

8.12.2020


Appellant with counsel present.

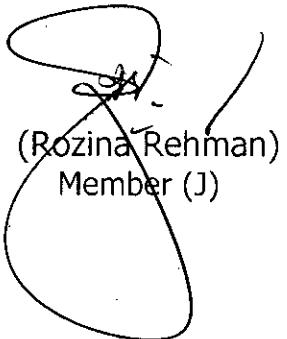
Riaz Khan Paindakheil learned Assistant Advocate General alongwith Shahab ud Din Assistant Commissioner, Ubaid Ullah Superintendent and Azmat Ullah D.K for respondents present.

Vide detailed judgment of today of this Tribunal placed on file of appeal No.4924/2020, instant service appeal stands accepted and the appellant stands reinstated in service with all back benefits. With no order as to costs. File be consigned to the record room.

ANNOUNCED.

18.12.2020

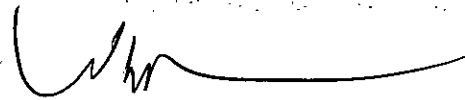

(Atiq-ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

11.11.2020

Junior to counsel for appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 04.12.2020 for hearing before the D.B.



(Atiq-ur-Rehman Wazir)
Member (E)


Chairman

04.12.2020

Appellant present through counsel.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Sajjad ADK for respondents present.

Arguments heard. To come up for order on 15.12.2020 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



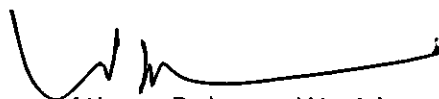
(Rozina Rehman)
Member (J)

15.12.2020

Appellant with counsel present.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Muhammad Ali Asghar Deputy Commissioner, Shahab ud Din Assistant Commissioner and Azmat Ullah D.K for respondents present.

File to come up alongwith connected appeal No.4924/2020 on 18.12.2020 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

10.08.2020

Counsel for the appellant and Addl. AG alongwith
Qaizarud Din, ADK (Revenue) for the respondents present.

Representative of the respondents requests for further
time to submit written reply/comments. Last opportunity is
granted to the respondents for submission of requisite
reply/comments on 30.09.2020 before S.B.


Chairman


30.09.2020

Counsel for the appellant and Addl. AG alongwith
Azmatullah, D.K for the respondents present.

Representative of respondents states that reply has
been prepared but is yet to be signed by the
respondent(s). He, therefore, requests for adjournment.

On 10.08.2020 a similar request was made on behalf
of the respondents and the matter was adjourned but as
last opportunity.


Instant appeal is, therefore, posted for hearing by a
D.B on 27.10.2020. The respondents may submit the
reply/comments in the meanwhile, if they desire to.



Chairman

27.10.2020

Junior to counsel for the appellant and Addl. AG
alongwith Sajjed Khan, ADK for the respondents present.

Parawise comments on behalf of respondents 1 & 2
have been submitted. Placed on record. To come up for
hearing on 11.11.2020 before the D.B. The appellant may
furnish rejoinder in the meanwhile if so advised.


(Atiq-ur-Rehman Wazir)
Member


Chairman

11.06.2020

Counsel for the appellant present.

Contends that departmental inquiry against the appellant was dispensed with before passing of impugned order awarding major penalty against him but without assigning any reason. Further contends that in a number of judgments, the Apex Court has repeatedly held that in cases where major penalty is awarded to a civil servant, a proper inquiry is all the more necessitated.

Keeping in view the available record and submissions by the learned counsel, instant appeal is admitted to regular hearing subject to all just exceptions. 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 on 03.07.2020 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

03.07.2020

Counsel for the appellant and Addl: AG alongwith Mr. Azmatullah, District Konongo for respondents present. Written reply on behalf of respondents not submitted. Requests for time to submit the same on the next date.

Adjourned to 24.07.2020 for written reply/comments before S.B.


MEMBER

24.07.2020

Mr. Noor Muhammad Khattak, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Qabar-ud-Din, ADC Revenue are also present.

Representative of the department seeks short adjournment to submit the requisite reply/comments. May do so on next date of hearing. Adjourned to 10.08.2020 for submission of written reply/comments before S.B.

