

18.12.2020

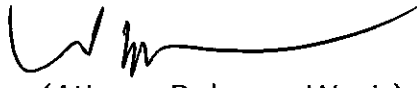
Appellant with counsel present.

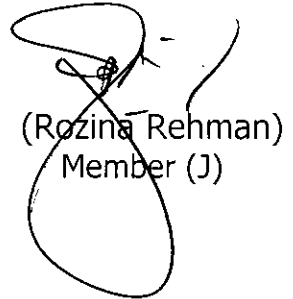
Riaz Khan Paindakheil learned Assistant Advocate General alongwith Shahab ud Din Assistant Commissioner, Ubaid Ullah Superintendent and Azmat Ullah D.K for respondents present.

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.

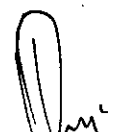

Chairman

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.

Deposited
Security & Process Fee

Chairman

03.07.2020

Counsel for the appellant and Addl: AG along with 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 along with 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.

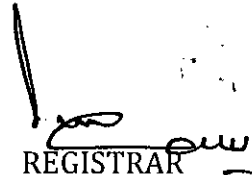

(MUHAMMAD JAMAL KHAN)
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 492526 /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. 4926 /2020

MIR REHMAN SHAH

VS

REVENUE DEPTT:

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5	Impugned order	D	9- 10.
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7	Vakalat nama	13.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

APPEAL NO 4926 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 41991

Dated 01/6/2020

Mr. Mir Rehman Shah, Ex-Patwari,
Halqa Tarnab, 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 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 may kindly be re-instated into service will 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 appointed as Patwari in the respondent Department on the proper recommendation of the Departmental Selection Committee. That during Service the appellant served the respondent Department as Patwari quiet efficiently and up to the entire satisfaction of his superiors.
- 2- That during service as patwari the appellant was served with a show cause notice dated 13.2.2020 where in it were alleged that:-

Filed to-day
Registrar
01/6/2020

- (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 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.**

- 3- 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.**
- 4- 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.

5- 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.

6- 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 real facts and figures, therefore the impugned order dated 20.2.2020 is void ab initio in the eye of law and rules.

I- That the respondent No.2 was called Revenue Darbar but the appellant was not informed about such Darbar and due unawareness the appellant was not appear in the aforementioned Darbar.

J- 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.

K- 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


MIR REHMAN SHAH

THROUGH:


NOOR MUHAMMAD KHATTAK


MIR ZAMAN SAFI

&

**AFRASIAB KHAN WAZIR
ADVOCATES**



A-5

THE DEPUTY COMMISSIONER, PESHAWAR

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

No. 00527 /DC(P)/EA

Dated: 13-February-2020

ORDER:

Mr. Mir Rahman Shah, Patwari Halqa Tarnab 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 as well as non-shifting of Patwar Khana to your respective Halqa.

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 Shah Alam with the direction to hand over the charge of above referred patwar halqa to a suitable patwari of adjacent mauza till further orders.
6. Official concerned for compliance.

DEPUTY COMMISSIONER

ATTESTED


B-6

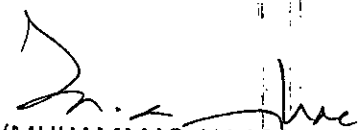
SHOW CAUSE NOTICE

I, 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. Mir Rahman Shah, Patwari Halqa Tarnab, as follows:

1. That you were posted as Patwari Halqa Tarnab 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.

ATTESTED




(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER
(Competent Authority)

To

The worthy Deputy Commissioner
Peshawar.

C-7

Subject: - REPLY TO THE SHOW CAUSE NOTICE NO. 656/DK DATED 12 FEBRUARY 2020.

Dear Sir,

With reference to the show cause notice above, I submit the following.

1. That I perform my duties to the entire satisfaction of my superior with great Zeal Zest, Honesty, enthusiasm and throughout my service career, no complaint from anyone made against me.
2. That prior to this show cause Notice no charge sheet along with statement of allegations or Regular inquiry was conducted which is mandatory under the Law.
3. That Right of fair Trial has been generated by the Article 10-A of The constitution of Islamic Republic of Pakistan 1973. However issuing such a show cause Notice amount to Violation of Article 10- A of the constitution 1973.
4. That the issuance of show cause Notice amount to discrimination as there are several other official posted in the Tehsil sadder However the issuance of show cause Notice to me is discrimination which is violation of Article 25 of the constitution of Islamic Republic of Pakistan 1973. Hence the same, being void is Liable to be filed, without further proceedings.
5. That there is no ocular or circumstantial evidence which may support the allegations against me.
6. That from Para 3 of the show cause notice it is evident that your good self is not only complainant, Judge but eyewitness as well. However it is a settled principle of Law that "no one can become a Judge in his own cause.
7. That though the inquiry has been dispensed with however no reason fo dispensation of the inquiry as per Rules 5 Read with R 7 of E& D Rules 2011, has been mentioned thus the show cause Notice is violation of the above Rules.
 - a. That allegation mentioned in this Para is totally denied as I have not been informed through any letter/ parwana or order so I performed my duty at my place of posting and was unware from any such Darbar. I always obeyed the orders of my superior's and facilitate the public of large throughout my service career.

