

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 04/2019

Date of Institution ... 28.12.2018

Date of Decision ... 02.09.2021

Musharaf Khan S/o Aziz Khan, Presently working as District Qanungo/Naib Tehsildar, Tehsil and District Bannu.

... (Appellant)

VERSUS

Commissioner Bannu Division and three others.

... (Respondents)

Mr. INAYAT ULLAH KHAN,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General


--- For respondents.

MR. SALAH-UD-DIN
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

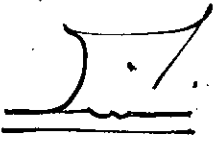
JUDGMENT:

SALAH-UD-DIN, MEMBER:-


The brief facts giving rise to filing of the instant appeal are that one Muhammad Nawaz S/o Shams-ul-Kibad Shah had submitted complaint to the Deputy Commissioner Bannu, wherein it was alleged that the Patwari Gul Zarif Khan alongwith Kanungo had taken Rs. 24000/- as Government Tax for attestation of mutation regarding land measuring 06 Kanals purchased by the appellant at the Rs. 100000/- per Kanal, while further amount of Rs. 28000/- was also taken from the complainant as illegal gratification; that the mutation

was still pending attestation and further amount of Rs. 24000/- was being demanded from the complainant. In view of the complaint of Muhammad Nawaz, an inquiry was initiated and on the completion of the inquiry, minor penalty of withholding of three annual increments with accumulative effect was imposed upon the appellant vide order dated 05.10.2017, passed by competent Authority. The departmental appeal of the appellant was also declined, therefore, he has filed the instant Service Appeal for redressal of his grievance.


2. Notice was issued to the respondents, who submitted their comments, wherein they negated the contention of the appellant.


3. Learned counsel for the appellant has contended that the charge sheet as well as statement of allegations were issued to the then Patwari Halqa Mouza Shagi Machan Khel namely Gul Zarif, however on conclusion of the inquiry, penalty was also imposed upon the appellant; that the impugned penalty was imposed upon the appellant in utter violation of the relevant provisions of Efficiency & Disciplinary Rules, 2011; that initially the sale amount of Rs. 600000/- was entered in the concerned sale mutation and as a local commission too, the appellant has mentioned in his report that the sale amount was Rs. 600000/-, however the sale amount was later on changed and has been shown as Rs. 1200000/-, however the same was not done by the appellant as he has nothing to do with the said alteration; that no evidence whatsoever was collected during the inquiry, which could show that the appellant had demanded any illegal gratification from the complainant; that the impugned penalty of deduction of three increments is neither in correspondence to nor in consonance with the dictates of F.R-29 because a specific time has not been mentioned while awarding the impugned penalty; that the appellant is quite innocent and has been wrongly penalized, therefore, the impugned orders

may be set-aside. Reliance was placed on 2002 PLC (C.S) 1388, 1990 PLC (C.S) 95 and 2006 PLC (C.S) 489.

4. Conversely, learned Additional Advocate General for the respondents has argued that as the departmental appeal of the appellant was time barred, therefore, the instant service appeal is also hit by limitation and is liable to be dismissed on this score alone; that proper inquiry was conducted against the appellant, who was found guilty of the allegations leveled against him, therefore, the impugned penalty has been rightly imposed upon him.

5. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.



6. A perusal of the record would show that the appellant has specifically alleged in his appeal that the charge sheet as well as statement of allegations were issued to Mr. Gul Zarif the then Patwari Halqa Mouza Shagi Machan Khel and not to the appellant. The respondents have denied the aforementioned assertion of the appellant by giving a vague reply in their comments, without producing any charge sheet or statement of allegations issued to the appellant. The assertion of the appellant is thus admitted as correct that any charge sheet and statement of allegations were not issued to him. The aforementioned fact has created a material dent in the disciplinary action against the appellant. The inquiry was initiated against Mr. Gul Zarif the then Patwari Halqa Mouza Shagi Machan Khel, however on conclusion of inquiry, final show-cause notice was issued to the appellant, which procedure is not in accordance with the provisions of Efficiency & Disciplinary Rules, 2011.


