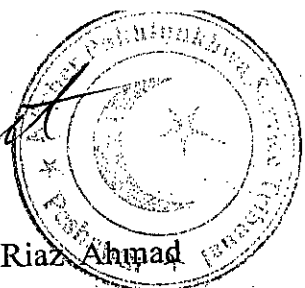
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also be granted.

EC part  
18-2-13  
Restored  
9-11-12  
EC part  
18-2-13

2/2/12

Certified true and correct copy  
[Signature]

*Syed Hamid Shah vs Govt*



30.10.2019

None present on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Called for several times but no one appeared on behalf of the appellant, therefore, the appeal in hand is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED  
30.10.2019

*[Signature]*  
(Ahmad Hassan)  
Member

*MA*  
(M. Amin Khan Kundi)  
Member

*Certified to be true copy*  
*[Signature]*  
Khanzada  
Service Tribunal,  
Peshawar

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