

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

**Service Appeal No. 4056/2020**

**BEFORE:** SALAH UD DIN --- MEMBER(J)  
MIAN MUHAMMAD --- MEMBER(E)

Mr. Ikram Ullah, Patwari, Patwar Halqa Malakander, District  
Peshawar..... (*Appellant*)

**VERSUS**

1. The Commissioner Peshawar Division, Peshawar.
2. The Deputy Commissioner Peshawar..... (*Respondents*)

**Present:**

UMER FAROOQ MOHMAND,  
Advocate --- For Appellant.

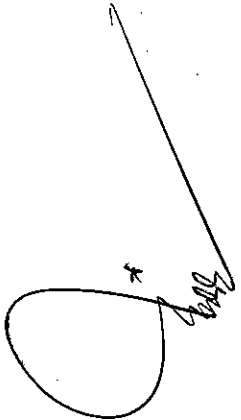
MUHAMMAD JAN,  
District Attorney --- For respondents.

Date of Institution.....05.05.2020  
Date of Hearing.....22.11.2022  
Date of Decision.....22.11.2022

**JUDGEMENT.**

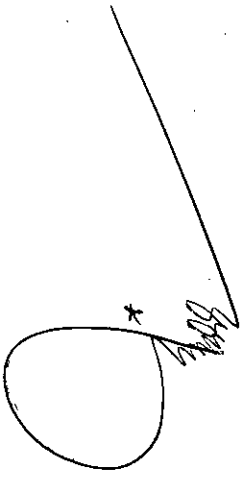
**MIAN MUHAMMAD, MEMBER(E):-** The appellant has instituted the service appeal invoking Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that "on acceptance of this appeal the impugned order dated 19.11.2019 may very kindly be set aside and the respondents may be directed to restore/release the deducted increments of the appellant with all other consequential benefits. Any other remedy which this august Tribunal deems fit and not specifically prayed for may also be awarded in favour of the appellant".

02. Brief facts, as averred in the service appeal, are that the appellant while posted as Patwari halqa Malakandher, Tehsil & District Peshawar, was proceeded against on the basis of a complaint of Rahat Gul S/o Khair Gul. The appellant was imposed upon the major penalty of "removal from service" vide order of respondent No. 2 dated 14.03.2019. Feeling aggrieved, the appellant submitted departmental appeal on 28.03.2019 which was not responded within the statutory period whereafter he filed service appeal on 24.07.2019. It was during pendency of his service appeal that the appellate order was passed on 19.11.2019, whereby the penalty of removal from service was converted into deduction of two increments for a period of one year. The appellant thereafter approached the Service Tribunal with the request to submit amended service appeal on 20.01.2021.



03. Notices were issued to the respondents to submit their reply/comments; however the respondents did not submit reply/comments within the specified time as a result of which their right of defence was struck off vide order sheet dated 23.12.2021.

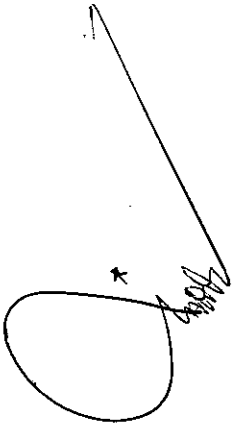
04. Learned counsel for the appellant contended that the appellant was proceeded against on the basis of a self concocted and frivolous complaint and awarded major penalty of "removal from service". The appellant was served with a Show Cause Notice which was properly responded by the appellant and he denied the allegations leveled against him. The appellant submitted departmental appeal on 28.03.2019 which was not



decided within the stipulated statutory period. It was during the pendency of the service appeal that respondent No. 1 took a lenient view on the departmental appeal of the appellant and converted the major penalty of "removal from service" into minor penalty of "deduction of two increments for a period one year" vide appellate order dated 19.11.2019. It was further argued that no charge sheet/statement of allegations have been issued to the appellant before issuing the impugned order and imposition of the major penalty. The appellant has not been given chance of personal hearing and no regular departmental enquiry as prescribed under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has been conducted against the appellant. The ends of justice have not been met and the prescribed legal procedure has not been followed before imposition of the penalty. The impugned order is not sustainable being violative of the law and relevant rules. The same may therefore, be declared null and void and annual increments of the appellant may graciously be restored. In support of his arguments, learned counsel for the appellant relied on 1999 SCMR 2277, 2000 SCMR 1743, 2007 SCMR 1860, 2008 SCMR 1369, 2003 PLC (C.S) 365, 2011 PLC (C.S) 1111 & 2020 PLC (C.S) 1291.

05. Careful perusal of the record reveals that a complaint was lodged against the appellant for charging extra amount on registration of mutations by one Rahat Gul S/o Khair Gul. The matter was investigated through a fact finding enquiry conducted

by the Additional Deputy Commissioner Peshawar who submitted his report on 27.09.2018. Beside other recommendations, it was also recommended that the appellant may be suspended and formal enquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 be initiated against him for misuse of office. It is also evident from the available record that the appellant was served upon Show Cause Notice dated 04.01.2019 by respondent No. 2 to which he replied on 22.02.2019 and negated the charges leveled against him. The appellant was imposed upon major penalty of "removal from service" vide order of respondent No. 2 dated 14.03.2019. It is observed that on account of non-compliance of the orders of court, the respondents right of defence was struck off. It is also a matter of record available on court file that during pendency of the service appeal, the appellate authority (respondent No. 1) decided departmental appeal of the appellant by converting the major penalty of "removal from service" into minor penalty of "deduction of two annual increments for one year", vide impugned order 19.11.2019 mentioned in and issued on 10.12.2019. The minor penalty of "deduction of two annual increments for one year" awarded to the appellant on 19.11.2019 was imposed upon the appellant for a specific period i.e. one year and the specified period of penalty has completed by now. The appellant is therefore, entitled for restoration of the two increments



previously deducted as penalty imposed upon him by the appellate authority.

06. As a sequel to the above, the instant service appeal is allowed and the two increments are restored to the appellant with consequential benefits as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

07. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 22<sup>nd</sup> day of November, 2022.*



(MAIN MUHAMMAD)  
MEMBER (E)



(SALAH UD DIN)  
MEMBER (J)

**ORDER**

22.11.2022

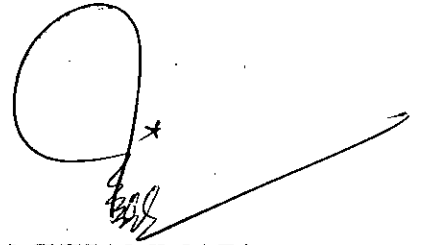
Mr. Umer Farooq Mohmand, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgement of today separately placed on file containing (05) pages, the instant service appeal is allowed and the two increments are restored to the appellant with consequential benefits as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 22<sup>nd</sup> day of November, 2022.*



(SALAH UD DIN)  
MEMBER (J)




(MIAN MUHAMMAD)  
MEMBER (E)

29.08.2022

Clerk of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

The Lawyers are on strike and Learned Member (Judicial) Ms. Rozina Rehman is also on leave, therefore, arguments could not be heard. Adjourned. To come up arguments on 22.11.2022 before the D.B.

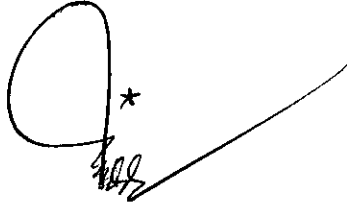


(Salah-Ud-Din)  
Member (Judicial)

27.04.2022

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Clerk of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is unable to appear today due to death of his close relative. Adjourned. To come up for arguments before the D.B on 09.06.2022.



(Mian Muhammad)  
Member(E)



(Salah Ud Din)  
Member(J)

9.6.22

*Prayer D.B, is on Term, therefore  
The case is adjourned to 29.8.22 for  
Term.*





23.12.2021

Counsel for the appellant and Mr. Muhammad Adeel Butt, Adl. AG for the respondents present.

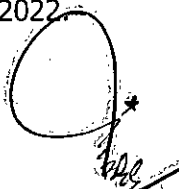
The respondents have not furnished reply/comments and seek further time. Learned AAG seeks further time. Let the respondents be afforded with last opportunity with the warning that in case they fail to submit the written reply/comments on or before next date, their right for reply/comments shall be deemed as struck off by virtue of this order. Case to come up for arguments on 07.04.2022 before the D.B.

  
Chairman

07.04.2022

Appellant present in person. Mr. Kabirullah Khattak Adl. AG for respondents present.

Appellant requested for adjournment. Request accepted. To come up for arguments before D.B on 27.04.2022.

  
(Mian Muhammad)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

04.11.2021

Counsel for the appellant present. Memorandum of appeal and the copies of record annexed there-with perused and Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant was initially aggrieved of the impugned order dated 14.03.2019 whereby major penalty of "removal from service" was imposed. His departmental appeal dated 28.03.2019 was not decided/responded within the statutory period, hence, the service appeal No. 4056/2020 was filed in the Service Tribunal. However, during pendency of the service appeal, appellate order was passed on 29.11.2019 as mentioned in order of respondent No.2 dated 10.12.2019. The appellate authority while partially accepting his request owing to 19 years long service, has reduced the major penalty in minor penalty of "deduction of two increments for a period of one year " under Rule-4 (1)(a)(ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. Accordingly, amended appeal, as per order sheet dated 15.06.2021 has been submitted before the Service Tribunal. It was further contended that no charge sheet/statement of allegations was issued to the appellant and no regular enquiry has been conducted in the prescribed manner as per Section-16 of the Khyber Pakhtunkhwa Civil Servants Act, 1973. The appeal is admitted for regular hearing subject to all just legal objections. 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/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 23.12.2021 before the D.B.

Appellant Deposited  
Security & Process Fee


15/11/21

(Mian Muhammad)  
Member(E)

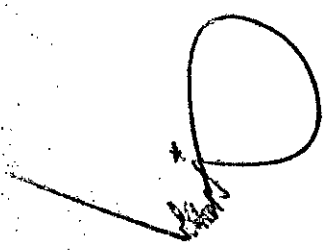
16.09.2021

Appellant alongwith his counsel present.

Amended appeal has already been submitted which is available on file. Learned counsel for the appellant requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing before the S.B on 04.11.2021.



(MIAN MUHAMMAD)  
MEMBER (E)



15.06.2021

Clerk of counsel present. Lawyers are on strike.

It appears from the record that an application was submitted on behalf of the appellant for allowing him to amend the appeal. The same was allowed vide order dated 20.01.2021 with the direction to appellant to submit amended appeal on the next date of hearing i.e. 25.02.2021. Although the date fixed for submission of amended appeal was adjourned through note Reader but neither till the date given for filing of amended appeal nor thereafter till today, the appellant has complied with the direction for submission of amended appeal. The clerk of counsel for the appellant is put on notice to communicate the same to Appellant for submission of amended appeal within 10 days in office, failing which this appeal shall be dismissed due to non-compliance of the order of Tribunal. To come up for preliminary hearing on 16.09.2021 before S.B.