7. The charge sheet as well as statement of allegations issued to Mr. Gul Zarif, the then Patwari Halqa Mouza Shagi Machan Khel would show that he was proceeded against on the allegations that as per written complaint submitted by the

complainant Muhammad Nawaz, the said Patwari had obtained an amount of Rs. 28000/- as illegal gratification alongwith Rs. 24000/- as mutation fee and was demanding further amount of Rs. 24000/- from the complainant for attestation of mutation. The inquiry report of the inquiry officer would, however show that instead of probing the allegations as mentioned in the charge sheet as well as in the statement of allegations, he has mainly probed regarding the alteration in the sale amount as entered in the concerned sale mutation. No cogent evidence is available on the record that the alteration so made in the sale amount as entered in the concerned sale mutation was made by the appellant. The inquiry was initiated against Mr. Gul Zarif the then Patwari Halqa Mouza Shagi Machan Khel, therefore, the appellant was not afforded any opportunity of proper defence. On appraisal of the material evidence available on the record, it can safely be concluded that the inquiry proceedings were conducted in a slipshod manner and the allegations against the appellant were not proved. The impugned order of awarding of penalty to the appellant is wrong and illegal, hence not sustainable in the eye of law. So far as the question of limitation is concerned, the issue being one of financial nature is a continuing cause of action, which could be agitated at any time.

8. In light of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is held entitled to all consequential back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.09.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


ORD
02.9

Appellant alongwith his counsel Mr. Inayatullah, Advocate, present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is held entitled to all consequential back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.09.2021



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


01.09.2021

Appellant alongwith his counsel Mr. Inayatullah, Advocate, present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Arguments heard. To come up for order before the D.B on 02.09.2021.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

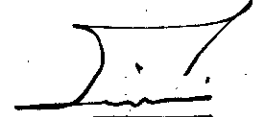
13.07.2021

Appellant in person present. Mr. Wali Muhammad Jan Reader alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant sought adjournment on the ground that his counsel is not available today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on 06.08.2021.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

06.08.2021

Appellant in person present.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 01.09.2021 before D.B.



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

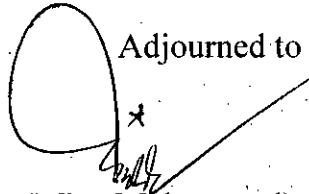
(Rozina Rehman)
Member (J)

27.11.2020

Mr. Mir Zaman Safi, Advocate on behalf of counsel for the appellant present. Assistant: AG for respondents present.

A request for adjournment on account of indisposition of learned counsel is made at the Bar.

Adjourned to 18.02.2020 for arguments before D.B.


(Mian Muhammad)
Member (E)


Chairman

*Due to pandemic of Covid-19
the case is adjourned to 02-04-2021*

*On
Reader*


02.04.2021

Appellant with counsel present.

Muhammad Rasheed learned Deputy District Attorney for respondents present.

Arguments on behalf of learned counsel for appellant heard. Learned D.D.A made a request for adjournment.

Adjourned to 28/04/2021 for arguments before this D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

28.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 13.07.2021 for the same as before.


Reader

12.03.2020

Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourn. To come up for arguments on 27.04.2020 before D.B.


Member


Member

27.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18.08.2020 before D.B.


Reader

18.08.2020

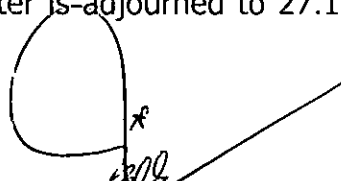
Due to summer vacations, the case is adjourned to 20.10.2020 for the same.


Reader

20.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 27.11.2020 for hearing before the D.B.


(Mian Muhammad)
Member


Chairman

04.10.2019

Nemo for the appellant. Mr. Kabirullah Khattak Additional AG along with Mushtaq Khan Computer Operator for the respondents present.

Representative of respondents submitted joint written reply on behalf of respondents No. 1 to 4 which is placed on record. The appeal is posted for arguments for 20.12.2019 before D.B. The appellant may submit rejoinder within fortnight, if so advised.


CHAIRMAN

20.12.2019

Clerk to counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney present. Clerk to counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment as learned counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 24.02.2020 before D.B.