ATTESTED
ms

- b. That allegation in Para (b) is incorrect neither I disobeyed the orders of my superior nor did I instigate any official for disobedience or boycotting polio or shifting patwar Khanas. There is no single iota of evidence in support of the allegations leveled in the show cause Notice.
- c. That neither I disobeyed or performed any act which amount to disobedience nor misconduct, therefore this allegation is denied.
- d. Incorrect proper reply has been given in reply to the allegations (b) and (c).
- e. Incorrect as already stated in reply to the above charges that I have not disobeyed or violated any order of my superiors or committed misconduct and all the allegations are baseless.

It is, therefore, requested that on acceptance of the above reply the instant show cause Notice, may kindly be filed without any further proceedings. I further request for personal hearing.

Yours obediently



(MIR REHMAN SHAH)
Patwari Halqa Tarnab
Peshawar.

ATTESTED





D-9

THE DEPUTY COMMISSIONER, PESHAWAR

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

No. 751 /DK

Dated: 20-February-2020

ORDER:

WHEREAS, Mr. Mir Rahman Shah, Patwari Halqa Tarnab was placed under suspension vide order No.00527/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.

ATTESTED

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NOW THEREFORE, in exercise of the powers conferred under Rule-04(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I Muhammad Ali Asghar, Deputy Commissioner Peshawar is competent authority, hereby impose a major penalty of *Dismissal from service* upon Mr. Mir Rahman Shah, Patwari with immediate effect.


-(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

- (i) Commissioner, Peshawar Division, Peshawar.
- (ii) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- (iii) Addl. Deputy Commissioner, Peshawar.
- (iv) Addl. Assistant Commissioner (Rev) Peshawar.
- (v) Accounts Officer of DC office for necessary action.
- (vi) Mr. Mir Rahman Shah, Ex-Patwari Peshawar.


DEPUTY COMMISSIONER

To

THE HONOURABLE COMMISSIONER,
Peshawar Division, Peshawar.

E - (11)

Subject: **DEPARTMENTAL APPEAL AGAINST THE DISMISSAL ORDER DATED 20.02.2020**

Respected Sir,

Most respectfully it is stated that I was working as patwari hlqa tarnab in District Peshawar. I was appointed as Halqa Patwari under your kind control in District Peshawar. During my entire service career I have performed my duties quite efficiently, whole heartedly and upto the entire satisfaction of my high ups and as such I have an unblemished service record.

That while performing my duty I was issued a show cause notice which was followed by the impugned dismissal order whereby major penalty of dismissal from service was imposed on me. **(copies of show cause, reply and impugned dismissal order are annexed)** that feeling aggrieved from the impugned dismissal order I approached your good self through this departmental appeal and submit as under.

That the impugned order has been passed in a hasty manner without following codal formalities as mentioned in the E&D Rules, 2011. That no statement of allegations and charge sheet has been served on me which is mandatory requirement of E&D rules, 2011 before passing major penalty. That the allegations leveled in show cause has not been substantiated by a single iota of evidence. That though inquiry has been dispensed with to dig out the true state of facts by the worthy deputy commissioner while imposing the major penalty of dismissal from service, but no reasons has been recorded for dispensing the same which is mandatory under E&D rules. That I submitted a detail reply to the show cause notice but neither that reply has been considered nor any opportunity of personal hearing has been extended to me which is not only against E&D rules but

ATTESTED

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reply has been considered nor any opportunity of personal hearing has been extended to me which is not only against E&D rules but also against principle of natural justice and fundamental right guaranteed under Article 10(A) of the Constitution of Pakistan, 1973.


Furthermore the main allegation leveled in show cause notice and dismissal order is about absentia from Tehsil darbar on 13/02/2020, but it is pertinent to mention here that no notice in this regard has been served on me and on the same date I was performing duty on my original place of duty. It is also worth mentioning that I have not disobeyed any order of my superiors.

Thus in view of the above submission, it is, therefore, most kindly requested that Dismissal order dated 20.02.2020 may be set aside and I may be re-instated into service with all back benefits.

I shall be very thankful to you for this kindness.

Dated: 24-02.2020

ATTESTED


Obediently Yours,

Mir rahman shah,
Patwari, halqa
tarnab.



(12/A)

**OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR**

No. Reader CPD/2020 /
Date: 04.03.2020

To

The Deputy Commissioner
Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAISNT THE IMPUGNED ORDER
DATED 20.02.2020.**

I am directed to enclose herewith a copy of departmental appeal filed by the appellant (**Mr. Rehman Shah ex-Patwari**) against the order bearing no. 750/DK dated 20.02.2020 of the Deputy Commissioner Peshawar whereby the appellant was dismissed from service under Rule4(1)(b)(iv) of the Khyber Pakhtunkhwa Servants (Efficiency & Disciplinary) Rules-2011.

It is requested that Para-wise comments in the matter may be furnished please.

Assistant to Commissioner (Rev/GA)
Peshawar Division Peshawar.

No. Reader CPD/2020

Copy forwarded to PS to Commissioner Peshawar.

Assistant to Commissioner (Rev/GA)
Peshawar Division Peshawar.

ATTESTED

m

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Mir Rehman Shah (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Revenue Deptt: (RESPONDENT)
(DEFENDANT)

I/We Mir Rehman Shah

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

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

Sho
SHAHZULLAH YOUSAFZAI

Mir Zaman Safi
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.4926/2020

Mir Mir Rehman Shah, Ex-Patwari, 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.

- 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)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Appeal No.4926/2020

Mr. Mir Rehman Shah, Ex-Patwari, 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.
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