21.09.2021 Petitioner alongwith counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith M/S Shahabuid Din, AAC Headquarters and Ubaidullah, Superintendent for the respondents present.

Copies of two orders one bearing No. 2866/(DC(P)/D.K, dated 21.09.2021 and the other bearing No. Estt:VII/SA/4924-4933/Mukamil/24835, dated 20.09.2021 have been produced by the representatives of the respondents and placed on file. Both the said orders have been passed in compliance of the order dated 09.09.2021 passed for implementation of the judgment at credit of the petitioner. In the order dated 21.09.2021, the petitioner has been reinstated into service as Patwari (BPS-09) with back benefits against the vacant post subject to final decision of the August Supreme Court of Pakistan. It is also provided in the said order to treat the intervening period with the kind of leave available at his credit. This part of the order considering the intervening period as leave is against the spirit of the judgment. Therefore, it is held redundant being beyond the scope of the judgment at credit of the petitioner. Immediate relief of reinstatement has been granted. If the judgment of this Tribunal is maintained by the August Supreme Court of Pakistan, he will be deemed as reinstated from the date of his removal from service and will be entitled to the back benefits having accrued or accruable, had he not been removed from service. This Execution Petition is consigned to the record room with liberty to the parties to seek its restoration, if needed, after decision of the Apex Court.

Chairman

16.09.2021 Petitioner alongwith counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith M/S Muhammad Ajmal Khan,. Assistant Secretary, Shahabuid Din, AAC Headquarters and Ubaidullah, Superintendent for the respondents present.

Learned Addl. AG assured that he will take up the matter with the respondents for implementation of the judgment at credit of the petitioner and requested for short adjournment. On assurance of learned AAG another opportunity is granted to the respondents. To come up for implementation report on 21.09.2021 before S.B.

Chairman

GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.

091-9213989 | 091-9214208

Estt:VII/SA/4924-4933/Mukamil/ | Peshawar Dated the 20 /09/2021

NOTIFICATION:

Estt:VII/SA/4924-4933/Mukamil/ 24835 In Pursuance of Service Tribunal order 09.09.2021 in the execution petition, the Competent Authority is pleased to place the Services of the following Kanungos and Patwaries at the disposal of the following Deputy Commissioners with immediate effect and in the public interest for further posting/adjustment against the vacant posts subject to outcome of the pending CPLA or creation of new posts or any post falling vacant in due course of time in District Peshawar. whichever is earlier, in order to implement the judgment of Service Tribunal Khyber Pakhtunkhwa Peshawar dated 18.12.2020. The adjustment is a stop gap arrangement and would not affect the rights of the Patwar Candidates/Patwaries or Kanungos of District Charsadda and Nowshera. The adjusted officials will not claim any seniority etc. in the District Charsadda and Nowshera: -

S.No.	Name	Designation	At the disposal of
1.	Mr. Alam Zeb Khan	Kanungo	Services placed at the disposal of DC Charsadda
2.	Mr. Sana Ullah	Kanungo	Services placed at the disposal of DC Charsadda
3.	Mr. Sami Ullah	Patwari	Services placed at the disposal of DC Charsadda
4.	Mr. Arshad Khan	Patwari	Services placed at the disposal of DC Nowshera
5.	Mr. Jabir Jalal	Patwari	Services placed at the disposal of DC Nowshera
6.	Mr. Muhammad Jawad Khan	Patwari	Services placed at the disposal of DC Nowshera
7.	Mr. Gulbhar	Patwari	Services placed at the disposal of DC Nowshera
8.	Mr. Muhammad Adil Khan	Patwari	Services placed at the disposal of DC Nowshera
9.	Mr. Muhammad Iftikhar Ali	Patwari	Services placed at the disposal of DC Nowshera
10.	Mr. Sifat Ullah	Patwari	Services placed at the disposal of DC Nowshera
11.	Mr. Haroon Nawaz	Patwari	Services placed at the disposal of DC Nowshera
12.	Mr. Laiq Shah	Patwari	Services placed at the disposal of DC Nowshera
13.	Mr. Muhmmad Bilal	Patwari	Services placed at the disposal of DC Nowshera
14.	Mr. Usman Ghani	Patwari	Services placed at the disposal of DC Nowshera