Member


Member

24.02.2020

Clerk to counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not available. Adjourn. To come up for arguments on 12.03.2020 before D.B.


Member


Member

27.05.2019

Nemo for the parties.

Notices be issued to appellant as well as respondents for the next date. To come up for written reply/comments on 04.07.2019 before S.B.


Chairman

04.07.2019

Appellant in person and Addl. AG alongwith Abdul Samad, AAC (Revenue) for the respondents present. Representative of the respondents requested for time. To come up for written reply/comments on 11.09.2019 before S.B.


Member

11.09.2019

Counsel for the appellant and Addl. AG alongwith Mushtaq Khan, Computer Operator for the respondents present.

Representative of the respondents requests for further time for submission of reply/comments. Last opportunity granted. To come up for requisite reply/comments on 04.10.2019 before S.B.

Chairman 

Handwritten notes:
No. 120
18-0-19

09.04.2019

Counsel for the appellant present.

The appellant is aggrieved of order dated 05.10.2017 whereby penalty of withholding of three (03) annual increments with accumulative effect was imposed upon him. His departmental appeal against the said order was also dismissed.

Learned counsel argued that the appellant was condemned unheard as no opportunity of personal hearing was afforded to him during the departmental proceedings. Similarly, the appellant was not issued any statement of allegations or charge sheet hence the impugned order was without lawful authority.

In view of the arguments of learned counsel for the appellant, instant appeal is admitted for regular hearing subject to exceptions regarding the delay in filing of departmental appeal or the appeal in hand. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 27.05.2019 before S.B.


Appellant Deposited
Security & Process Fee




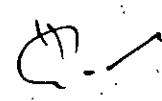

Chairman

Form-A

FORM OF ORDER SHEET

Court of _____

Case No. 4/2019


S.No.	Date of order proceedings	Order or other proceedings with-signature of judge
1	2	3
1-	01/1/2019	<p>The appeal of Mr. Musharaf Khan resubmitted today by Mr. Inayat Ullah 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 11/1/19 </p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28-2-19</u>.</p> <p style="text-align: right;">  CHAIRMAN </p>
28.01.2019		<p>Junior counsel for the appellant present and requested for adjournment on the ground that learned senior counsel for the appellant is busy in the Hon'ble Peshawar High Court, Peshawar. Adjourned to 28.02.2019 for preliminary hearing before S.B.</p> <p style="text-align: right;">  (MUHAMMAD AMIN KHAN KUNDI) MEMBER </p>
	28.02.2019	<p>Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 09.04.2019 before S.B.</p> <p style="text-align: right;">  Member </p>

The appeal of Mr. Musharaf Khan son of Aziz Khan District Qanungo Tehsil and Distt. Bannu resubmitted today i.e. on 27.12.2018 is incomplete on the following score which is returned again to the counsel for the appellant for completion and resubmission within 15 days.

- ① Copy of shown cause notice is not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- ③ Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Copy of enquiry report is illegible which may be replaced by legible/better one.
- 6- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal


No. 2475 /S.T,

Dt. 31/12 /2018.


REGISTRAR - 31/12/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Inayatullah Khan Adv. Pesh.

Sir ~~objection regarding Show Cause~~ ~~is not~~
~~available~~ with the Council hence submitted.


1-1-2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.
PESHAWAR.

Service Appeal No. 4 /2019

Musharaf KhanAppellant

Versus

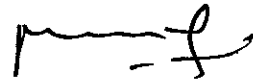
Commissioner Bannu Division & others.....Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1.	Memo of appeal with affidavit.		1-7
2.	Addresses of the parties.		8
3.	Copy of service card	A	9
4.	Copy of original order dated 05.10.2017	B	10
5.	Copy of complaint	C	11-13
6.	Copy of Inquiry report	D	12-14
7.	Copy of defence reply alongwith mutation	E & F	15-16
8.	Copy of charge sheet	G	17
9.	Copy of statement of allegation	H	18
10.	Copy of impugned order dated 05.10.2017	I	19
11.	(Copy of departmental appeal and impugned final order	J & K	20-28
12.	Wakalatnama.		