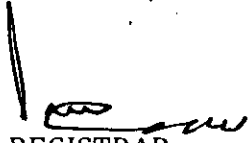
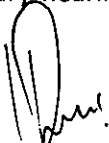

(MUHAMMAD JAMAL KHAN)
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4933 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/06/2020	<p>The appeal presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up on <u>11/06/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 4933 /2020

MUHAMMAD ASLAM KHAN

VS

REVENUE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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4	Reply	C	8- 10.
5	Impugned order	D	11- 12.
6	Departmental appeal	E	13- 16.
7	Vakalat nama	17.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO 4933 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4200

Dated 01/6/2020

Mr. Muhammad Aslam Khan, Ex-Office Kanungo,
Peshawar City.....

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 20.02.2020
WHEREBY MAJOR PENALTY OF DISMISSAL FROM
SERVICE HAS BEEN IMPOSED UPON THE APPELLANT
AND AGAINST NO ACTION TAKEN ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
STATUTORY PERIOD OF NINTY DAYS.**

PRAYER:

That on acceptance of this service appeal the impugned order dated 20.02.2020 may very kindly be set aside and the appellant be re-instated into service with back benefits. Any other remedy which this August Tribunal deems fit that may also be granted to the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to present appeal are as under:

- 1- That the appellant was the employee of respondent Department and served as Office Kanungo Peshawar City quiet efficiently and up to the entire satisfaction of his superiors.
- 1- That during service as Office Kanungo the appellant was served with a show cause notice dated 13.2.2020 where in it were alleged that:-

(a) That all the Revenue staff were directed to be present on 13.02.2020 in the Tehsil Office along with revenue

Filed to-day
Registrar
01/06/2020

record for conducting the Tehsil Hazri/Revenue Darbar proceedings to facilitate the general public on the direction of the Provincial Govt: and in line with Land Record Manual, but you failed to do so.

(b) That you have instigated other revenue staff in disobeyed the lawful commands of superiors and have announced boycott of tehsil hazari, polio duties and have refused to shif patwar Khanas within respective halqas as per the directions of Board of Revenue

(c) that you were repeatedly warned by the undersigned and other officers to refrain from such conduct resembling mutiny, but you expressed utter disregard to such directions. Moreover, Commissioner Peshawar also spoke to you and your representative on the same subject on 12.02.2020 and warned you to not become a cause of embarrassment for provincial Government, but you did not listen and yet again disobeyed on 13.02.2020.

(d) that your absence not only caused inconvenience to the general public, but also shown clear violations of the orders of your superior.

(e) That your this act comes under dis-obedience to the general, violation of instructions, misconduct and utter disregard of official decorum.

Copies of the suspension order and show cause notice are attached as annexure **A and B.**

2- That in response to the said show cause notice the appellant submitted his detail reply and denied all the allegations leveled against him. Copy of the reply is attached as annexure **C.**

3- That astonishingly the respondent No.2 without conducting regular inquiry into the matter issued the impugned order dated 20.02.2020 whereby major penalty of dismissal from service has been imposed upon the appellant. Copy of the Impugned order is attached as annexure **D.**

4- That appellant feeling aggrieved from the impugned order dated 20.02.2020 filed departmental appeal to the appellate authority i.e. respondent No.1 but no response has been received so far. Copies of the Departmental appeal and forwarding letter is attached as annexure **E.**

5- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst others.

ON GROUNDS:

A- That the impugned order dated 20.02.2020 is against the law, facts, norms of natural justice and material 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 served upon on the appellant before issuing the impugned order dated 20.02.2020.

D- That no opportunity of personal hearing/defense has been provided to the appellant before issuance of the impugned order dated 20.02.2020 and as such the appellant has been condemned un heard.

E- That the respondents acted in arbitrary and malafide manner by issuing the impugned order dated 20.02.2020 without fulfilling the codal formalities, hence the impugned order dated 20.02.2020 is not tenable and liable to be set aside.

F- That no regular inquiry has been conducted before issuance of the impugned order dated 20.2.2020 which is as per Supreme Court judgments is necessary in punitive actions against Civil Servant.

G- That it is also the consistent view of the Apex Court that major punishment cannot be imposed on the basis of single show cause notice.

H- That prior to show cause notice no fact finding inquiry has been conducted in the matter to dig out the actual facts and figures, therefore the impugned order dated 20.2.2020 is void ab initio in the eye of law and rules.