P

  
Chairman

20.01.2021

Counsel for appellant present.

An application seeking amendment in appeal was submitted which is allowed. Appellant is directed to submit amended appeal on the next date of hearing.

Adjourned to 25.02.2021 for submission of amended appeal and preliminary hearing, before S.B.

  
(Rozina Rehman)  
Member (J)

25.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 15.06.2021.

  
**Reader**



11.08.2020

Counsel for the appellant present.

Requests for time to further document the appeal by placing on record copy of order dated 05.12.2019 passed by respondent No. 1 in addition to other necessary documents.

May do so within a fortnight. Adjourned to 01.09.2020 before S.B.

  
Chairman

01.09.2020

Mr. Afrasiab Khan Wazir, Advocate on behalf of counsel for the appellant present.

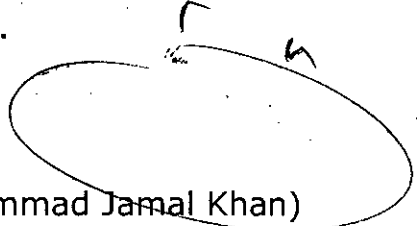
Requests for adjournment as learned senior counsel is engaged before Darul Qaza at Swat. Adjourned to 04.11.2020 before S.B.

  
Chairman

04.11.2020

Junior counsel for appellant is present.

Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned senior counsel for appellant is not available today. Adjourned to 20.01.2021 on which date to come up for preliminary hearing before S.B.


  
(Muhammad Jamal Khan)  
Member (Judicial)



Form- A

FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_

 4056 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/05/2020	<p>The appeal of Mr. Ikram Ullah presented today by Mr. Noor Mohammad Khattak, Advocate, may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 5/5/2020.</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up on <u>10/06/2020</u>.</p> <p style="text-align: right;"> MEMBER</p> <p>Junior to counsel for the appellant present.</p> <p>Requests for adjournment as learned senior counsel for the appellant is engaged today in various cases before Honourable High Court.</p> <p>Adjourned to 11.08.2020 before S.B.</p> <p style="text-align: right;">Chairman</p>
2-	10.06.2020	

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

**IKRAM ULLAH                      VS                      REVENUE DEPTT:**

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**APPELLANT**

THROUGH:   
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

OFFICE: Flat No.4,2<sup>nd</sup> Floor,  
Juma Khan Plaza, Near FATA Secretariat,  
Warsak Road, Peshawar



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

Amended Appeal No. 2021  
APPEAL NO. 4056 /2020



Mr. Ikramullah, Patwari (BPS-16),  
Patwar Halqa Malakander, District Peshawar.

..... **APPELLANT**

**VERSUS**

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

..... **RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974**  
**AGAINST THE IMPUGNED APPELLATE ORDER DATED**  
**19.11.2019 WHEREBY MINOR PENALTY OF DEDUCTION**  
**OF TWO ANNUAL INCREMENTS FOR A PERIOD OF ONE**  
**YEAR HAS BEEN IMPOSED ON THE APPELLANT**

**PRAYER:**

That on acceptance of this appeal the impugned order dated 19.11.2019 may very kindly be set aside and the respondents may be directed to restore/release the deducted increments of the appellant with all other consequential benefits. Any other remedy which this august Tribunal deems fit and not specifically prayed for may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

- 1- That appellant was appointed as Patwari in the year 2000 and after appointment the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors.
- 2- That appellant while serving as Patwari Halqa Malakander a complaint was filed against the appellant and on the basis of said concocted and frivolous complaint, the respondent conducted fact finding inquiry against the appellant. Copies of the complaint and fact finding inquiry report are attached as annexure ..... **A & B.**
- 3- That thereafter, the appellant was served with a showcase notice, which was properly replied by the appellant and denied all the allegations leveled against him. Copy of showcase notice and reply are..... **C&D.**

- 4- That astonishingly the respondent No.2 issued the impugned order dated 14.03.2019 whereby major penalty of removal from service has been imposed on the appellant. Copy of the impugned order are.....**E**
- 5- That appellant feeling aggrieved from the impugned order dated 14.3.2019 filed Departmental appeal before the respondent No.1 on 28/03/2019 followed by service appeal before this august Tribunal. That during the pendency of the service appeal the respondent No.1 has taken lenient view on the Departmental appeal of appellant by converting the major penalty of removal from service into minor punishment deduction of two increments for a period of one year vide appellate order 19.11.2019. Copies of memo of appeal, decision & appellate order are attached as annexure ..... **F, G & H.**
- 6- That appellant feeling aggrieved from the appellate order dated 10.12.2019 filed the instant appeal on the following grounds inter alia.

**GROUND:**

- A- That the impugned order dated 19.11.2019 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That no charge sheet and statement of allegation have been issued to the appellant before issuing order dated 19.11.2019 which is mandatory under E&D Rules 2011.
- D- That no charge sheet and statement of allegation has been served on the appellant by the respondent No.3 while issuing the impugned order dated 14.3.2019.
- E- That no chance of personal hearing/ defense has been given to the appellant before issuing the impugned appellate order 19.11.2019 by the respondent No.1.
- F- That no regular Departmental inquiry has been conducted by the respondents before issuing the order dated 14.3.2019 and 19.11.2019 against the appellant which is as per Supreme Court Judgments is necessary in punitive actions against the civil servant.

- G- That no fact finding inquiry has been conducted in the matter nor the complainant was cross examined by the appellant, therefore the order dated 14.3.2019 and impugned appellate order dated 19.11.2019, therefore the proceedings and orders *ibid* are void *ab initio* in the eye of law.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 25.6.2021

**APPELLANT**

  
**Ikram ullah**

**THROUGH:**  
  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

ADMITTED

A-4  
خدمت جناب ڈپٹی کمشنر صاحب ضلع پشاور

جناب عالی!

گزارش کی جاتی ہے کہ حلقہ ملکنڈھیر میں اکرام اللہ نامی پٹواری ہے جو انتقال میں فی مرلہ 10% سے  
14% کے حساب سے علاقے کے غریب عوام کو لوٹ رہا ہے، ایک کنال پلاٹ کے انتقال میں اس نے مجھ  
سے 200000/- روپے لئے تھے، پھر 7 مرلے کے پلاٹ میں 700000/- روپے لئے اور اب پھر  
7 مرلے کے انتقال پر مجھ سے 8% سے 10% فی مرلہ کے حساب سے پیسے مانگ رہا ہے لہذا آپ صاحبان  
سے درخواست ہے کہ اکرام اللہ نامی پٹواری کا یہاں سے تبادلہ کر کے غریب عوام کو لوٹنے سے بچائے جس کیلئے  
ہم آپ کے بڑے مشکور و ممنون رہینگے۔

شکریہ۔

درخواست گزار

کاپی برائے:

Subhan  
راحت گل

چیف انسٹرکٹو کمپلٹنگ آفیسر سیل KPK

ارباب شیر علی MNA NA-30 پشاور

تیور سلیم جھنگڑا وزیر خزانہ خیبر پختونخوا

ارباب عاصم خان ناظم ضلع پشاور

نوٹ: میرے ساتھ تقریباً 8 سے 10 تک ایسے  
انتقالات اور گواہ ہیں جن سے انہوں نے  
8% سے 12% تک لے میں۔

موبائل نمبر: 0314-7576968

23457  
24/9/18

ATTESTED For sent attemp p.c.

msf

17-09-18  
DISTRICT NAZIR  
City District Govt. Peshawar

ADC

Hold enquiry & report within 03 days.

Call all  
the concerned  
on 26-27/9/18  
and open 100 opps  
file for me  
PA 15 ADC

ATTESTED

ہسکنہ ریگی۔ رکیزائی پشاور

بیان مسمی اختر شیرول

(5)

حلفیہ بیان کرتا ہوں کہ میں کہ پٹواری اکرام اللہ پٹواری حلقہ ملکنڈیر سے اپنی 7 مرلے کی انتقال کے سلسلے میں ملا۔ موصوف نے مجھ سے 62 ہزار روپے اندراج کیلئے اور 17 ہزار گین ٹیکس لیا ہے اور 15 ہزار مالک جائیداد سے بھی لیں ہیں۔ جو کل ملا کر مبلغ 94 ہزار بنتے ہیں۔ جو کہ سرکاری فیس سے بہت زیادہ ہے۔ میں نے پٹواری مذکورہ کی اس بات چیت کی ریکارڈنگ بھی کی ہے۔ اور اسے ثبوت کے طور پر بھی پیش کیا ہے۔ اور مذکورہ بیان پر حلف لینے کے لئے بھی تیار ہوں۔

بیان سن کر درست تسلیم کرتا ہوں۔

*Handwritten signature*

اختر شیر ولد منور خان

ہسکنہ ریگی۔ رکیزائی پشاور

شناختی کارڈ 5-13-7544413-17301

موبائل نمبر 9335939-0315

ATTESTED

*Handwritten mark*

ATTESTED

*Handwritten signature*

*Handwritten signature*

بیان مسمی راحت گل ولد خیر گل۔ سکنہ ملکنڈیر محلہ چونگی گلی نمبر 3 پشاور

(6)

حلفیہ بیان کرتا ہوں کہ میں کہ پٹواری اکرام اللہ پٹواری حلقہ ملکنڈیر سے اپنی 7 مرلے کی انتقال کے سلسلے میں ملا۔ موصوف نے مجھ سے 75 ہزار روپے کی ڈیمانڈ کی۔ جو کہ سرکاری فیس سے بہت زیادہ ہے۔ میں نے پٹواری مذکورہ کی اس بات چیت کی ریکارڈنگ بھی کی ہے۔ اور اسے ثبوت کے طور پر بھی پیش کیا ہے۔ اور مذکورہ بیان پر حلف لینے کے لئے بھی تیار ہوں۔  
بیان سن کر درست تسلیم کرتا ہوں۔



*Rahat Gul*

راحت گل ولد خیر گل

سکنہ ملکنڈیر محلہ چونگی گلی نمبر 3 پشاور

شناختی کارڈ 5-17301-5408980

موبائل نمبر 0314-7576968

ATTESTED

*me*

ATTESTED

*4*

*4*



B-7

**OFFICE OF THE  
DEPUTY COMMISSIONER PESHAWAR**

Address: Gate No. 3, Opposite Pearl Continental Hotel, Khyber Road, Peshawar.  
Phone: 091-9212302 Fax: 091-9212303 Email Address: dcpeshawar@hotmail.com

**INQUIRY AGAINST MR. IKRAM ULLAH IN LIGHT OF  
APPLICATION BY RAHAT GUL RESIDENT OF MALAKANDER**

The undersigned was entrusted with conducting fact finding inquiry against Mr. Ikramullah Patwari Halqa Malakandher, Tehsil & District Peshawar in light of application by Mr. Rahat Gul s/o Khair Gul r/o Malakander, Tehsil & District Peshawar vide diary no 23457 dated 24-09-2018 by the office of Deputy Commissioner Peshawar the complainant alleged that Patwari concerned is taking 10 to 14 % amount from general public for attestation of mutations further stating that Mr. Ikramullah, Patwari Halqa Malakander took Rs. 2 lacs and 7000/- from him for attestation of one Kanal and 7 Marla plot.