Dated: 29.12.2018

Appellant
Through



Inayat Ullah Khan
Advocate High Court
Peshawar
LL.M (U.K)

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 4 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1824

Dated 28/12/18

Musharaf Khan son of Aziz Khan
presently working as
District Qanungo/ Naib Tehsildar, Tehsil and District Bannu

..... Appellant

VERSUS

- 1) Commissioner Bannu Division
- 2) Deputy Commissioner Bannu.
- 3) Additional Deputy Commissioner Bannu
- 4) Assistant Commissioner Revenue Bannu..... Respondents

Appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned original order endorsement No. 6518/BC/AE dated 05.10.2017 whereby the penalty of "WITHHOLDING THREE ANNUAL INCREMENTS WITH ACCUMULATIVE EFFECT" was imposed upon the appellant against which departmental appeal dated 02.02.2018, was dismissed by respondent No.1, vide order dated 29.11.2018 and the same was communicated to the appellant on 30.11.2018 hence the instant appeal file before this Honourable Tribunal within 30 days which is well within time.

Filed to-day
Registrar
28/12/18

Note:

That matters relating to pay and pensions and other emoluments is a recurring cause of action therefore no limitation runs against such like issues .

(Reported judgment PLD 1992 Supreme Court Page 825; 2002 PLC (CS) page 1388)

Prayer:

On acceptance of this Service Appeal, the impugned original order endorsement No. 6518/BC/AE dated 05.10.2017 and final order dated 29.11.2018 communicated to the appellant on 30.11.2018 may kindly be set aside and the penalty of "WITHHOLDING THREE ANNUAL INCREMENTS WITH ACCUMULATIVE EFFECT" may kindly be set-aside with consequential back benefits/ arrears.

Any other relief not specifically asked for and to whom the appellant found entitled may also be granted.

Respectfully Sheweth:

Brief facts giving rise to the instant Service Appeal are as under:-

- 1) That the appellant was appointed as Patwari (BPS-09) in the year 1986 and thereafter promoted to the post of Girdawar (BPS-11) and presently working as District Qanungo in his own pay and scale.
(Copy of service card is attached as Annexure "A").
- 2) That the appellant has almost Thirty Two (32) years service at his credit at the time of imposition of penalty of "WITHHOLDING THREE ANNUAL INCREMENTS WITH ACCUMULATIVE EFFECT".

- 3) That the respondent No.2 vide impugned original order endorsement No. 6518/BC/AE dated 05.10.2017 imposed the penalty of "WITHHOLDING THREE ANNUAL INCREMENTS WITH ACCUMULATIVE EFFECT" upon the appellant.
(Copy of original order dated 05.10.2017 is attached as Annexure "B").
- 4) That respondent No.4 conducted inquiry on the complaint of Muhammad Nawaz S/o Shamsul Kibad Shah wherein it was alleged that the complainant purchased 6 kanal land for an amount of one lac per kanal total Rs. 6 lac rupees for which Rs.24000/- was demanded as government tax and further demanding Rs. 24000/- .
(Copy of complaint is attached as Annexure "C").
- 5) That keeping in view the complaint as referred in para No.4, an inquiry was conducted by respondent No.3 vide inquiry report No. 697-99/ AAC-I V dated 20.07.2017 in which it was found that the Halqa Patwari Girdawar both seem to be involved in tempering of the record and the case was submitted for the decision.
(Copy of Inquiry report is attached as Annexure "D").
- 6) That the appellant submitted his detailed reply to the respondent No.1 by refuting the allegations of tempering viz-a-viz an amount of Rs 12 lac as it was categorically stated by the him that he entered an amount of Rs. 6 lacs in his report in column No. 13 of the mutation No. 1786 on 17.11.2016 and the same was entered by Halqa Patwari on 10.11.2016 thereafter the same figure of Rs. 6 Lacs was subsequently changed on 16.02.2017, therefore, the appellant has got no concern whatsoever with changing the figure from Rs. 6 Lacs to 12 Lacs hence the responsibility viz-a-viz tempering in the record was wrongly fixed on the shoulder of appellant as evident from mutation No. 1786. **(Copy of defence reply alongwith mutation are attached as annexure "E" and "F").**
- 7) That respondent No.2 vide charge sheet No. 1169-74/AE dated 27.02.2017 charge sheeted Mr. Gul Zarif Halqa Patwari Shegi Machan Khel Bannu for allegations *"that as per written complain*

(4)

submitted by one Mr. Muhammad Nawaz resident of Shegi Machan Khel you have obtained an amount of Rs. 28000/- as illegal gratification as well as Rs. 24000/- as mutation fee/ Government Tax etc and now you were allegedly further demanding Rs. 24000/- for mutating/ transferring of land.” (Copy of charge sheet is attached as annexure “G”).