I- That in the instant case the appellant has been made escape goat and as such the impugned order dated 20.2.2020 issued by the respondent No.2 is against the law and rules.

J- That the appellant seeks permission to adduce any other ground and proof at the time of regular hearing.

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

Dated: 29.05.2020

APPELLANT

MOHAMMAD ASLAM KHAN

THROUGH:

NOOR MUHAMMAD KHATTAK

MIR ZAMAN SAFI

&

AFRASIAB KHAN WAZIR

ADVOCATES



THE DEPUTY COMMISSIONER, PESHAWAR

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

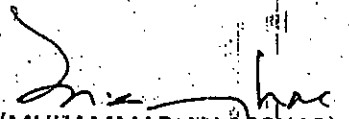
No. 00523 /DC(P)/EA

Dated: 13-February-2020

ORDER:

Mr. Muhammad Aslam, Office Kanungo City Tehsil is hereby placed under suspension with immediate effect for non-attending Tehsil Revenue Hazri/Darbar held on 13.02.2020, refusal to perform polio and other duties, and disobedience to lawful command of government and superiors.


Show Cause Notice under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 is served separately.

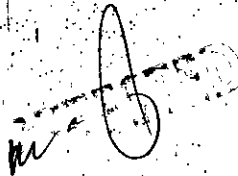

(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

Copy forwarded to the:-

1. Commissioner Peshawar Division Peshawar.
2. Addl. Deputy Commissioner, Peshawar.
3. Accounts Officer of this office for necessary action.
4. District Kanungo, Peshawar.
5. Assistant Commissioner City with the direction to hand over the charge of Office Kanungo City to a suitable Girdawar till further orders.
6. Official concerned for compliance.


DEPUTY COMMISSIONER



IMMEDIATE



B-6

THE DEPUTY COMMISSIONER, PESHAWAR

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

No. 659/DK

Dated: 13-February-2020

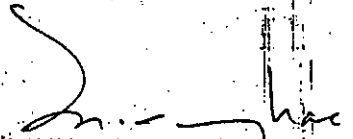
To

1. Mr. Mukammil Shah,
O.K. Tehsil Saddar, Peshawar.
2. Mr. Abdul Jabbar,
Patwari Halqa Urmar Miana, Peshawar.
3. Mr. Ijaz Khalil,
Patwari Halqa Ahmad Khel, Peshawar.
4. Mr. Kifayat Khan,
Patwari Halqa Bazid Khel, Peshawar.
5. Mr. Nasrullah,
Patwari Halqa Pishtakhara Payan, Peshawar.
6. Mr. Amir Taimur
Patwari Halqa Urmer Bala.
7. Mr. Mohammad Aslam
Office Kanango City.
8. Mr. Mir Rehman Shah
Patwari Halqa Tarnab.
9. Mr. Falak Niaz
Patwari Halqa Rashida.
10. Mr. Nadeem
Patwari Halqa Glozai Mohammadzai.

Subject: SHOW CAUSE NOTICE

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

Encls: (As above)


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

SHOW CAUSE NOTICE

CCD 7

Muhammad Ali Asghar, Deputy Commissioner Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby Charge you, Mr. Muhammad Aslam, Office Kanungo City Tehsil, as follows:

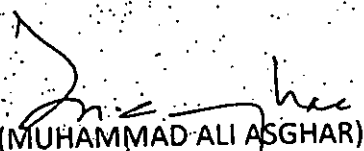
1. That you were posted as Office Kanungo City Tehsil committed the following irregularities:

- (a) That all the Revenue staff were directed to be present on 13-02-2020 in the Tehsil office along with revenue record for conducting the Tehsil Hazri/Revenue Darbar proceedings to facilitate the general public on the direction of the Provincial Govt. and in line with Land Record Manual, but you failed to do so.
- (b) That you have instigated other revenue staff in disobeying the lawful commands of superiors and have announced boycott of tehsil hazari, polio duties and have refused to shift Patwar khanas within respective halqas as per the directions of Board of Revenue.
- (c) That you were repeatedly warned by the undersigned and other officers to refrain from such conduct resembling mutiny, but you expressed utter disregard to such directions. Moreover Commissioner Peshawar also spoke to you and your representative on the same subject on 12.02.2020 and warned you to not become a cause of embarrassment for Provincial Government, but you did not listen and yet again disobeyed on 13.02.2020.
- (d) That your absence not only caused inconvenience to the general public, but also shown clear violations of the orders of your superior.
- (e) That your this act comes under dis-obedience, violation of instructions, misconduct and utter disregard of official decorum.