By order of
Senior Member

Estt:VII/SA/4924-4933/Mukamil/ 24836-42

Copy forwarded to:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Commissioner Peshawar Division Peshawar with reference to his letter No. AR/ 10935 dated 14.09.2021.
3. Registrar Service Tribunal, Khyber Pakhtunkhwa, Peshawar.
4. Deputy Commissioner Peshawar with reference to his letter No. 2857/DC(P)/DK dated 17.09.2021 with the request to implement the judgment of Service Tribunal Khyber Pakhtunkhwa Peshawar in letter and spirit immediately please.
5. Deputy Commissioners, Charsadda and Nowshera.
6. Additional Advocate General Service Tribunal, Khyber Pakhtunkhwa Peshawar.
7. Officials concerned.

Secretary-I,
Board of Revenue

vacant posts throughout the province including Kanungo and Patwari. According to the said list 03 posts of Kanungo are vacant in District Charsadda in the office of Deputy Commissioner Charsadda being DDO, besides 08 vacant posts of Patwari in the same District. Similarly 11 posts of Patwari have been shown vacant in District Nowshera in the office of Deputy Commissioner being DDO. Among the petitioners 02 of them are required to be adjusted against the post of Kanungo while 12 of them are required to be adjusted against the vacant posts of Patwari in District Peshawar in pursuance of judgment of this Tribunal. If the competent authority at Provincial level deemed it appropriate to transfer the appointees who are holding the posts vacated by the petitioners to the adjacent Districts i.e. Charsadda and Nowshera, it will be convenient for the respondents to adjust the petitioners against the vacancies made available after transfer of the subsequent appointees. There is no scope to afford the respondents with further opportunity when viable has been as suggested herein before for ensuring the implementation of judgment of this Tribunal. Let the respondents follow the said course, if they are interested in execution of judgment of this Tribunal to avoid the consequences of non-compliance obviously including the civil imprisonment and attachment of property etc. To come up for implementation report on 16.09.2021 before S.B.

Chairman

08.09.2021 Petitioner alongwith counsel, Mr. Noor Muhammad Khan, Advocate and Mr. Muhammad Adeel Butt, Addl. AG alongwith Gul Bano, A.D.C for the respondents present.

The respondents have not come up with any plausible solution of the issue enabling the adjustment of the present petitioner and others in the connected Execution Petitions. They as usual are pressing into service the excuse of approval of SNE for new posts which is not expeditiously workable to ensure the implementation of the judgment. On quarry from the Bench, whether posts of Kanungo or Patwari are vacant in other districts of the Province for transfer of the later appointees, to the said districts, to make the vacancies available for adjustment of the petitioner and others, the respondents seek time to furnish the list of vacant posts of Patwari/Kanungo in other Districts of the Province after its procurement from the Board of Revenue. The request is accorded. To come up for the needful on 09.09.2021 before S.B.

Chairman

09.09.2021 Petitioner in person and Mr. Kabirullah Khattak, Addl. AG alongwith M/S Shahabud Din, AAC Headquarter and Obaidullah, Superintendent for the respondents present.

The list of vacant posts of Patwari & Kanungo has been produced in view of the assurance given on the previous date. The breakup of the sanctioned posts, filled posts and vacant posts has been given which reveals availability of 474

E.P No. 03/2021

25.08.2021

Petitioner alongwith his counsel Mr. Noor Muhammad Khattak, Advocate, present. Ms. Gul Bano, Additional Deputy Commissioner Peshawar alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

The Additional Deputy Commissioner Peshawar stated that process for implementation of the judgment has been initiated, however sought further time for implementation of the judgment. Vide previous order sheet, Law Officer was directed to provide incumbencies of all those officers who remained posted on the posts of Senior Member Board of Revenue, Commissioner Peshawar Division and Deputy Commissioner Peshawar during the period from passing of the judgment dated 18.12.2020 till date and in case of failure of the respondents in producing the implementation report, it was directed that proposed action against them shall follow. The incumbencies of the concerned officers have not been provided today, therefore, it is directed that the Additional Deputy Commissioner Peshawar shall provide the same on or before the next date and to come up for implementation report before the S.B on 08.09.2021.