**METHODOLOGY :**

To probe in to the matter the following methodology was adopted.

1. Recording statement of the complainant Mr. Rahat Gul s/o Khair Gul r/o Malakander Tehsil & District Peshawar.(F/A)
2. Recording statement of Mr. Akhtar Sher s/o Munawar Khan R/O Regi Rokizai Peshawar.(F/B)
3. Recording statement of Mr. Ikramullah, Patwari Halqa Malakander, Tehsil & District Peshawar.(F/C)
4. Recording statement of Mr. Khurshid Shah, Naib Tehsildar, Daudzai, Peshawar.(F/D)
5. Analysis of audio record of Telephonic conversation between complainant Mr. Rahat Gul and Patwari Mr. Ikramullah for tax assessment and bribery.

**FINDING :**

On the basis of recording of the statement of complainant, Naib Tehsildar Daudzai, Patwari Halqa Malakandher, analysis of audio record and others, the following findings were made.

As per statement of Naib Tehsildar Daudzai, the total Govt Tax for transfer of 7 Marla land in Mauza Malakandir comes out to be Rs. 38000/- whereas during telephonic conversation Patwari Ikramullah is demanding for Rs. 76000/- initially and negotiating it upto Rs.65000/-, by

DISTRICT ADMINISTRATION PESHAWAR

**ATTESTED**

8

the end of conversation which is clear cut proof of bribery and abuse of official decorum by Patwari Mr. Ikramullah.

2. Mr. ikramullah, Patwari Halqa Malakander during conversation is mentioning about 5<sup>1/2</sup>% Tehsil share and 2% share of his own which proves the genuiness of the claim by complainant Mr. Rahat Gul.
3. Both the complainant Mr. Rahat Gul s/o Khair Gul and Mr. Akhtar Sher s/o Munawar khan both resident of Malakander are ready to prove the allegation on proper oath as well as mentioned in their written statement.
4. Discrepancy was found in the statement of Patwari and telephonic conversation whereby in statement Patwari Mr. Ikramullah, Patwari Malakandher mentions that applicant was asked to deposit the Government tax himself in bank whereas telephonic conversation clearly shows that Patwari concerned was negotiating the amount for transfer of 7 Marla land which is clear cut proof of non-compliance of Standing operating Procedure by Patwari Halqa, Malakandher.

**RECOMMENDATION :**

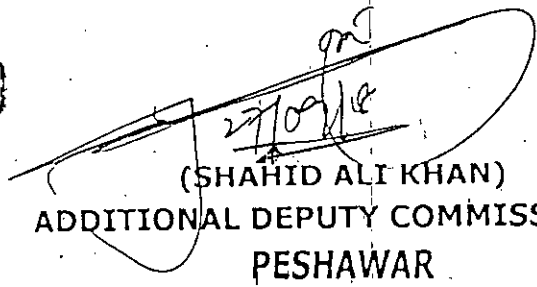
On the basis of the above fact findings inquiry the following recommendation are made.

1. Mr. Ikramullah, Patwari Halqa Malakander may be suspended immediately and formal inquiry under efficiency & Discipline rules 2011 may be initiated against him for misuse of office and for taking bribe from innocent civilian.
2. Tehsildar be directed to ensure to implementation of Standard Operating Procedure of applicant depositing Government taxes through bank challan by applicant themselves rather than giving the same to revenue officials.
3. Additional Assistant Commissioner Revenue shall be directed to take legal action against the touts visiting Tehsil's office and Patwar Khanas
4. Taxation details/ valuation table may be displayed on prominent Government buildings i.e Tehsil Building, Patwar Khanas, and for General Public Consumption at prominent places.

Submitted Please.

ATTESTED



  
(SHAHID ALI KHAN)  
ADDITIONAL DEPUTY COMMISSIONER  
PESHAWAR

DISTRICT ADMINISTRATION PESHAWAR

ATTESTED



# SHOW CAUSE NOTICE

C-9

Dr. Imran Hamid Sheikh, Deputy Commissioner Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby serve you, Mr. Ikramullah, Patwari Halqa Malkandher Peshawar (Under suspension), as follows:

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

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

- (a) That one Mr. Rahat Gul r/o Malkandher lodged a complaint against you that you were charging public illegally @ 10% per marla as bribe and that the complainant has paid to you Rs.200000/- for transfer of One Kanal and Rs.70000/- for transfer of 07 marla plots. He has further alleged that you are now demanding 8 to 10% per mala for transfer of 07 marla plot.
- (b) That complainant Rahat Gul submitted audio call whereby you were openly bargaining for attestation of mutation.
- (c) That you are not following Government Instruction of applicant submitting Govt. taxes at their own as is obvious from your telephonic discussion.
- (d) That this act of yours is indicative of routine corrupt practices of taking extra money than due Govt taxes.
- (e) That this act of your amounts abuse of official powers.
- (f) That you were suspended from service vide this office order No.2888/DC/DK dated 01/10/2018 and a detail enquiry was ordered.
- (g) That in the detail inquiry the Inquiry Officer/Assistant Commissioner Peshawar stated that you have been found guilty in quoting a price over and above the government taxes and dues to the complainant and therefore recommended for awarding penalty under E&D Rules 2011.


2. You are, therefore, required to show cause as to why any penalty under Khyber Pakhtunkhwa Efficiency & Discipline rules 2011 shall not be imposed upon you and also intimate whether you desire to be heard in person.

3. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex parte action shall be taken against you.

4. A copy of the findings of the Inquiry Officer is enclosed.

U.O.No. 25 /DC (P)/DK.  
Dated 04/01/2019

ATTESTED

M.  4/1/19  
Deputy Commissioner  
Peshawar  
(Competent Authority)



ATTESTED



NO 329/DK

Place in  
account  
file  
D-10  
D-1

To,

Deputy Commissioner  
Peshawar.

Subject:

REPLY TO THE SHOWCAUSE NOTICE  
DATED 04/01/2019 COMMUNICATED/  
SERVED ON 31/01/2019

Dear Sir,

With most respect reply of the show cause notice dated 04/01/2019, communicated/served on 31/01/2019 is as.

1. That I served the revenue department for the last nineteen years without any complaint and to the entire satisfaction of my superior offices.
2. That while posted as patwari Halqa malkandher Peshawar I was suspended and so called inquiry was conducted against me without issuing a charge sheet and statement of allegation which is pre requisite under E&D rules 2011.
3. That inquiry was conducted but at the back of the appellant without providing proper opportunity of defense, neither statement of any witness was recorded in my presence, nor did opportunity of cross examination was provided to me and this act on the part of the

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inquiry officer by itself vitiate the whole proceedings.

4. That though the show cause notice was bearing date 04/01/2019 however the same has been served on me on dated 31/01/2019 without providing inquiry report to me and after receiving the same. I submitted an application for providing inquiry report alongwith other important documents, but the same remained unresponded however replied to the allegations mentioned in the show cause notice are as.

Grounds:-

A. Para "A" of the Notice is false favilious without any supporting evidence I did not charge anyone illegally @ 10% per marla, nor did I demanded any bribe or paid to me by anyone, the allegations are based on malafide. Hence denied.

B. Allegation at this para is totally denied as neither I called the complaint nor did the inquiry officer got CDR which would substantiate this allegation it is worth mentioning that the duty of the patwari is to register mutation which I performed. The

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patwari is to register mutation which I performed. The complainant himself deposited the Government Dues (taxes) in the national exchequer so I had no concern with the same nor did I made any bargain in this respect.

C. Allegation at this para is false frivolous, I never violate any rules/regulations/instructions of the Government, the detailed reply has been given above, the so called telephonic discussion is totally denied.

D. Allegation at this para is incorrect I did not take single penny from anyone, the Government taxes and dues are always paid by the concerned directly, into the public exchequer.

E. Allegation at this para is false I never abuse my official power which is only to the extent of registration of mutation which I performed accordingly.

F. Allegation at this para is correct to the extent of suspension however the so called inquiry was conducted without offording me an apportunity of personal hearing, defence and

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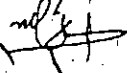
the inquiry was conducted in violation of  
Khyber Pakhtunkhwa E & D Rules 2011.

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G. Allegation at this para is denied detail reply  
has been given in the above paras.

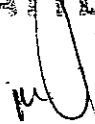
It is therefore, requested that on  
acceptance of this reply the subject inquiry  
may kindly be filed and I may kindly be  
exonerated from the charges with further  
request that the opportunity of personal  
hearing may kindly be provided to me I shall  
be thankful to you for this.

Yours Obediently

22/2/19 

Ikramullah Patwari  
Peshawar.

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E - 14

**OFFICE OF THE  
DEPUTY COMMISSIONER PESHAWAR**

Address: Gate No. 3, Opposite Pearl Continental Hotel, Khyber Road, Peshawar.  
Phone: 091-9212302 Fax: 091-9212303 Email Address: dcPeshawar@hotmail.com

No. 510 1DC P/AD/DK  
Dated Peshawar the 14-03-2019

**OFFICE ORDER**

In light of complaint by Mr. Rahat Gul r/o Mouza Malakandher Tehsil and District Peshawar against Mr. Ikram Ullah, the then Patwari Halqa Malakandher for making illegal demand of Rs. 75,000/- for attestation of 07 marla plot against the Government taxes, fact finding inquiry was conducted by the Additional Deputy Commissioner, Peshawar who recommended the Patwari concerned to be suspended and formal inquiry to be initiated under E&D Rules 2011 against the Patwari Concerned.

Accordingly Mr. Ikram Ullah, Patwari Halqa Malakandher was suspended vide Office Order No: 2888/DC/DK dated 01/10/2018 under Section 06 of E&D Rules 2011 and Assistant Commissioner, Peshawar was appointed as an inquiry Officer for conducting formal inquiry by serving statement of Allegations and Show Cause Notice upon the accused official whereby the accused official was proved guilty of corruption vide inquiry report No: 4246/AC(P)/Reader dated 04-12-2018, for doing open bargaining with one Mr. Rahat Gul r/o Malakandher for demanding Rs. 70,000/- for transfer of 07 marla plot as against Government taxes of Rs. 38,117/-.

Accordingly, Show Cause Notice along with inquiry report was served upon the accused Official along with copy of inquiry report vide letter No: 26/DC(P)/DK dated 04-01-2019. In response, the accused official submitted written statement which was found un-satisfactory.

In view of the above, I, Mr. Imran Hamid Sheikh, Deputy Commissioner, Peshawar, competent authority under in light of Section 4(b) (iii) of Khyber Pakhtunkhwa Efficiency & Discipline Rules 2011, do

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hereby impose a major penalty of removal from service upon Mr Ikramullah  
khan, the then Patwari Halqa Malakander.