2. By reasons of the above, you appear to be guilty of mis-conduct and subversion under rule-3 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

3. Since, the undersigned as competent authority, witnessed the whole scenario myself and their remains no doubt about your conduct, or the need of any inquiry or further probe into the matter, therefore the same is dispensed with, as provided under Rule 5 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules 2011.

4. Your written defense, if any, should reach the undersigned, within seven (07) days, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER
(Competent Authority)

ATTESTED

To,

The Deputy Commissioner,
Peshawar.

C-8

Subject: REPLY TO SHOW CAUSE NOTICE

Respected Sir,

**Reference Show Cause Notice No.659/DK dated
13.02.2020 on the subject noted above.**

Para-wise reply to the Show Cause Notice is as under:-

1.

(a) Not correct. The undersigned on 13.02.2020 at 08:00 AM attend the Darbar, which record is available. I time and again attended the office with record necessary for the purpose. (Photos are attached)

I was directed by the worthy Deputy Commissioner to hand over Fard-e-Badar No.63 of Illaqa Bana Mari to Service Delivery Center (SDC) Office. I never misused the Revenue Darbar on the said date, nor I have such status.

(b) Not correct. I never instigated other Revenue staff to disobey any order of the superiors nor made any boycott of Tehsil Nazir, Polio Duties. As I was performing my duties in the office, yet as and when required, I performed my Polio duties which is on record. I even cannot think to either refuse or disobey any order, verbal/ written of the authority. Moreso, I never remain in the union.

(c) Not correct. I was never warned verbally or in writing to refrain from such conduct resembling

ATTESTED
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direction. The worthy Commissioner Peshawar never spoke to me or any other representative on 12.02.2020. I never participated in any meeting in this respect to cause embarrassment to Government and as stated above, I never disobeyed any direction / order on 13.02.2020 of the authority.

Sir, it is to bring into your kind knowledge that I am performing my duties in the office and on the said date, I was directed by my honour to prepare chques for Polio Duty Patwaris at the direction of Tehsildar Roshan Lal. And on the said dates from 02:00 PM till 05:00 PM I prepared the cheques in my office.

- (d) Not correct. And as stated earlier, I never absented and never caused any inconvenience either to my honor good self or general public. I never shown any violation of the orders of the superiors.
- (e) Not correct. As no order of the authority was ever disobeyed or violated nor absented or boycott from Darbar, so no misconduct was ever made in any manner.
2. By keeping in view the aforesaid submissions, I never appear to be guilty of misconduct and subversion under any law, what to speak of quoted rules. In such situation I am not liable to any penalty.
3. In response to this para of the notice, I denied all the above charges with cogent reasons and when charge is denied, then conduct of regular inquiry becomes

ATTESTED

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(10)


mandatory as per the verdict of the apex Supreme Court of Pakistan. Law does not permits shortcut action.

4. As directed, reply/ defense is submitted to my honor within 07 days, requiring worth consideration.

It is, therefore, most humbly requested that the Show Cause Notice in hand be vacated and I be exonerated from the baseless charges.

Thanking you, sir.

Your Obedient


Muhammad Aslam Khan
Office Kanoongo,
Peshawar City
Cell No.0313-9800810

Dated: 18.02.2020

Deputy Commissioner
Peshawar

Diary No. 2878

Date 18/2/20

 TED



Q D - 11

THE DEPUTY COMMISSIONER, PESHAWAR

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

No. 750 /DK

Dated: 20-February-2020

ORDER:

WHEREAS, Mr. Muhammad Aslam, Office Kanungo City was placed under suspension vide order No.00523/DC(P)/EA dated 13-02-2020 and served upon a Show Cause Notice vide No.659/DK dated 13-02-2020 for illegal strike of Patwaris refusing to attend court of law and instigating other Patwaris to perform official duties resultantly creating problems for general public and causing financial loss to the govt. exchequer.

AND WHEREAS, on 10-02-2020, the accused official assembled alongwith other Patwaris in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Disaster Relief Activities and Tehsil Hazri/Darbar.