(SALAH-UD-DIN)
MEMBER (J)

Establishment Department of the Provincial Government respectively, having custody of personal dossiers of the officers belonging to PAS and those belonging to PMS/PCS (Executive) etc, for including their inefficiency report in their personal dossiers. Reserving the initiation of appropriate penal action for the sake of judicial restraint, a restrictive action will be taken against those incumbents of the posts of Deputy Commissioner, Commissioner and SMBR who remained posted as such during the period from passing of the judgment dated 18.12.2020 till to-date, for including the inefficiency report in their dossiers as judicially noticed on account of their slackness in dealing with the hardship cases. Learned Law Officer present today is directed to get the incumbencies of all such officers and furnish the same before this Tribunal on next date for further appropriate action. Registrar of the Tribunal is also directed to send copy of this order to the Senior Member Board of Revenue, Commissioner Peshawar Division and Deputy Commissioner, Peshawar for submission of implementation report failing which the proposed action against them and their predecessors in office shall follow. To come up for implementation report 25.08.2021 before S.B.

Chairman

12.07.2021 Counsel for the petitioner and Mr. Muhammad Ri[illegible] Paindakhel, Assistant AG alongwith Shahabud Din, A.C the respondents present.

Implementation report has not been submitted. Deputy Commissioner, Peshawar, Commissioner Peshawar Division and Senior Member Board of Revenue who are at helm of the affairs, passed the dismissal order of the present petitioners, compelling them for recourse to judicial remedy through their respective service appeals before this Tribunal. Despite having the judgment of this Tribunal at their credit since 18.12.2020, they are shutting between this forum and the Departmental Authorities for its implementation but till to date have not seen the light in tunnel on departmental side. The departmental authorities are represented by lower rank officer/officials before the Tribunal having no authority to give any workable clue for implementation of the judgment on behalf of the competent authority because of their limited access to such authority in official channels. Needless to say that absence of the implementation of judgment in case of the petitioner till date is speaking a lost about inefficiency of the Authorities in decision making as to treatment of judicial verdict. The wriggling attitude of the concerned officers exhibits their casualness in treatment of the judgment of this Tribunal, which besides attracting penal action under due course of law is liable to be communicated to the Establishment Division of the Federal Government and

Establishment Department of the Provincial Government respectively having custody of personal dossiers of the officers belonging to PAS and those belonging to PMS/PCS (Executive) etc, for including their inefficiency report in their personal dossiers. Reserving the initiation of appropriate penal action for the sake of judicial restraint, a restrictive action will be taken against those incumbents of the posts of Deputy Commissioner, Commissioner and SMBR who remained posted as such during the period from passing of the judgment dated 18.12.2020 till to-date, for including the inefficiency report in their dossiers as judicially noticed on account of their slackness in dealing with the hardship cases. Learned Law Officer present today is directed to get the incumbencies of all such officers and furnish the same before this Tribunal on next date for further appropriate action. Registrar of the Tribunal is also directed to send copy of this order to the Senior Member Board of Revenue, Commissioner Peshawar Division and Deputy Commissioner, Peshawar for submission of implementation report failing which the proposed action against them and their predecessors in office shall follow. To come up for implementation report 25.08.2021 before S.B.

Chairman

12.07.2021 Counsel for the petitioner and Mr. Muhammad Riaz Khan Paindakhel, Assistant AG alongwith Shahabud Din, A.C for the respondents present.