- 8) That beside the charge sheet refer to Para No.7 statement of allegation was also served upon Mr. Gul Zarif Patwari Halqa Shegi Machan Khel Bannu for allegations of obtaining illegal gratification. **(Copy of statement of allegation is attached as annexure “H”).**
- 9) That respondent No.2 vide impugned order reference No. 6518 BC/AE dated 05.10.2017 imposed the minor penalty of withholding 3 annual increments with accumulative effect under rule 4-a(ii) of Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011. **(Copy of impugned order dated 05.10.2017 is attached as annexure “I”).**
- 10) That the appellant preferred his departmental appeal before the respondent No.1 against the original impugned order dated 05.10.2017 with the prayer to set aside the impugned order but the same was declined vide impugned final order dated: 29.11.2018 which was communicated to the appellant on 30.11.2018. **(Copy of departmental appeal and impugned final order are attached as annexure J & K).**

The appellant being dissatisfied with the impugned orders both original and appellate, presents this Service Appeal for setting aside the penalty of **“WITHHOLDING THREE ANNUAL INCREMENTS WITH ACCUMULATIVE EFFECT”** on the following grounds:-

GROUND:

- a. That the impugned orders dated 05.10.2017 and 29.11.2018 communicated to the appellant on 30.11.2018 whereby the penalty of **“WITHHOLDING THREE ANNUAL INCREMENTS WITH**

5

ACCUMULATIVE EFFECT" are against the law, facts, record and the established procedure laid down in the Khyber Pakhtunkhwa (E&D) Rules 2011, hence liable to be set aside.

- b. That the appellant has not been treated in accordance with law in terms of the mandate of Article 4 of the Constitution of Islamic Republic of Pakistan 1973.
- c. That the appellant has been condemned unheard as no opportunity of personal hearing was afforded to him by imposing the illegal penalty in haste which factum is against the established principles of natural justice, fair play and equity.
- d. That no statement of allegations nor any charge sheet was served upon the appellant therefore, the penalty on the strength of show cause notice is illegal and without lawful authority hence the impugned orders are not tenable in the eyes of law alone on this ground.
- e. That no allegation of tempering with the record viz-z-viz an amount of Rs. 12 Lacs had been established on the part of appellant as evident from mutation No. 1786. The appellant correctly entered an amount of Rs. 6 Lacs as the purchased price of land measuring 6 kanal on 17.11.2016 and the same was entered initially by the Halqa Patwari on 10.11.2016 which was subsequently changed/ tempered by the concerned Halqa Patwari and revenue officer/ Tehsildar on 16.02.2017, hence the appellant has no role whatsoever in tempering with the figure of Rs. 6 Lacs to Rs. 12 Lacs.
- f. That the inquiry conducted by the respondent No.4 remained oblivion of the fact that the responsibility vis-à-vis the allegations contained in the complaint filed by one Muhammad Nawaz was wrongly fixed on the shoulder of the present appellant altogether ignoring the fact that the present appellant correctly entered an

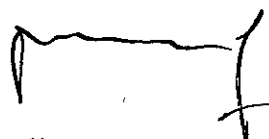
amount of Rs. 6 Lacs as purchased price of land measuring 6 kanal on 17.11.2016 but the same was subsequently tempered on 16.02.2017 by the Halqa Patwari and Tehsildar hence no such responsibility can be fixed viz-a-viz tempering as evident from mutation No. 1786.