M. *[Signature]* 11/3/19  
DEPUTY COMMISSIONER  
PESHAWAR

No. 511-19 /DC(P)DK

Copy forwarded for the information to the;-

1. Commissioner Peshawar Division Peshawar.
2. Additional Deputy Commissioner Peshawar.
3. Assistant Commissioner Peshawar.
4. Additional Assistant Commissioner Revenue, Peshawar.
5. Account Officer, Deputy Commissioner Peshawar for making requisite entries in the record.
6. Tehsildar Peshawar.
7. District Kanungo Peshawar for making relevant entries in the record.
8. Superintend DC Office Peshawar.
9. All Officers/ Officials Concerned.

M. *[Signature]* 11/3/19  
DEPUTY COMMISSIONER  
PESHAWAR

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To,

F-16

The Commissioner,  
Peshawar.

**Subject:** DEPARTMENTAL APPEAL AGAINST THE  
IMPUGNED ORDER DATED 14/03/2019  
WHEREBY THE APPELLANT HAS BEEN REMOVED  
ILLEGALLY FROM HIS SERVICE.

**Prayer:**  
ON ACCEPTANCE OF THIS DEPARTMENTAL  
APPEAL THE IMPUGNED ORDER MAY KINDLY BE  
SET ASIDE AND THE APPELLANT MAY KINDLY BE  
REINSTATED INTO SERVICE WITH ALL BACK  
BENEFITS.

Respected Sir,

The appellant submits as under: -

1. That the appellant was appointed as Patwari on the year 2000 and after his appointment, the appellant served the department with great zeal, zeast enthusiasm and to the entire satisfaction of the department.
2. That while serving as Patwari Halqa Malkandher due to a concocted and frivolous complaint and later on without issuing / serving any charge sheet alongwith statement of allegation and without providing any opportunity of defense, a one sided inquiry was conducted against the appellant at the back of the appellant. (Copy of the inquiry report is annexure "A").
3. That thereafter, the appellant was served with a show-cause notice, however, no inquiry report was annexed with the show-cause notice. Therefore, the appellant submitted an

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application for providing charge sheet alongwith statement of allegations if any, inquiry report, however, the same was not provided. The appellant submitted a detail reply of the Show-Cause Notice denying all the charges. (Copy of Show-Cause Notice & Reply are annexure "B", "C & D").

4. That the appellant was orally informed that he was removed from service vide order dated 14/03/2019 without providing any opportunity of personal hearing by the competent authority, hence the appellant again submitted an application for providing the impugned order alongwith inquiry report etc. (Copy of the Impugned order, Application are annexed as "E" & "F")
5. That the appellant feeling aggrieved from the impugned order, filing this appeal on the following grounds inter alia;-

GROUNDS:

- A. That the impugned order is against the law, rules and principles of Natural Justice, hence not maintainable in the eyes of law.
- B. That no Charge Sheet and Statement of allegations served upon the appellant which is mandatory under E & D Rules 2011.
- C. That neither any statement of complainant or any other witness recorded in the presence of the appellant nor did the appellant was provided opportunity of cross examination and the whole proceedings has been conducted without associating the appellant.
- D. That the appellant has been condemned unheard as opportunity of defense or personal hearing has not been

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*[Signature]*

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*[Signature]*

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provided by the inquiry officer or competent authority which is very much evident from the impugned order.

- E. That the right of fair trial has not been provided to the appellant which has been guaranteed by Article 10-A of the Constitution of Islamic Republic of Pakistan 1973.
- F. That the charges leveled against the appellant are totally false, neither the appellant charge the complainant or anyone, 10 % per Marla nor did the appellant demanded any bribe or paid to the appellant by anyone.
- G. That neither the appellant called the complainant on his phone nor did the inquiry officer for CDR which would substantiate the allegation of recording call, it is worth mentioning that the duty of Patwari is to register mutation so far as the government dues or taxes are concerned, the same is the duty of buyer he himself deposit, the same in the National Exchequer.
- H. That the appellant has not violated any rules regulations or instructions of the government nor did abused his official power or authority.
- I. That the alleged telephonic discussion / recording is totally denied as the same in false concocted self-made and even not admissible as evidence in any court/ tribunal of law as per Qanun-e-Shahadat Ordinance.

It is, therefore, requested that the departmental appeal may kindly be accepted and the appellant may kindly be reinstated into service with all back benefits.

Dated: 28/03/2019

Your Most Obedient  
Ikram Ullah (Patwari)

ATTESTED

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

G-19

**APPEAL NO. \_\_\_\_\_/2019**

Mr. Ikramullah, Ex: Patwari (BPS-09),  
Patwar Halqa Malakandher, District Peshawar.

..... **APPELLANT**

**VERSUS**

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

..... **RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST**  
**THE IMPUGNED ORDER DATED 14/3/2019 WHEREBY**  
**MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN**  
**IMPOSED ON THE APPELLANT AND AGAINST NO ACTION**  
**TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT**  
**WITHIN THE STATUTORY PERIOD OF NINETY DAYS**

**PRAYERS:**

That on acceptance of this service appeal the impugned order dated 14/03/2019 may kindly be set aside and the appellant may kindly be re-instated in to service with all back benefits. Any other remedy specifically not prayed for may kindly be awarded in favour of the appellant.

**R/SHEWETH:**

**ON FACTS:**

Brief facts giving rise to the present appeal are as under:-

- 1- That the appellant was appointed as Patwari in the year 2000 and after appointment the appellant has performed his duty quite efficiently and up to the entire satisfaction of his high ups.
- 2- That appellant while serving as Patwari Halqa Malakandher a complaint was filed against the appellant and on the basis of said concocted and frivolous complaint, the respondents conducted fact finding inquiry against the appellant. Copies of the complaint and fact finding inquiry report are attached annexure..... **A & B.**

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- 3- That thereafter, the appellant was served with a show cause notice, which was properly replied by the appellant and denied all the allegations levelled against him. Copy of the Show cause notice and reply are .....**C and D.**
- 4- That astonishingly the respondent No.2 without conducting regular Departmental inquiry against the appellant straight away issued the impugned order dated 14.03.2019 whereby major penalty of removal from service has been imposed on the appellant. Copy of the impugned order are ..... **E.**
- 5- That feeling aggrieved from the impugned order dated the appellant filed departmental appeal before Respondent No. 1 on 28/03/2019 but no reply has been received so far. Copy of the Departmental appeal is annexure .....**F.**
- 6- That feeling aggrieved and having no other remedy the appellant filed the instant service appeal on the following grounds inter alia.

**GROUND:**

- A. That the impugned order dated 28.03.2019 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B. That appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C. That no charge sheet and statement of allegation have been issued to the appellant before issuing the impugned order dated 28.03.2019 which is mandatory under E & D Rules 2011.
- D. That neither chance of personal hearing has been provided to the appellant nor the appellant was provided the opportunity to cross examined the complainant and witnesses produced against him.
- E. That no regular inquiry has been conducted by respondents before issuing the impugned order dated 28.03.2019 rather the appellant has been punished on the basis of fact finding inquiry.
- F. That as per Supreme Court judgments regular Departmental inquiry is must before initiation of punitive actions against the civil servants.

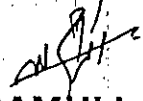
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G. That the appellant seeks permission of this honourable tribunal to adduce other grounds during course of final arguments.

It is therefore, requested that appeal of the appellant may graciously be accepted as prayed for in the headings of appeal.

Dated: 24.07.2019

APPELLANT

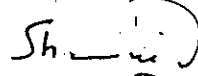


IKRAMULLAH

Through:

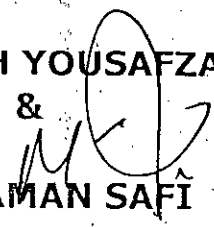


NOOR MOHAMMAD KHATTAK



SHAHZULLAH YOUSAFZAI

&



MIR ZAMAN SAFI  
ADVOCATES

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**THE DEPUTY COMMISSIONER, PESHAWAR**

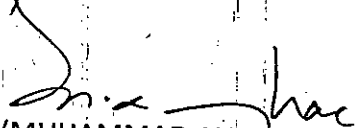
Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No.3778/DK

Dated:10-December-2019

**ORDER:**

In pursuance to the Order of worthy Commissioner Peshawar Division Peshawar dated 19-11-2019 in appeal No.07/2019, Mr. Ikramullah, Patwari of this office, who was removed from service vide order No.510/DCP/ADC/DK dated 14-03-2019 due to the allegation of illegal bargaining, is hereby re-instated into the service with deduction of two increments for a period one year under section 4(1)(a)(ii) of Government of Khyber Pakhtunkhwa (Efficiency & Disciplinary Rules) 2011. He is directed to submit his arrival report to the District Kanungo Peshawar immediately.

  
(MUHAMMAD ALI ASGHAR)  
DEPUTY COMMISSIONER


**Endst: No. and Date Even:**

- (i) Commissioner, Peshawar Division, Peshawar for information w/r to his order referred above.
- (ii) Addl. Deputy Commissioner, Peshawar.
- (iii) Assistant Commissioner, Peshawar.
- (iv) Addl. Assistant Commissioner (HQ), Peshawar.
- (v) Addl. Assistant Commissioner (Rev), Peshawar.
- (vi) Accounts Officer of DC office for necessary action.
- (vii) Official concerned for strict compliance.

  
DEPUTY COMMISSIONER

Deputy Commissioner  
Peshawar

Copy No. 18807  
16-12-19

  
RECEIVED

**VAKALATNAMA**

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

APPEAL NO: \_\_\_\_\_ OF 2021

Ikramullah

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Ikramullah

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

W. Fitz  
CLIENTS

ACCEPTED

NOOR MOHAMMAD KHATTAK

Kamran Khan  
KAMRAN KHAN

Umer Farooq Mohmand  
UMER FAROOQ MOHMAND

Said Khan  
&  
SAID KHAN  
ADVOCATES

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

C.M NO. \_\_\_\_\_/2021

IN

APPEAL NO. 4056/2020



**IKRAM ULLAH**

**VS**

**REVENUE DEPTT:**

**APPLICATION FOR ALLOWING AMENDED**  
**APPEAL IN THE ABOVE MENTIONED**  
**APPEAL**

**R/SHEWETH:**

- Put up to the Court along with original file.*
- 20/11/2021*
- Reeder*
- 1- That the above mentioned appeal is pending adjudication in this Hon'ble Court in which 20-01-2021 date is fixed for hearing.
  - 2- That the appellant filed the above mentioned appeal against the impugned appellate order dated 19/11/2019 whereby Departmental appeal of the appellant was partially accepted and the major penalty awarded by the Deputy Commissioner has been reduced to deduction of two increments.
  - 3- That Counsel for the appellant inadvertently wrote the dated of impugned order as 10.12.2019 instead of 19.11.2019.
  - 4- That Counsel for petitioner seeks permission of this august Tribunal to make amendment in the heading and prayer of the appeal to correct the date of impugned appellate order dated 19.11.2019 which was erroneously mentioned as 10.12.2019 in the above title appeal.

It is therefore, most humbly prayed that on acceptance of this application the appellant may very kindly be allowed to amend the list of respondents in the above title appeal.