Implementation report has not been submitted. Deputy Commissioner, Peshawar, Commissioner Peshawar Division and Senior Member Board of Revenue who are at helm of the affairs, passed the dismissal order of the present petitioners, compelling them for recourse to judicial remedy through their respective service appeals before this Tribunal. Despite having the judgment of this Tribunal at their credit since 18.12.2020, they are shutting between this forum and the Departmental Authorities for its implementation but till to date have not seen the light in tunnel on departmental side. The departmental authorities are represented by lower rank officer/officials before the Tribunal having no authority to give any workable clue for implementation of the judgment on behalf of the competent authority because of their limited access to such authority in official channels. Needless to say that absence of the implementation of judgment in case of the petitioner till date is speaking a lost about inefficiency of the Authorities in decision making as to treatment of judicial verdict. The wriggling attitude of the concerned officers exhibits their casualness in treatment of the judgment of this Tribunal, which besides attracting penal action under due course of law is liable to be communicated to the Establishment Division of the Federal Government and

01.07.2021 Mr. Muhammad Maaz Madni, Advocate for petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Ubaidullah, Superintendent and Sher Wali, ADK for the respondents present.

Representative of the respondents has produced copy of minutes of Departmental Selection Committee meeting held on 24.04.2020 alongwith other record. It shows that the posts previously held by the petitioners were filled in through the said D.S.C. The record also contained copy of letter No. 1331/DC(P)/DK, dated 20.04.2021 of respondent No. 2, addressed to Senior Member Board of Revenue for seeking guidance that presently there is no vacant posts of Patwari to adjust the petitioners. Learned AAG states that response is still awaited and requested for short adjournment. Representative of the respondents is directed to pursue the matter with concerned departmental authorities and submit compliance report, in light of order dated 16.06.2021, before S.B on 12.07.2021.

Chairman

16.06.2021 Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Shahabuid Din, Assistant for the respondents present.

The plea of filing of CPLA was pressed into service on 04.02.2021 as evident from the order sheet of even date. The respondents were required to submit the implementation report on or before next date of hearing, in case the judgment of this Tribunal is not suspended nor set aside. The position remains same even today. The respondents are directed to pass conditional order for reinstatement of the petitioner subject to decision of CPLA and the petitioner shall furnish a bond to the respondents to the effect that in case the judgment of this Tribunal is set aside by the August Supreme Court of Pakistan, he shall be liable to refund the benefits received on strength of conditional order.

Adjourned to 01.07.2021 before S.B.

Chairman

04.02.2021 Counsel for the petitioner and Addl. AG alongwith Ubaidullah, Superintendent for the respondents present.

The representative of respondents states that a CPLA has been preferred before the Apex Court against the judgment under implementation. Date of hearing though has not yet been fixed.

In the circumstances, the respondents are required to submit the implementation report on or before next date of hearing in case the judgment of this Tribunal is not suspended nor set aside till then.

Adjourned to 06.04.2021 before S.B.

Chairman

06.04.2021 Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 23.04.2021 for the same as before.

READER

23.04.2021 Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 16.06.2021 for the same as before.

Reader

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 103 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06.01.2021	The Execution Petition submitted by Mr. Amir Taimur through Mr. Noor Muhammad Khattak Advocate may be entered in the relevant Register and put up to the Court for proper order please. REGISTRAR
2-		This Execution Petition be put up before S. Bench on 15/01/21. CHAIRMAN
15.01.2021		Counsel for petitioner is present. Notice be issued to the respondents for implementation report for 04.02.2021 before S.B. (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No._____/2021
In
Appeal No. 4927/2020

AMIR TAIMUR **VS** **DEPUTY COMMISSIONER & ONE OTHER**

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE NO.
1-	Memo of petition	.....	1- 2.
2-	Affidavit	.....	3.
3-	Judgment	A	4- 8.
4-	Vakalat nama	.....	9.

PETITIONER/APPLICANT

THROUGH:
NOOR MOHAMMAD KHATTAK
ADVOCATE
MOBILE NO.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Implementation Petition No. 03 /2021
In
Appeal No. 4927/2020

Mr. Amir Taimur, Patwari,
Halqa Urmar Bala, Peshawar.

..... **PETITIONER**

VERSUS

1- The Commissioner, Peshawar Division, Peshawar.
2- The Deputy Commissioner, Peshawar.

.....**RESPONDENTS**

IMPLEMENTATION PETITION FOR DIRECTING THE RESPONDENTS TO OBEY THE JUDGMENT DATED 18.12.2020 IN LETTER AND SPIRIT

R/SHEWETH:

1- That the petitioner filed Service appeal bearing No. 4927/2020 before this august Service Tribunal against the impugned order dated 20.02.2020.