AND WHEREAS, on 12-02-2020, the accused official alongwith other Patwaris assembled in Tehsil building and started Chanting. Slogans against Provincial Govt. and their superior officers and refused to perform their official duties regarding Polio/Damage Assessment in Disaster Relief Operations and Tehsil Hazri/Darbar. The worthy Commissioner Peshawar Division also summoned Patwar Union and other Patwaris to his office and sensitized them of the mistake they were committing and blatant violations they committing. The worthy Commissioner directed them to forthwith resume official duties failing which strict action will be initiated against them.

AND WHEREAS, on 13-02-2020, a Revenue Tehsil Hazri was organized for the facilitation of the general public, upon the direction of the worthy Chief Minister Khyber Pakhtunkhwa and in line with Land Record Manual. All revenue staff was summoned in tehsil Peshawar alongwith revenue record. But the accused official failed to his presence in the Tehsil Hazri which is an act of gross misconduct, violation of official norm, subverting the lawful command of the Provincial Govt. and disobeying the official commands of superiors in Revenue hierarchy.

AND WHEREAS, the accused official is blatantly challenging the law and causing obstruction in the executive functioning of the government and they have repeatedly resorted to strikes and agitation thrice before in last 06 months

AND WHEREAS, the accused official submitted his reply to the Show Cause Notice on 18-02-2020 refusing the allegations leveled against him.

AND WHEREAS, the accused was summoned for personal hearing on 20-02-2020, and was heard in person, wherein it came to the notice that the accused official had no valid justification to offer in his defence other than citing unfounded and frivolous excuses.

AND WHEREAS, keeping in view no need for any enquiry or further probe into the matter and therefore need of the inquiry was dispense with as provided in rules 5 under Gov.t of Khyber Pakhtunkhwa servants (efficiency & discipline) Rule 2011 being involved in subversive activities, bring loss to the public exchequer causing embarrassment for the govt. and have raised the banner of mutiny.

MADESTED

E - (13)

BEFORE THE COMMISSIONER, PESHAWAR DIVISION

PESHAWAR

D.A. No. _____/2020

Muhammad Aslam
S/O Muhammad Yousaf
Ex-Office Kanungo Peshawar
City Appellant

Versus

Deputy Commissioner,
Peshawar Division, Peshawar Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