Dated: 20.01.2021.

**APPELLANT**

**THROUGH:**

*[Signature]*  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**



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

C.M NO. \_\_\_\_\_/2021

IN

APPEAL NO. \_\_\_\_\_/2019


**IKRAM ULLAH**

**VS**

**REVENUE DEPTT:**

**AFFIDAVIT**

I Noor Mohammad Khattak Advocate, on the instructions and on behalf of my client do hereby solemnly affirm that the contents of this **C.M** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

  
**NOOR MOHAMMAD KHATTAK,**  
Advocate  
High Court, Peshawar

a property dealer which has adversely affected the lives of his dependents. Similarly, no technical side of Phone record was probed by the Inquiry Officer. In his defence the appellant produced copy of judgments in Service Appeal No. 613/2017 bearing title "Qamar Zaman Ex-SHO/S.I.P.S Kallang Mardan VS Provincial Police Officer and others" decided on 08.01.2018 and service Appeal No. 242/2014 titled "Juma Rehman Sub Inspector, Police Lines Dir Lower VS DPO Dir Lower and other" decided on 05.05.2016. In both these service cases the appellants were charged/dismissed from service by the Inquiry Officers on the allegations of proofs secured in CCTV camera and conversations between the appellants and complainants on Cell no. Both the above appeals were accepted by the Khyber Pakhtunkhwa Service Tribunal and reliance was not made by the Khyber Pakhtunkhwa, Service Tribunals on audio record/ conversation that took place between the appellant and complainant and further held in detailed orders that such allegations does not stand proved in black & white through solid evidence.

From perusal of available record, personal hearing and comments furnished by the Deputy Commissioner Peshawar, it is transpired that the appellant has been punished on the basis of audio recording which has also not been properly probed, however, malafide intention on the part of the appellant cannot be ruled out.

Keeping the above in view and a long service record of 19 years, the appeal is partially accepted. The appellant is re-instated in service and the punishment awarded by the Deputy Commissioner Peshawar/competent authority is reduced to deduction of two increments for a period of one year under section 4(1) (a) (ii) of Government of Khyber Pakhtunkhwa (Efficiency & Disciplinary Rules) 2011. File be consigned to GRR after necessary compilation.

*Shahab Uddin*  
COMMISSIONER

PESHAWAR DIVISION PESHAWAR

ANNOUNCED  
19.11.2019

*attested to be true copy.*

*Aramp*

Reader to Commissioner  
Peshawar Division Peshawar

*Reader*

*05/12/2019*



OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR

DATE OF INSTITUTION 28.03.2019

DATE OF DISPOSAL 29.11.2019

APPEAL NO. 07/2019

IKRAMULLAH (PATWARI) DISTRICT PESHAWAR..... Appellant

**Versus**

DEPUTY COMMISSIONER PESHAWAR..... Respondent

ORDER

This order will dispose of the departmental appeal filed by the above named appellant against the order of the Deputy Commissioner Peshawar bearing No. 510/DC(PY)ADC/DK dated 14.03.2019, whereby a major penalty of removal from service was awarded to the appellant under section 40(1)(b)(iii) of Government of Khyber Pakhtunkhwa, Efficiency & Discipline Rules, 2011.

Brief facts leading to institution of the instant departmental appeal are that one Mr. Rahat Gul r/o Mouza Malakandher Tehsil & District Peshawar submitted complaint against the appellant for making illegal demand of Rs. 75000/- for attestation of 07 marla plot against the government taxes. A fact finding inquiry was conducted by the Additional Deputy Commissioner Peshawar and recommended the appellant for suspension and initiation of formal inquiry to be initiated under the Government of Khyber Pakhtunkhwa, Efficiency & Discipline Rules, 2011. The appellant was accordingly suspended and Assistant Commissioner Peshawar was appointed Inquiry Officer for conducting formal inquiry. The appellant was held guilty by the Inquiry Officer for demanding Rs. 70,000/- for transfer of 07 marla plot as against government taxes of Rs. 38117/-.

Deputy Commissioner Peshawar/competent authority on the recommendations of the Inquiry Officer awarded major penalty of removal from service of the appellant under section 4(1)(b)(iii) of Government of Khyber Pakhtunkhwa, Efficiency & Discipline Rules, 2011. Aggrieved of the same, the appellant filed the instant appeal.

Appellant present and heard. Representative of the Deputy Commissioner Peshawar also present alongwith record. Comments received from the Deputy Commissioner Peshawar perused. Appellant in his personal hearing flatly denied the allegations of demanding or receiving any bribe or extra charges from the complainant. He also denied any telephonic discussion regarding extra charges and described the subject /phone /audio call as misleading and self made by the touts dealing in property business and to malign and blackmail him for his future real estate business on his wishes. He submitted that the inquiry Officer held almost one sided inquiry very hastily and no fair chance of self defence was provided to him. He further submitted that he is a senior Patwari, having 19 years unblemished service and a major penalty of service removal was imposed upon him on the complaint of

a property dealer which has adversely affected the lives of his dependents. Similarly, no technical side of Phone record was probed by the Inquiry Officer. In his defence the appellant produced copy of judgments in Service Appeal No. 613/2017 bearing title "Qamar Zaman Ex-SHO/S.I.P.S Katlang, Mardan VS Provincial Police Officer and others" decided on 08.01.2018 and service Appeal No. 242/2014 titled "Juma Rehman Sub Inspector, Police Lines Dir Lower VS DPO Dir Lower and other" decided on 05.05.2016. In both these service cases the appellants were charged/dissmised from service by the Inquiry Officers on the allegations of proofs secured in CCTV camera and conversations between the appellants and complainants on Cell no. Both the above appeals were accepted by the Khyber Pakhtunkhwa Service Tribunal and reliance was not made by the Khyber Pakhtunkhwa, Service Tribunals on audio record/ conversation that took place between the appellant and complainant and further held in detailed orders that such allegations does not stand proved in black & white through solid evidence.

From perusal of available record, personal hearing and comments furnished by the Deputy Commissioner Peshawar, it is transpired that the appellant has been punished on the basis of audio recording which has also not been properly probed, however, malafide intention on the part of the appellant cannot be ruled out.

Keeping the above in view and a long service record of 19 years, the appeal is partially accepted. The appellant is re-instated in service and the punishment awarded by the Deputy Commissioner Peshawar/competent authority is reduced to deduction of two increments for a period of one year under section 4(1) (a) (ii) of Government of Khyber Pakhtunkhwa (Efficiency & Disciplinary Rules) 2011. File be consigned to GRR after necessary compilation.

*M. Chahat Khan*  
COMMISSIONER  
PESHAWAR DIVISION PESHAWAR

ANNOUNCED  
19.11.2019

*attested to be true copy.*

*[Signature]*  
Reader  
05/12/2019

Reader to Commissioner  
Peshawar Division Peshawar



OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR

DATE OF INSTITUTION 28.03.2019

DATE OF DISPOSAL 29.11.2019

APPEAL NO. 07/2019

IKRAMULLAH (PATWARI) DISTRICT PESHAWAR..... Appellant

Versus

DEPUTY COMMISSIONER PESHAWAR..... Respondent

ORDER

This order will dispose of the departmental appeal filed by the above named appellant against the order of the Deputy Commissioner Peshawar bearing No. 510/DC(P)/ADC/DK dated 14.03.2019, whereby a major penalty of removal from service was awarded to the appellant under section 4(1)(b)(iii) of Government of Khyber Pakhtunkhwa, Efficiency & Discipline Rules, 2011.

Brief facts leading to institution of the instant departmental appeal are that one Mr. Rahat Gul r/o Mouza Malakandher Tehsil & District Peshawar submitted complaint against the appellant for making illegal demand of Rs. 75000/- for attestation of 07 marla plot against the government taxes. A fact finding inquiry was conducted by the Additional Deputy Commissioner Peshawar and recommended the appellant for suspension and initiation of formal inquiry to be initiated under the Government of Khyber Pakhtunkhwa, Efficiency & Discipline Rules, 2011. The appellant was accordingly suspended and Assistant Commissioner Peshawar was appointed Inquiry Officer for conducting formal inquiry. The appellant was held guilty by the Inquiry Officer for demanding Rs. 70,000/- for transfer of 07 marla plot as against government taxes of Rs. 38117/-.

Deputy Commissioner Peshawar/competent authority on the recommendations of the Inquiry Officer awarded major penalty of removal from service of the appellant under section 4(1)(b)(iii) of Government of Khyber Pakhtunkhwa, Efficiency & Discipline Rules, 2011. Aggrieved of the same, the appellant filed the instant appeal.

Appellant present and heard. Representative of the Deputy Commissioner Peshawar also present alongwith record. Comments received from the Deputy Commissioner Peshawar perused. Appellant in his personal hearing flatly denied the allegations of demanding or receiving any bribe or extra charges from the complainant. He also denied any telephonic discussion regarding extra charges and described the subject /phone /audio call as misleading and self made by the touts dealing in property business and to malign and blackmail him for his future real estate business on his wishes. He submitted that the inquiry Officer held almost one sided inquiry very hastily and no fair chance of self defence was provided to him. He further submitted that he is a senior Patwari, having 19 years unblemished service and a major penalty of service removal was imposed upon him on the complaint of

a property dealer which has adversely affected the lives of his dependents. Similarly, no technical side of Phone record was probed by the Inquiry Officer. In his defence the appellant produced copy of judgments in Service Appeal No. 613/2017 bearing title "Qamar Zaman Ex-SHO/S.I.P.S Kallang Mardan VS Provincial Police Officer and others" decided on 08.01.2018 and service Appeal No. 242/2014 titled "Juma Rehman, Sub Inspector, Police Lines Dir Lower VS DPO Dir Lower and other" decided on 05.05.2016. In both these service cases the appellants were charged/dismissed from service by the Inquiry Officers on the allegations of proofs secured in CCTV camera and conversations between the appellants and complainants on Cell no. Both the above appeals were accepted by the Khyber Pakhtunkhwa Service Tribunal and reliance was not made by the Khyber Pakhtunkhwa, Service Tribunals on audio record/ conversation that took place between the appellant and complainant and further held in detailed orders that such allegations does not stand proved in black & white through solid evidence.

From perusal of available record, personal hearing and comments furnished by the Deputy Commissioner Peshawar, it is transpired that the appellant has been punished on the basis of audio recording which has also not been properly probed, however, malafide intention on the part of the appellant cannot be ruled out.

Keeping the above in view and a long service record of 19 years, the appeal is partially accepted. The appellant is re-instated in service and the punishment awarded by the Deputy Commissioner Peshawar/competent authority is reduced to deduction of two increments for a period of one year under section 4(1) (a) (ii) of Government of Khyber Pakhtunkhwa (Efficiency & Disciplinary Rules) 2011. File be consigned to GRR after necessary compilation.