2- That the appeal of petitioner was finally heard by this august Tribunal on 18.12.2020 and was decided in favor of the petitioner vide judgment dated 18.12.2020 with the view that ***"For the reasons recorded herein above, the impugned orders dated 20.02.2020 and 13.02.2020 whereby a major penalty of dismissal from service was imposed upon the appellants under rule 4(1)(b)(IV) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, are not sustainable and are accordingly set aside. Instant appeal alongwith connected appeals are accepted and the appellants stand re-instated in service with all back benefits".***

3- That after obtaining attested copy of the judgment dated 18.12.2020 the petitioner submitted the same alongwith application before the respondents for implementation but till date the judgment of this Tribunal has not been implemented by the respondent in letter and spirit. Copies of the application and judgment are attached as annexure.....**A & B.**

4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may be directed to implement the judgment dated 18.12.2020 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER

AMIR TAIMUR

THROUGH:

NOOR MOHAMMAD KHATTAK

&

MIR ZAMAN SAFI

ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Implementation Petition No._____/2021
In
Appeal No. 4927/2020

AMIR TAIMUR **VS** **DEPUTY COMMISSIONER & ONE OTHER**

AFFIDAVIT

I Noor Mohammad Khattak, Advocate on behalf of the petitioner, do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Advocate NOTARY PUBLIC Peshawar

NOOR MOHAMMAD KHATTAK
ADVOCATE

To,

The Deputy Commissioner,
District Peshawar.

A-8 (4)

Subject: Implementation of Judgment dated 18.12.2020 & reinstatement of appellants.

R/Sir,

Respectfully it is stated that we have filed a Service Appeal before the KP Service Tribunal Peshawar against the order dated 13.2.2020 & 20.02.2020 where we have been ~~dismissed~~ from service which was allowed by the Service Tribunal vide dated 18.12.2020. (copy attached).

It is, therefore, most kindly requested that the order dated 18.12.2020 may be implemented and we may be reinstated into service.

24.12.2020

Appellants.

1) Mukamil Shah
2) Sadaqat ullah
3) Zaeshad Khan
4) Muhammad Asif
5) Muhammad Imran
6) Muhammad Nadeem
7) Abdul Jabar
8) Falaq Niaz
9) Aid Tenur
10) Asadullah
11) Kifayatullah
12) Mir Rehman Shah
13) Muhammad Aslam
14) Siraj Khalil

B-5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.4924/2020

Date of Institution ... 01.06.2020
Date of Decision ... 18.12.2020

Mukamil Shah, Ex-Office Kanungo, Tehsil Saddar, Peshawar.

... (Appellant)

VERSUS

1. The Commissioner Peshawar Division, Peshawar and one another.

... (Respondents)

Present:

Noor Muhammad Khattak,
Advocate ... For appellant.

Riaz Khan Paindakheil,
Assistant Advocate General ... For respondents.

ROZINA REHMAN ... MEMBER (J)
ATIQ-UR-REHMAN WAZIR ... MEMBER (E)

JUDGMENT

18/12/2020

ROZINA REHMAN, MEMBER: This judgment is intended to dispose of Fourteen connected service appeals including the present one bearing No.4924/20, titled Mukamil Shah Vs. Revenue Department and others, as common question of law and facts are involved therein.

2. Appellant, Mukamil Shah alongwith 13 others were serving in the respondents' department and the present appellant was Office Kanungo Tehsil Saddar Peshawar. He was dismissed from service vide order dated

6

20.02.2020. It is the legality and validity of this order which has been challenged by him in the present service appeal filed U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

3. Shortly narrated facts necessary for the disposal of the instant appeal are that appellant was the employee of respondents' department and during service, he alongwith other appellants were served with a show cause notice. In response to the said show cause notice, reply was submitted wherein all the allegations leveled against the appellants were denied. It was on 20.02.2020 when major penalty of dismissal from service was imposed upon appellant. He, therefore, preferred departmental appeal but the same was not responded to hence the present service appeal.