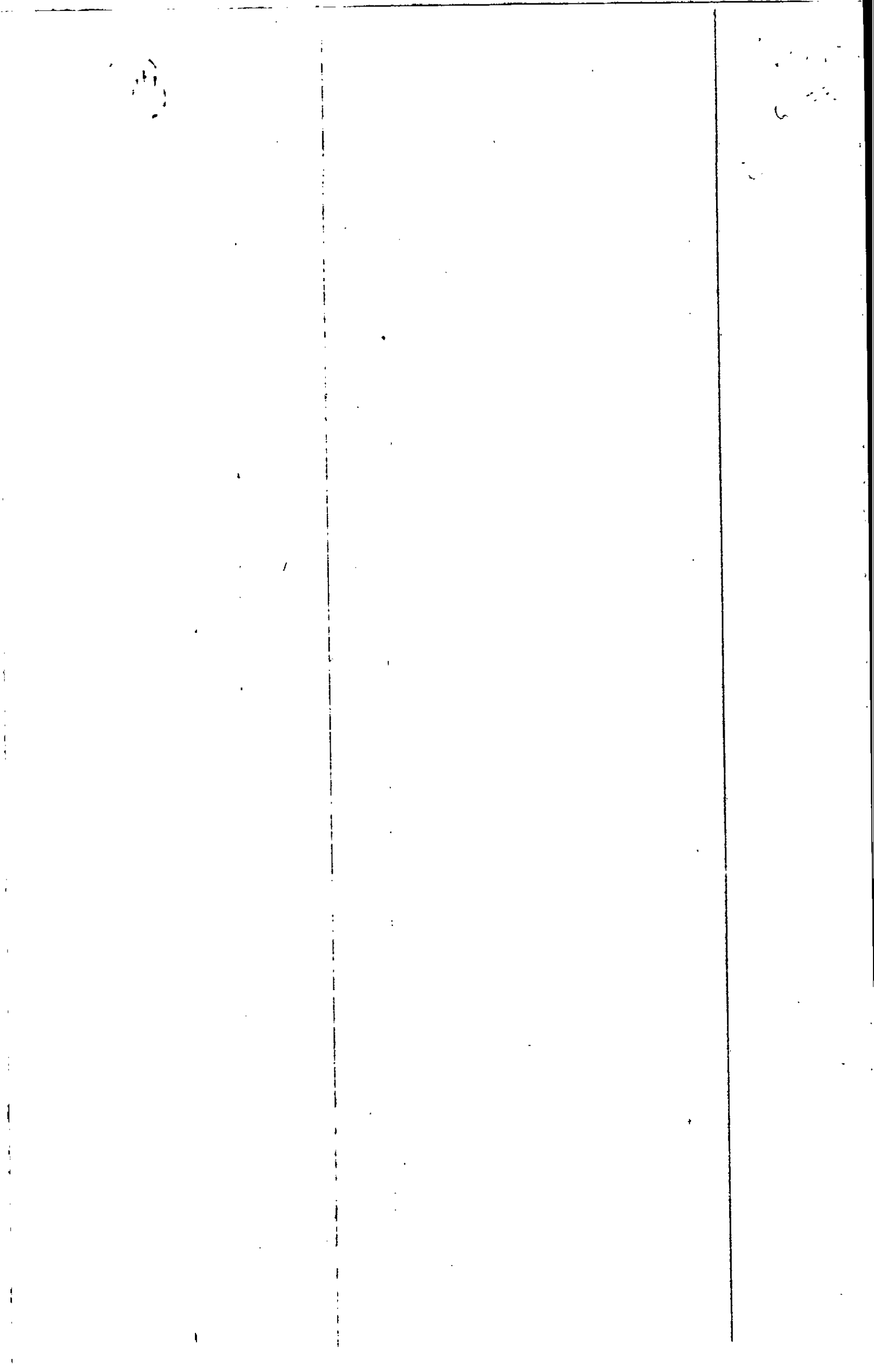
**DEPARTMENTAL APPEAL AGAINST OFFICE ORDER
NO. 750/DK, DATED 20-02-2020 OF THE
RESPONDENT WHEREBY APPELLANT WAS
DISMISSED FROM SERVICE FOR NO LEGAL
REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respected Sir;

1. That appellant was appointed as Patwari on 08-01-1995 and since then he was performing his official duties to the best of the ability and to the entire satisfaction of the superiors without any complaint and it was the said dedicated performances of the official duties when on 23-05-2019 he was promoted to the post of Kanungo.
2. That on 13-02-2020, he was suspended from service on account of none attending Tehsil Revenue Hazri / Darbar to be held on the said date. (Copy as annex "A")
3. That on the said date, i.e. 13-02-2020, appellant was served with Show Cause Notice to the affect:-
 - a. That Revenue Staff was directed to be present on 13-02-2020 in Tehsil Office to facilitate General Public on the direction of the Provincial Government, but he failed.

ATTESTED



- e. That neither charge of instigation of other Revenue Staff to disobey order of superiors or to make boycott of the Darbar / Polio duties is totally wrong and absolutely incorrect. Appellant time and again performed Polio duties which is on record of the office.
- f. That neither my honor nor any representative spoke to me on 12-02-2020 to refrain from adverse activity and when I never participated any meeting etc. then no cause of embarrassment was made to the government.
- g. That appellant is performing his duties in the office and on the said date he was directed by his honor to also prepare chques for Patwaris who participated Polio duties and he did so.
- h. That neither in future nor in present, appellant ~~never~~ *never think to* violated any law nor ever instigated staff to boycott the Darbar.
- i. That the allegations leveled in the impugned order dated 20-02-2020 are absolutely incorrect and in negation of record.
- j. That the charges / allegations leveled in the impugned order are not part and parcel of the law / rules quoted in the impugned orders.
- k. That appellant was awarded with major penalty of dismissal from service but the mandatory provisions of conduct of regular enquiry was totally violated / ignored.
- l. That no statement of any witness(s) was recorded nor appellant was awarded opportunity of cross-examination, so the impugned order is not only illegal but is of no legal effect.
- m. That serious allegation of strike was attributed to appellant but he has no concern with the same, so imposing such penalty upon him is not ~~understood.~~ *appealable to a prudent mind*
- n. That by keeping the aforesaid submissions when neither any order of the superior was violated nor any staff was instigated and on the said date I attended the Darbar, then on the aforesaid allegation dismissing appellant from service is based on malafide and mis-information.