*Shahab Uddin*  
COMMISSIONER  
PESHAWAR DIVISION PESHAWAR

ANNOUNCED  
19.11.2019

*attested to be true copy*

*Arif*  
Reader  
Reader to Commissioner  
Peshawar Division Peshawar

*05/12/2019*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

4056  
APPEAL NO. ~~4056~~ /2020

**IKRAM ULLAH**

**VS**

**REVENUE DEPTT:**

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**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

- 3- That thereafter, the appellant was served with a show cause notice, which was properly replied by the appellant and denied all the allegations levelled against him. Copy of the Show cause notice and reply are .....**C and D.**
- 4- That astonishingly the respondent No.2 issued the impugned order dated 14.03.2019 whereby major penalty of removal from service has been imposed on the appellant. Copy of the impugned order are ..... **E.**
- 5- That feeling aggrieved from the impugned order dated the appellant filed departmental appeal before Respondent No. 1 on 28/03/2019 followed by service appeal No.\_\_\_\_\_. That during the pendency of service appeal the respondent No.1 has taken lenient view on the Departmental appeal of appellant by converting the major penalty of removal from service into minor punishment deduction of two increments for a period of one year vide appellate order 10.12.2019. Copies of memo of appeal, decision & appellate order are attached as annexure .....**F, G & H.**
- 6- That feeling aggrieved from the appellate order dated 10.12.2019 filed the instant service appeal on the following grounds inter alia.

**GROUND:**

- A. That the impugned order dated 10.12.2019 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B. That appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C. That no charge sheet and statement of allegation have been issued to the appellant before issuing the impugned order dated 14.12.2019 which is mandatory under E & D Rules 2011.
- D. That neither chance of personal hearing has been provided to the appellant nor the appellant was provided the opportunity to cross examined the complainant and witnesses produced against him.
- E. That no regular inquiry has been conducted by respondents before issuing the impugned order dated 28.03.2019 rather the appellant has been punished on the basis of fact finding inquiry.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR** 4056

**APPEAL NO. 3396 /2019**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 3396

Dated 5-5-2020

Mr. Ikramullah, Patwari (BPS-09),  
Patwar Halqa Malakandher, District Peshawar.

..... **APPELLANT**

**VERSUS**

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

..... **RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE IMPUGNED APPELLATE ORDER DATED 10/12/2019  
WHEREBY MINOR PENALTY DEDUCTION OF TWO  
ANNUAL INCREMENTS FOR A PERIOD OF ONE YEAR  
HAS BEEN IMPOSED ON THE APPELLANT**

**PRAYERS:**

That on acceptance of this service appeal the impugned appellate order dated 10/12/2019 my very kindly be set aside and released/restored the deducted increments of the appellant with all other consequential benefits. Any other remedy specifically not prayed for may kindly be awarded in favour of the appellant.

**R/SHEWETH:**

**ON FACTS:**

**Brief facts giving rise to the present appeal are as under:-**

- 1- That the appellant was appointed as Patwari in the year 2000 and after appointment the appellant has performed his duty quite efficiently and up to the entire satisfaction of his high ups.
- 2- That appellant while serving as Patwari Halqa Malakandher a complaint was filed against the appellant and on the basis of said concocted and frivolous complaint, the respondents conducted fact finding inquiry against the appellant. Copies of the complaint and fact finding inquiry report are attached annexure..... **A & B.**

Filed to-day  
Registrar  
05/05/2020

- F. That as per Supreme Court judgments regular Departmental inquiry is must before initiation of punitive actions against the civil servants.
- G. That the appellant seeks permission of this honourable tribunal to adduce other grounds during course of final arguments.

It is therefore, requested that appeal of the appellant may graciously be accepted as prayed for in the headings of appeal.

Dated: 05.05.2020.

**APPELLANT**

*IKRAMULLAH*  
**IKRAMULLAH**

Through:  
**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH YOUSAFZAI**

**&**

*MIR ZAMAN SAFI*  
**MIR ZAMAN SAFI  
ADVOCATES**

A. (4)  
بخدمت جناب ڈپٹی کمشنر صاحب ضلع پشاور

جناب عالی!

گزارش کی جاتی ہے کہ حلقہ ملکنڈھیر میں اکرام اللہ نامی پٹواری ہے جو انتقال میں فی مرلہ 10% سے 14% کے حساب سے علاقے کے غریب عوام کو لوٹ رہا ہے، ایک کنال پلاٹ کے انتقال میں اس نے مجھ سے 200000/- روپے لئے تھے، پھر 7 مرلے کے پلاٹ میں 700000/- روپے لئے اور اب پھر 7 مرلے کے انتقال پر مجھ سے 8% سے 10% فی مرلہ کے حساب سے پیسے مانگ رہا ہے لہذا آپ صاحبان سے درخواست ہے کہ اکرام اللہ نامی پٹواری کا یہاں سے تبادلہ کر کے غریب عوام کو لوٹنے سے بچائے جس کیلئے ہم آپ کے بڑے مشکور و ممنون رہینگے۔

شکریہ۔

درخواست گزار

کاپی برائے:

راحت گل

چیف منسٹر کمپلیٹ انجمنٹ سیل KPK

ارباب شیر علی MNA NA-30 پشاور

تیور سلیم جھنگڑا وزیر خزانہ خیبر پختونخوا

موبائل نمبر: 0314-7576968

ارباب عاصم خان ناظم ضلع پشاور

نوٹ: برصیرے ساتھ تقریباً 8 سے 10 تک ایسے  
انتقالات اور گواہ ہیں جن سے انھوں نے  
8% سے 12% تک لے لیں۔

23457  
24/9/18

ATTESTED For strict actions P.C.

M.S.J.

17-09-18  
DISTRICT NAZIM  
City District Govt. Peshawar.

Hold enquiry & report within 03 days.

Call all the concerned on 26-27/9/18 and open proper file for me on P.A. to ADC.

ATTESTED

سکنہ ریگی۔ رکیزائی پشاور

بیان مسمی اختر شیرول

(5)

حلفیہ بیان کرتا ہوں کہ میں کہ پٹواری اکرام اللہ پٹوار حلقہ ملکنڈیر سے اپنی 7 مرلے کی انتقال کے سلسلے میں ملا۔ موصوف نے مجھ سے 62 ہزار روپے اندراج کیلئے اور 17 ہزار گین ٹیکس لیا ہے اور 15 ہزار مالک جائیداد سے بھی لیں ہیں۔ جو کل ملا کر مبلغ 94 ہزار بنتے ہیں۔ جو کہ سرکاری فیس سے بہت زیادہ ہے۔ میں نے پٹواری مذکورہ کی اس بات چیت کی ریکارڈنگ بھی کی ہے۔ اور اسے ثبوت کے طور پر بھی پیش کیا ہے۔ اور مذکورہ بیان پر حلف لینے کے لئے بھی تیار ہوں۔

بیان سن کر درست تسلیم کرتا ہوں۔

اکثر شیرول

اکثر شیرول دمنور خان

سکنہ ریگی۔ رکیزائی پشاور



شناختی کارڈ 5-13-7544413-17301

موبائل نمبر 0315-9335939

ATTESTED

م

ATTESTED

4

بیان مسمی راحت گل ولد خیر گل۔ سکندہ ملکنڈیر محلہ چونگی گلی نمبر 3 پشاور

(6)

حلفیہ بیان کرتا ہوں کہ میں کہ پٹواری اکرام اللہ پٹواری حلقہ ملکنڈیر سے اپنی 7 مرلے کی انتقال کے سلسلے میں ملا۔ موصوف نے مجھ سے 75 ہزار روپے کی ڈیما پنڈ کی۔ جو کہ ٹیکس کارڈ سے بہت زیادہ ہے۔ میں نے پٹواری مذکورہ کی اس بات چیت کی ریکارڈنگ بھی کی ہے۔ اور اسے ثبوت کے طور پر بھی پیش کیا ہے۔ اور مذکورہ بیان پر حلف لینے کے لئے بھی تیار ہوں۔  
بیان سن کر درست تسلیم کرتا ہوں۔



White Case

راحت گل ولد خیر گل

سکندہ ملکنڈیر محلہ چونگی گلی نمبر 3 پشاور

شناختی کارڈ 5-17301-5408980

موبائل نمبر 0314-7576968

ATTESTED

*[Handwritten signature]*

ATTESTED

*[Handwritten signature]*

ATTESTED

B-7



OFFICE OF THE  
DEPUTY COMMISSIONER PESHAWAR

Address: G.P.O. Bag, Peshawar. Phone: 9192 Fax: 9193 Email Address: [deputydc@peshawar.gov.pk](mailto:deputydc@peshawar.gov.pk)

APPLICATION BY RAHAT GUL RESIDENT OF MALAKANDER  
INQUIRY AGAINST MR. IKRAM ULLAH IN LIGHT OF

The undersigned was entrusted with conducting fact finding inquiry against Mr. Ikramullah Patwar Halda Malakander, Tehsil & District Peshawar in light of application by Mr. Rahat Gul s/o Khair Gul s/o Malakander, Tehsil & District Peshawar vice diary no. 23427 dated 24-09-2018 by the office of Deputy Commissioner Peshawar the complainant alleged that Patwar concerned is taking 10 to 14 % amount from general public for attestation of mutations further stating that Mr. Ikramullah, Patwar Halda Malakander took Rs. 2 lacs and 7000/- from him for attestation of one Kanal and 7 Marla plot.

METHODOLOGY

In order to probe in to the matter the following methodology was adopted.

1. Recording statement of the complainant Mr. Rahat Gul s/o Khair Gul s/o Malakander Tehsil & District Peshawar (F/A)
2. Recording statement of Mr. Khair Saeed s/o Malakander in R/O Regd. Peshawar (F/B)
3. Recording statement of Mr. Ikramullah, Patwar Halda Malakander, Tehsil & District Peshawar (F/C)
4. Recording statement of Mr. Khair Saeed s/o Malakander, Tehsil & District Peshawar (F/D)
5. Analysis of audio record of telephone conversation between complainant Mr. Rahat Gul and Patwar Mr. Ikramullah for tax assessment and duty.

*Handwritten signature/initials*

INDEXED

The basis of recording of the statement of complainant and other witnesses and the analysis of audio record and other documents.

Statement of Mr. Khair Saeed s/o Malakander, Tehsil & District Peshawar, the total amount of Rs. 2,70,000/- has been received from the complainant Mr. Rahat Gul s/o Khair Gul s/o Malakander, Tehsil & District Peshawar for the purpose of attestation of one Kanal and 7 Marla plot.

**ATTESTED**  
*Handwritten signature*



A  
B-7

**OFFICE OF THE  
DEPUTY COMMISSIONER PESHAWAR**

Address: Gate No: 3, Opposite Pearl Continental Hotel, Khyber Road, Peshawar.  
Phone: 091-9212302 Fax: 091-9212303 Email Address: dcpeshawar@hotmail.com

**INQUIRY AGAINST MR. IKRAM ULLAH IN LIGHT OF  
APPLICATION BY RAHAT GUL RESIDENT OF MALAKANDER**

The undersigned was entrusted with conducting fact finding inquiry against Mr. Ikramullah Patwari Halqa Malakandher, Tehsil & District Peshawar in light of application by Mr. Rahat Gul s/o Khair Gul r/o Malakander, Tehsil & District Peshawar vide diary no 23457 dated 24-09-2018 by the office of Deputy Commissioner Peshawar the complainant alleged that Patwari concerned is taking 10 to 14 % amount from general public for attestation of mutations further stating that Mr. Ikramullah, Patwari Halqa Malakander took Rs. 2 lacs and 7000/- from him for attestation of one Kanal and 7 Marla plot.