4. Learned counsel appearing on behalf of appellants in support of appeals contended with vehemence that the impugned orders are illegal, against law, facts and norms of natural justice. He submitted that the appellants were not treated in accordance with law and rules on the subject and were not given fair trial as enshrined under Article 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. He argued that neither charge sheet nor statement of allegations were served upon appellants before issuing the impugned order. All the appellants were stated to have been condemned unheard. Learned counsel submitted that no regular inquiry was conducted before the issuance of the impugned order which as per Apex Court is necessary in punitive actions against civil servants and that major penalty cannot be imposed on the basis of single show cause notice and lastly, he submitted that one of the major allegations leveled against the appellant was absence from Tehsil Darbar but there is no written document or any cogent reason in order to prove that appellant alongwith others were

18/12/20

called for Darbar and they failed to attend the same. Reliance was placed on 2000 PLC (C.S) 484; 1989 SCMR 551; 2009 SCMR 329; 2011 SCMR 1618; 2012 PLC (C.S) 787 and 2011 PLC (C.S) 522.

5. Conversely learned A.A.G submitted that impugned order was issued under E&D Rules, 2011 wherein it was clearly mentioned that inquiry was dispensed with under Section 5 due to misconduct of the appellants by instigating the staff, making hurdles in performing official duties, creating problems in redressing public grievances at the occasions of Darbar. He submitted that all the proceedings were conducted according to law and no rules were violated rather instructions/laws of the Provincial Government were followed in letter and spirit. He submitted that show cause notice was properly issued and the same was replied where-after personal hearing was made but the appellants could not put any valid justification in their defense, therefore, they all were dismissed according to law.

6. Arguments heard, parawise comments and record perused.

7. The allegations against the present appellant and others were that all the Revenue staff were directed to be present on 13.02.2020 in the Tehsil office alongwith Revenue record for conducting Revenue Darbar proceedings but they failed to do so; they instigated other Revenue staff in disobeying the lawful commands of the superior and announced boycott of Tehsil Hazri, Polio Duties and refused to shifting of Patwar Khana within respective Halqa; they were repeatedly warned to refrain from such conduct of resembling mutiny but they expressed utter disregard to such directions; their absence caused inconvenience to the general public.

8. By referring to the above allegations, we subscribe to the arguments of the learned counsel for appellants to the effect that the competent authority was not having sufficient material available on record to have formed an opinion that there was no need of initiation of regular inquiry into the case of appellants. We admit that the Competent Authority is within its right to dispense with the departmental inquiry in terms of Rule-5 (1) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules 2011, when there is sufficient material available which prima facie connects the accused with the commission of misconduct; while in the instant case, the material, so produced on record, is deficient in all respects and an opinion cannot be legally formed to justify the dispensation of inquiry . In the instant case, we find that neither the Competent Authority was in possession of documentary evidence against the appellants nor any satisfactory reasons have been recorded, thus the appellants were not provided sufficient chance to vindicate themselves against the allegations. The main object of the Efficiency & Disciplinary Rules are to maintain administrative and financial discipline in the Department, similarly, the procedure so prescribed is aimed to give a proper chance of proving his innocence to the accused officer/official and mere issuance of the charge sheet/show cause notice or enquiry cannot be allowed to be used as a device to done away with the services of an employee. In cases where imposition of major penalty is contemplated, holding of regular enquiry is a must, as laid down by the Hon'ble Supreme Court of Pakistan in a number of case laws, but it was not done in this case. The appellants have been punished without procuring adequate evidence to prove inefficiency and misconduct. It was held in the case of Muhammad Mohsin Siddiqui Vs. Government of West Pakistan PLD 1964 S.C 64 that;

"The whole proceedings in a departmental enquiry is required by the Rules to be conducted in accordance with the principles of justice. The superior courts will not tolerate, and certainly not within the framework of the judicial administration itself, conditions in which officials can be made prosecutors, judges and punishing authorities when they themselves are the complainants, merely on the ground that the power of removal is vested in them as appointing authorities under the Rules"

9. For the reasons recorded herein above, the impugned orders dated 20.02.2020 and 13.02.2020 whereby a major penalty of dismissal from service was imposed upon the appellants under Rule 4 (1)(b)(IV) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, are not sustainable and are accordingly set aside. Instant appeal alongwith connected appeals are accepted and the appellants stand reinstated in service with all back benefits. With no order as to costs. File be consigned to the record room.