ATTESTED


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It is, therefore, most humbly prayed that on acceptance of appeal, order dated 20-02-2020 of the respondent be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Appellant

Muhammad Aslam Khan,
Ex-Office Kanungo
Peshawar City. R/O Street
No. 03, Sardar Ahmad Jan
Colony Peshawar.
Cell No. 0313-9800810.

Dated -02-2020

WITNESSED

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Muhammed Aslam Khan (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Revenue Deptt. (RESPONDENT)
(DEFENDANT)

I/We Muhammad Aslam Khan
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

[Signature]
CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK

[Signature]
SHAHZULLAH YOUSAFZAI

[Signature]
MIR ZAMAN SAFI
&

AFRSIYAB KHAN WAZIR
ADVOCATES

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Appeal No.4933/2020

Mr. Muhammad Aslam, Ex-Office Kanungo, Peshawar

.....(Appellant)

VERSUS

1. The Commissioner Peshawar.
2. The Deputy Commissioner Peshawar

.....(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 & 2

Respectfully Sheweth,

Preliminary Objections.

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

OBJECTION ON FACTS.

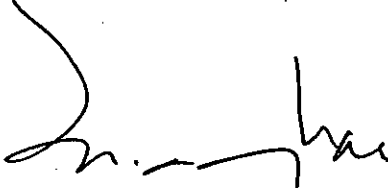
1. Correct to the extent that he performed duty as Office Patwari in District Peshawar.
2. Correct.
3. Correct to the extent that reply to the Show Cause notice was submitted.
4. Correct to the extent that the order of dismissal was issued. The said order was issued under E&D Rules.
5. Incorrect. The matter was under consideration, but due to Corona pandemic the offices were closed by the Provincial Govt. hence no action could be taken.
6. Incorrect. The appellant has no justification to file the instant appeal.

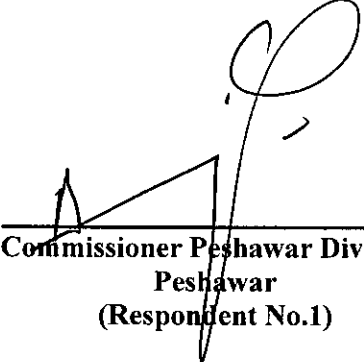
GROUND

- A. Incorrect. The order was issued according to the E&D Rules 2011, keeping in view the grave misconduct of the appellant as explained in the dismissal order dated 20-02-2020.
- B. Incorrect. All the proceedings were conducted under E&D Rules 2011 and no law/rules have been violated rather instructions/laws of the Provincial Govt. were followed in letter and spirit.
- C. Incorrect. The inquiry was dispense with under section 5 of E&D Rules 2011, hence direct Show Cause Notice was served, which was duly replied by the appellant.

- D. Incorrect. Proper Show Cause Notice was issued to the appellant vide No.659/DK dated 13-02-2020, which was replied. After which personal hearing was made on 20-02-2020 but the appellant could not put any valid justification in his defense.
- E. Incorrect. All the required rules/regulations were followed and formalities were fulfilled after which the dismissal order dated 20-02-2020 was issued.
- F. Incorrect. The inquiry was dispensed with as per rule 5 of E&D Rules 2011 due to gravity of misconduct behavior of the appellant.
- G. Incorrect. All the prescribed procedure under E&D Rules 2011 were followed.
- H. Incorrect. As Para-F above.
- I. Incorrect. All the concerned officials were properly informed and Darbar occasion was publically advertised in daily newspapers.
- J. Incorrect. The appellant is making false excuses and have nothing in defense. His unlawful act have badly affected the performance of other officials which resulted in violations of directions/instructions of high-ups and creating hurdles for general public.
- K. The respondents seek leave to raise additional grounds at the time of arguments.

It is therefore prayed before the honourable court that appeal in hand having no weight may very humbly be dismissed with cost.


Deputy Commissioner/Collector
Peshawar
(Respondent No.2)


Commissioner Peshawar Division,
Peshawar
(Respondent No.1)