**METHODOLOGY :**

To probe in to the matter the following methodology was adopted.

1. Recording statement of the complainant Mr. Rahat Gul s/o Khair Gul r/o Malakander Tehsil & District Peshawar.(F/A)
2. Recording statement of Mr. Akhtar Sher s/o Munawar Khan R/O Regi Rokizai Peshawar.(F/B)
3. Recording statement of Mr. Ikramullah, Patwari Halqa Malakander, Tehsil & District Peshawar.(F/C)
4. Recording statement of Mr. Khurshid Shah, Naib Tehsildar, Daudzai, Peshawar.(F/D)
5. Analysis of audio record of Telephonic conversation between complainant Mr. Rahat Gul and Patwari Mr. Ikramullah for tax assessment and bribery.

**FINDING :**

On the basis of recording of the statement of complainant, Naib Tehsildar Daudzai, Patwari Halqa Malakandher, analysis of audio record and others, the following findings were made.

- ATTESTED
1. As per statement of Naib Tehsildar Daudzai, the total Govt Tax for transfer of 7 Marla land in Mauza Malakandir comes out to be Rs. 38000/- whereas during telephonic conversation Patwari Ikramullah is demanding for Rs. 76000/- initially and negotiating it upto Rs.65000/- by

DISTRICT ADMINISTRATION PESHAWAR

ATTESTED

8

the end of conversation which is clear cut proof of bribery and abuse of official decorum by Patwari Mr. Ikramullah.

2. Mr. ikramullah, Patwari Halqa Malakander during conversation is mentioning about 5<sup>1/2</sup>% Tehsil share and 2% share of his own which proves the genuiness of the claim by complainant Mr. Rahat Gul.
3. Both the complainant Mr. Rahat Gul s/o Khair Gul and Mr. Akhtar Sher s/o Munawar khan both resident of Malakander are ready to prove the allegation on proper oath as well as mentioned in their written statement.
4. Discrepancy was found in the statement of Patwari and telephonic conversation whereby in statement Patwari Mr. Ikramullah, Patwari Malakandher mentions that applicant was asked to deposit the Government tax himself in bank whereas telephonic conversation clearly shows that Patwari concerned was negotiating the amount for transfér of 7 Marla land which is clear cut proof of non-compliance of Standing operating Procedure by Patwari Halqa, Malakandher.

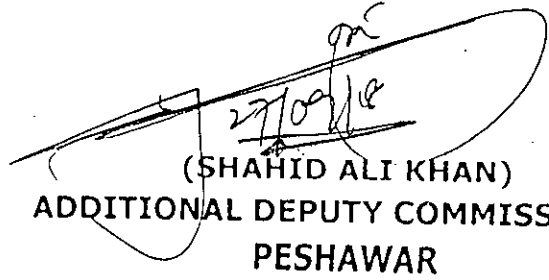
**RECOMMENDATION :**

On the basis of the above fact findings inquiry the following recommendation are made.

1. Mr. Ikramullah, Patwari Halqa Malakander may be suspended immediately and formal inquiry under efficiency & Discipline rules 2011 may be initiated against him for misuse of office and for taking bribe from innocent civilian.
2. Tehsildar be directed to ensure to implementation of Standard Operating Procedure of applicant depositing Government taxes through bank challan by applicant themselves rather than giving the same to revenue officials.
3. Additional Assistant Commissioner Revenue shall be directed to take legal action against the touts visiting Tehsils office and Patwar Khanas
4. Taxation details/ valuation table may be displayed on prominent Government buildings i.e Tehsil Building, Patwar Khanas, and for General Public Consumption at prominent places.

Submitted Please. **ATTESTED**

4

  
(SHAHID ALI KHAN)  
ADDITIONAL DEPUTY COMMISSIONER  
PESHAWAR

DISTRICT ADMINISTRATION PESHAWAR

**ATTESTED**



# SHOW CAUSE NOTICE

C-9

Dr. Imran Hamid Sheikh, Deputy Commissioner Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby serve you, Mr. Ikramullah, Patwari Halqa Malkandher Peshawar (Under suspension), as follows:

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

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

- (a) That one Mr. Rahat Gul r/o Malkandher lodged a complaint against you that you were charging public illegally @ 10% per marla as bribe and that the complainant has paid to you Rs.200000/- for transfer of One Kanal and Rs.70000/- for transfer of 07 marla plots. He has further alleged that you are now demanding 8 to 10% per mala for transfer of 07 marla plot.
- (b) That complainant Rahat Gul submitted audio call whereby you were openly bargaining for attestation of mutation.
- (c) That you are not following Government Instruction of applicant submitting Govt. taxes at their own as is obvious from your telephonic discussion.
- (d) That this act of yours is indicative of routine corrupt practices of taking extra money them due Govt taxes.
- (e) That this act of your amounts abuse of official powers.
- (f) That you were suspended from service vide this office order No.2888/DC/DK dated 01/10/2018 and a detail enquiry was ordered.
- (g) That in the detail inquiry the Inquiry Officer/Assistant Commissioner Peshawar stated that you have been found guilty in quoting a price over and above the government taxes and dues to the complainant and therefore recommended for awarding penalty under E&D Rules 2011.

2. You are, therefore, required to show cause as to why any penalty under Khyber Pakhtunkhwa Efficiency & Discipline rules 2011 shall not be imposed upon you and also intimate whether you desire to be heard in person.


3. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an exparte action shall be taken against you.

4. A copy of the findings of the Inquiry Officer is enclosed.

U.O.No. 25 /DC (P)/DK.  
Dated 04/01/2019

ATTESTED



  
Deputy Commissioner  
Peshawar  
(Competent Authority)

ATTESTED



NO 329/DK

place in  
account  
impd file

D-10

To,

Deputy Commissioner.  
Peshawar.

Subject:

REPLY TO THE SHOWCAUSE NOTICE  
DATED 04/01/2019 COMMUNICATED/  
SERVED ON 31/01/2019

Dear Sir,

With most respect reply of the show cause notice dated 04/01/2019, communicated/ served on 31/01/2019 is as.

1. That I served the revenue department for the last nineteen years without any complaint and to the entire satisfaction of my superior offices.
2. That while posted as patwari Halqa malkandher Peshawar I was suspended and so called inquiry was conducted against me without issuing a charge sheet and statement of allegation which is pre requisite under E&D rules 2011.
3. That inquiry was conducted but at the back of the appellant without providing proper opportunity of defense, neither statement of any witness was recorded in my presence, nor did opportunity of cross examination was provided to me and this act on the part of the

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registered violation which I performed. I am mentioning that the duty of the patrol is to substantiate this allegation if it is worth pursuing. I called the complaint but did not call the complainant. The allegation at this point is totally denied as

misleading. Hence denied.

anyone, the allegations are based on what I demanded and paid to me by anyone illegally @ 100 per month, not without any supporting evidence I did not. A Part "A" of the Notice is also violations

Conclusion:

show cause notice etc etc.

replied to the allegations mentioned in the the same remained unresponded however alongwith other important documents, but application for providing inquiry report after receiving the same. I submitted an without providing inquiry report to me and has been served on me on dated 31/01/2018 bearing date 04/01/2018 however, the same. That though the show cause notice was

proceedings.

inquiry officer by itself violate the whole

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inquiry officer by itself vitiate the whole proceedings.

4. That though the show cause notice was bearing date 04/01/2019 however the same has been served on me on dated 31/01/2019 without providing inquiry report to me and after receiving the same. I submitted an application for providing inquiry report alongwith other important documents, but the same remained unresponded however replied to the allegations mentioned in the show cause notice are as.

Grounds:-

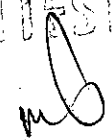
A. Para "A" of the Notice is false favilious without any supporting evidence I did not charge anyone illegally @ 10% per marla, nor did I demanded any bribe or paid to me by anyone, the allegations are based on malafide. Hence denied.

B. Allegation at this para is totally denied as neither I called the complaint nor did the inquiry officer got CDR which would substantiate this allegation it is worth mentioning that the duty of the patwari is to register mutation which I performed. The

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patwari is to register mutation which I performed. The complainant himself deposited the Government Dues (taxes) in the national exchequer so I had no concern with the same nor did I made any bargain in this respect.

C. Allegation at this para is false frivolous, I never violate any rules/regulations/instructions of the Government, the detailed reply has been given above, the so called telephonic discussion is totally denied.

D. Allegation at this para is incorrect I did not take single penny from anyone, the Government taxes and dues are always paid by the concerned directly, into the public exchequer.

E. Allegation at this para is false I never abuse my official power which is only to the extent of registration of mutation which I performed accordingly.

F. Allegation at this para is correct to the extent of suspension however the so called inquiry was conducted without offording me an apporunity of personal hearing, defence and

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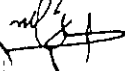
the inquiry was conducted in violation of  
Khyber Pakhtunkhwa E & D Rules 2011.

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G. Allegation at this para is denied detail reply  
has been given in the above paras.

It is therefore, requested that on  
acceptance of this reply the subject inquiry  
may kindly be filed and I may kindly be  
exonerated from the charges with further  
request that the opportunity of personal  
hearing may kindly be provided to me I shall  
be thankful to you for this.

Yours Obediently

22/2/19 

Ikramullah Patwari  
Peshawar.

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E - 14

**OFFICE OF THE  
DEPUTY COMMISSIONER PESHAWAR**

Address: Gate No: 3, Opposite Pearl Continental Hotel, Khyber Road, Peshawar.  
Phone: 091-9212302 Fax: 091-9212303 Email Address: dcPeshawar@hotmail.com

No. 510 IDC P/AC/DK  
Dated Peshawar the 14-03-2019

**OFFICE ORDER**

In light of complaint by Mr. Rahat Gul r/o Mouza Malakandher Tehsil and District Peshawar against Mr. Ikram Ullah, the then Patwari Halqa Malakandher for making illegal demand of Rs. 75,000/- for attestation of 07 marla plot against the Government taxes, fact finding inquiry was conducted by the Additional Deputy Commissioner, Peshawar who recommended the Patwari concerned to be suspended and formal inquiry to be initiated under E&D Rules 2011 against the Patwari Concerned.

Accordingly Mr. Ikram Ullah, Patwari Halqa Malakandher was suspended vide Office Order No: 2888/DC/DK dated 01/10/2018 under Section 06 of E&D Rules 2011 and Assistant Commissioner, Peshawar was appointed as an inquiry Officer for conducting formal inquiry by serving statement of Allegations and Show Cause Notice upon the accused official whereby the accused official was proved guilty of corruption vide inquiry report No: 4246/AC(P)/Reader dated 04-12-2018, for doing open bargaining with one Mr. Rahat Gul r/o Malakandher for demanding Rs. 70,000/- for transfer of 07 marla plot as against Government taxes of Rs. 38,117/-.