Certified to be ture copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ANNOUNCED:
18.12.2020

(Attiq ur Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)

Date of Presentation of Application 23-12-20
Number of Words 2600
Copying Fee 28-
Urgent 4-
Total 32-
Name of Copyist
Date of Completion of Copy 23-12-20
Date of Delivery of Copy 23-12-20

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

_____ OF 2021

AMIR TAIMUR (APPELLANT) (PLAINTIFF) (PETITIONER)

VERSUS

D-C & 6Thers (RESPONDENT) (DEFENDANT)

I/We AMIR TAIMUR.

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated._____/_____/2021

CLIENT

امیر تیمور

ACCEPTED
NOOR MOHAMMAD KHATTAK

MIR ZAMAN SAFI

AFRASIAB KHAN WAZIR
&

HAIDER ALI
ADVOCATES

OFFICE:
Flat No.4, 2nd Floor, Juma Khan Plaza, near FATA Secretariat, Warsak Road, Peshawar.
Mobile No.0345-9383141

THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No.2866 /(DC(P)/DK

Dated: 21-Sept-2021

ORDER:

WHEREAS, Khyber Pakhtunkhwa Services Tribunal vide its order dated 18-12-2020 in service appeals No. 4924 to 4933 & 4939 to 4942/2020 titled Mukamil Shah, Ex-Kanungo, Tehsil Saddar Peshawar & 13 Others, accepted the appeals of the appellants by re-instating them into services with back benefits.

AND WHEREAS, a CPLA has been filed in the instant case to set aside the judgment of the services tribunal. However, the case has not yet been fixed for hearing till date.

AND WHEREAS, Khyber Pakhtunkhwa Services Tribunal vide order sheet dated 16-06-2021 in the above case, ordered conditional re-instatement of the petitioners subject to the final decision of the Apex Court and petitioners shall furnish a bond to the effect that in case the judgment of the Services Tribunal is set aside by the August Supreme Court of Pakistan, they shall be liable to refund the benefits received on strength of conditional orders. The petitioner **Mr. Amir Taimur Ex-Patwari** in light of the said order, submitted Affidavit No.**H347907** dated **30-06-2021** in this regard.

AND WHEREAS, the Board of Revenue Khyber Pakhtunkhwa vide Notification No.Estt:VII/SA/4924-4933/Mukamil/24835 dated 20-09-2021 issued direction to re-instate all the petitioners against the vacant posts caused vacant due to the conditional transfer/posting of relevant revenue staff in District Charsadda and Nowshera.

NOW THEREFORE, keeping in view the order of Khyber Pakhtunkhwa Services Tribunal mentioned above coupled with Affidavit of the petitioner and subsequent notification received from Board of Revenue Khyber Pakhtunkhwa referred above, **I, Capt.(R) Khalid Mehmood Deputy Commissioner Peshawar,** as competent authority, do hereby conditionally re-instate **Mr.Amir Taimur S/o Muhammad Baz Khan** into service as **Patwari (BPS-09)** with back benefits against the vacant post subject to the final decision of the August Supreme Court of Pakistan. The intervening period be considered with the kind of leave available at his credit.

He is directed to report to the District Kanungo Office immediately.

(CAPT.(R) KHALID MEHMOOD)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

Copy forwarded to the:

1. Secretary-I Board of Revenue Khyber Pakhtunkhwa w.r.t. his Notification referred above.
2. Commissioner Peshawar Division Peshawar.
3. Accountant General Khyber Pakhtunkhwa.
4. Registrar, Khyber Pakhtunkhwa Services Tribunal.
5. Accounts Officer of DC Office for further necessary action.
6. Official concerned for strict compliance.

DEPUTY COMMISSIONER