Accordingly, Show Cause Notice along with inquiry report was served upon the accused Official along with copy of inquiry report vide letter No: 26/DC(P)/DK dated 04-01-2019. In response, the accused official submitted written statement which was found un-satisfactory.

In view of the above, I, Mr. Imran Hamid Sheikh, Deputy Commissioner, Peshawar, competent authority under in light of Section 4(b) (iii) of Khyber Pakhtunkhwa Efficiency & Discipline Rules 2011, do

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hereby impose a major penalty of removal from service upon Mr Ikramullah  
khan, the then Patwari Halqa Malakander.

M. [Signature] 11/3/19  
DEPUTY COMMISSIONER  
PESHAWAR

No. 511-19 /DC(P)DK

Copy forwarded for the information to the;-

1. Commissioner Peshawar Division Peshawar.
2. Additional Deputy Commissioner Peshawar.
3. Assistant Commissioner Peshawar.
4. Additional Assistant Commissioner Revenue, Peshawar.
5. Account Officer, Deputy Commissioner Peshawar for making requisite entries in the record.
6. Tehsildar Peshawar.
7. District Kanungo Peshawar for making relevant entries in the record.
8. Superintendent DC Office Peshawar.
9. All Officers/ Officials Concerned.

M. [Signature] 11/3/19  
DEPUTY COMMISSIONER  
PESHAWAR

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[Signature]

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[Signature]



To,

F-16

The Commissioner,  
Peshawar.

**Subject: DEPARTMENTAL APPEAL AGAINST THE  
IMPUGNED ORDER DATED 14/03/2019  
WHEREBY THE APPELLANT HAS BEEN REMOVED  
ILLEGALLY FROM HIS SERVICE.**

**Prayer:**

**ON ACCEPTANCE OF THIS DEPARTMENTAL  
APPEAL THE IMPUGNED ORDER MAY KINDLY BE  
SET ASIDE AND THE APPELLANT MAY KINDLY BE  
REINSTATED INTO SERVICE WITH ALL BACK  
BENEFITS.**

Respected Sir,

The appellant submits as under: -

1. That the appellant was appointed as Patwari on the year 2000 and after his appointment, the appellant served the department with great zeal, zeast enthusiasm and to the entire satisfaction of the department.
2. That while serving as Patwari Halqa Malkandher due to a concocted and frivolous complaint and later on without issuing / serving any charge sheet alongwith statement of allegation and without providing any opportunity of defense, a one sided inquiry was conducted against the appellant at the back of the appellant. (Copy of the inquiry report is annexure "A").
3. That thereafter, the appellant was served with a show-cause notice, however, no inquiry report was annexed with the show-cause notice. Therefore, the appellant submitted an

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application for providing charge sheet alongwith statement of allegations if any, inquiry report, however, the same was not provided. The appellant submitted a detail reply of the Show-Cause Notice denying all the charges. (Copy of Show-Cause Notice & Reply are annexure "B", "C & D").

4. That the appellant was orally informed that he was removed from service vide order dated 14/03/2019 without providing any opportunity of personal hearing by the competent authority, hence the appellant again submitted an application for providing the impugned order alongwith inquiry report etc. (Copy of the Impugned order, Application are annexed as "E" & "F")
5. That the appellant feeling aggrieved from the impugned order, filing this appeal on the following grounds inter alia;-

GROUNDS:

- A. That the impugned order is against the law, rules and principles of Natural Justice, hence not maintainable in the eyes of law.
- B. That no Charge Sheet and Statement of allegations served upon the appellant which is mandatory under E & D Rules 2011.
- C. That neither any statement of complainant or any other witness recorded in the presence of the appellant nor did the appellant was provided opportunity of cross examination and the whole proceedings has been conducted without associating the appellant.
- D. That the appellant has been condemned unheard as opportunity of defense or personal hearing has not been

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provided by the inquiry officer or competent authority which is very much evident from the impugned order.

E. That the right of fair trial has not been provided to the appellant which has been guaranteed by Article 10-A of the Constitution of Islamic Republic of Pakistan 1973.

F. That the charges leveled against the appellant are totally false, neither the appellant charge the complainant or anyone, 10 % per Marla nor did the appellant demanded any bribe or paid to the appellant by anyone.

G. That neither the appellant called the complainant on his phone nor did the inquiry officer for CDR which would substantiate the allegation of recording call, it is worth mentioning that the duty of Patwari is to register mutation so far as the government dues or taxes are concerned, the same is the duty of buyer he himself deposit, the same in the National Exchequer.

H. That the appellant has not violated any rules regulations or instructions of the government nor did abused his official power or authority.

I. That the alleged telephonic discussion / recording is totally denied as the same in false concocted self-made and even not admissible as evidence in any court/ tribunal of law as per Qanun-e-Shahadat Ordinance.

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It is, therefore, requested that the departmental appeal may kindly be accepted and the appellant may kindly be reinstated into service with all back benefits.

Dated: 28/03/2019



Your Most Obedient  
Ikram Ullah (Patwari)

ATTESTED

G-19

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

**APPEAL NO. \_\_\_\_\_/2019**

Mr. Ikramullah, Ex: Patwari (BPS-09),  
Patwar Halqa Malakandher, District Peshawar.

..... **APPELLANT**

**VERSUS**

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

..... **RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST**  
**THE IMPUGNED ORDER DATED 14/3/2019 WHEREBY**  
**MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN**  
**IMPOSED ON THE APPELLANT AND AGAINST NO ACTION**  
**TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT**  
**WITHIN THE STATUTORY PERIOD OF NINETY DAYS**

**PRAYERS:**

That on acceptance of this service appeal the impugned order dated 14/03/2019 my kindly be set aside and the appellant may kindly be re-instated in to service with all back benefits. Any other remedy specifically not prayed for may kindly be awarded in favour of the appellant.

**R/SHEWETH:**

**ON FACTS:**

**Brief facts giving rise to the present appeal are as under:-**

- 1- That the appellant was appointed as Patwari in the year 2000 and after appointment the appellant has performed his duty quite efficiently and up to the entire satisfaction of his high ups.
- 2- That appellant while serving as Patwari Halqa Malakandher a complaint was filed against the appellant and on the basis of said concocted and frivolous complaint, the respondents conducted fact finding inquiry against the appellant. Copies of the complaint and fact finding inquiry report are attached annexure..... **A & B.**

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- 3- That thereafter, the appellant was served with a show cause notice, which was properly replied by the appellant and denied all the allegations levelled against him. Copy of the Show cause notice and reply are .....**C and D.**
- 4- That astonishingly the respondent No.2 without conducting regular Departmental inquiry against the appellant straight away issued the impugned order dated 14.03.2019 whereby major penalty of removal from service has been imposed on the appellant. Copy of the impugned order are ..... **E.**
- 5- That feeling aggrieved from the impugned order dated the appellant filed departmental appeal before Respondent No. 1 on 28/03/2019 but no reply has been received so far. Copy of the Departmental appeal is annexure .....**F.**
- 6- That feeling aggrieved and having no other remedy the appellant filed the instant service appeal on the following grounds inter alia.

**GROUND:**

- A. That the impugned order dated 28.03.2019 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B. That appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C. That no charge sheet and statement of allegation have been issued to the appellant before issuing the impugned order dated 28.03.2019 which is mandatory under E & D Rules 2011.
- D. That neither chance of personal hearing has been provided to the appellant nor the appellant was provided the opportunity to cross examined the complainant and witnesses produced against him.
- E. That no regular inquiry has been conducted by respondents before issuing the impugned order dated 28.03.2019 rather the appellant has been punished on the basis of fact finding inquiry.
- F. That as per Supreme Court judgments regular Departmental inquiry is must before initiation of punitive actions against the civil servants.

**ATTESTED**  
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That the appellant seeks permission of this honourable tribunal to  
abduce other grounds during course of final arguments.

It is therefore, requested that appeal of the appellant may  
graciously be accepted as prayed for in the headings of appeal.

Dated: 24.07.2019

APPELLANT

IKRAMULLAH

Through:

NOOR MOHAMMAD KHATTAK

SHAHZULAH YOUSAFZAI

MIR ZAMAN SAFI  
ADVOCATES

ATTESTED

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G. That the appellant seeks permission of this honourable tribunal to adduce other grounds during course of final arguments.

It is therefore, requested that appeal of the appellant may graciously be accepted as prayed for in the headings of appeal.

Dated: 24.07.2019

**APPELLANT**



**IKRAMULLAH**

Through:



**NOOR MOHAMMAD KHATTAK**



**SHAHZULLAH YOUSAFZAI**

&



**MIR ZAMAN SAFI  
ADVOCATES**

**ATTESTED**





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## THE DEPUTY COMMISSIONER, PESHAWAR


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

No.3778/DK

Dated: 10-December-2019

### ORDER:

In pursuance to the Order of worthy Commissioner Peshawar Division Peshawar dated 19-11-2019 in appeal No.07/2019, Mr. Ikramullah, Patwari of this office, who was removed from service vide order No.510/DCP/ADC/DK dated 14-03-2019 due to the allegation of illegal bargaining, is hereby re-instated into the service with deduction of two increments for a period one year under section 4(1)(a)(ii) of Government of Khyber Pakhtunkhwa (Efficiency & Disciplinary Rules) 2011. He is directed to submit his arrival report to the District Kanungo Peshawar immediately.

  
(MUHAMMAD ALI ASGHAR)  
DEPUTY COMMISSIONER

### Endst: No. and Date Even:

- (i) Commissioner, Peshawar Division, Peshawar for information w/r to his order referred above.
- (ii) Addl. Deputy Commissioner, Peshawar.
- (iii) Assistant Commissioner, Peshawar.
- (iv) Addl. Assistant Commissioner (HQ), Peshawar.
- (v) Addl. Assistant Commissioner (Rev), Peshawar.
- (vi) Accounts Officer of DC office for necessary action.
- (vii) Official concerned for strict compliance.

  
DEPUTY COMMISSIONER

Deputy Commissioner  
Peshawar

Diary No. 18807

Date 16-12-19



**VAKALATNAMA**

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

\_\_\_\_\_ OF 2020

Muham Ullah

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Revenue Deptt:

(RESPONDENT)  
(DEFENDANT)

I/We Muham Ullah

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. \_\_\_\_/\_\_\_\_/2020

Muham Ullah  
CLIENT

Noor Mohammad Khattak  
ACCEPTED

NOOR MOHAMMAD KHATTAK

Shahzullah Yousafzai  
SHAHZULLAH YOUSAFZAI

Mir Zaman Safi  
MIR ZAMAN SAFI

&

Afrasiab Khan Wazir  
AFRASIAB KHAN WAZIR  
ADVOCATES

OFFICE:  
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Warsak Road, Peshawar.  
Mobile No.0345-9383141