- g. That *no opportunity of cross examination was given to the appellant to confront the complainant viz-a-viz the alleged allegations leveled against the him* hence the principle of natural justice which are part and parcel of all statutes and the due process of law as mandated by *Article 10-A* of Constitution was blatantly violated by the inquiry officer.
- h. That the inquiry report is based upon malafide, illwill as nothing wrongful/ illegal has been established against the appellant therefore the recommendation for imposition of minor penalty is without force and substance hence not tenable in the eyes of law.
- i. That no final show-cause notice was given to the appellant nor any opportunity of meaningful personal hearing was afforded to him, hence the impugned orders be liable to set-aside on this ground alone.
- j. That additional grounds will be raised at bar with the permission of this Honourable Tribunal.

On acceptance of this Service Appeal, the impugned original order endorsement No. 6518/BC/AE dated 05.10.2017 and final order dated 29.11.2018 communicated to the appellant on 30.11.2018 may kindly be set aside and the penalty of "WITHHOLDING THREE ANNUAL INCREMENTS WITH ACCUMULATIVE EFFECT" may kindly be set-aside with consequential back benefits/ arrears.

7

Any other relief not specifically aside for and to whom the
appellant found entitled may also be granted.



Appellant

Through



Inayat Ullah Khan
Advocate High Court
Peshawar
LL.M (U.K.)

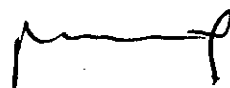
&

Faheemullah Khan
Advocate High Court
Peshawar

Dated: 29.12.2018

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are
true and correct to the best of my knowledge and belief and nothing has
been concealed from this Hon'ble Court.



Deponent

CNIC No.22201-9924247-7



8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. _____/2018

Musharaf KhanAppellant

Versus

Commissioner Bannu Division & others.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

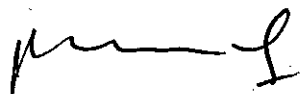
Musharaf Khan son of Aziz Khan

presently working as

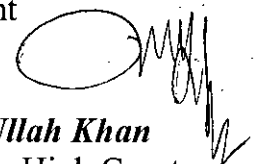
District Qanungo/ Naib Tehsildar, Tehsil and District Bannu

RESPONDENTS:

- 1) Commissioner Bannu Division
- 2) Deputy Commissioner Bannu.
- 3) Additional Deputy Commissioner Bannu
- 4) Assistant Commissioner Revenue Bannu



Appellant
Through



Inayat Ullah Khan
Advocate High Court
Peshawar
LL.M (U.K)

Abd "A" (9)

GOVERNMENT OF KHYBER PAKHTUNKHWA
DEPUTY COMMISSIONER OFFICE, BANNU

S.No: 165

Name: MUSHARAF KHAN

Designation: NAIB TEHSILDAR

BPS: 11 Employee No: 181982

Station: TEHSIL OFFICE, DOMEL Deputy Commissioner
Bannu

Father Name: AZIZ KHAN

NIC No: 22201-9924247-7

Mobile No: 03005764005

Address: CUTOM BAKA KHEL

Date of Birth: 047-10-1964 B/Group: A+ve

If found, Please dispatch it to the office of
Deputy Commissioner, Bannu Cantt (0928-9270032)

ATTESTED



Annex "B" (10)
OFFICE OF THE
DEPUTY COMMISSIONER
BANNU

No. 6518 BC/AE/

Dated: 5/10/2017

OFFICE ORDER

Consequent upon the recommendation of Inquiry Officer, Mr. Musharaf Khan Girdawer (BPS-10) involved in Tempering of record, I (Fazal Akbar Deputy Commissioner Bannu) as competent authority imposed Minor Penalty of withholding of three annual increments with accumulative ^{effect} under rule 4-a(ii) of Khyber Pakhtunkhwa Govt: Servants E&D Rules 2011.

Deputy Commissioner
Bannu

Even No & Date.

Copy forwarded to the:-

- 1- District Comptroller of Accounts Bannu.
- 2- Assistant Commissioner Bannu.
- 3- PS to Deputy Commissioner Bannu.
- 4- Tehsildar Bannu.
- 5- Bill Clerk/Estab: of Deputy Commissioner Office Bannu.
- 6- Official concerned.

Deputy Commissioner
Bannu

Attested

Anx "C" (111)

① بحیرت صباب ڈی - ب تحصیل، ضلع بیرون

صباب عالی

عنوان :- پبلک سروس کمیشن، ضلع بیرون، ضلع بیرون

موضوع :- درخواست بحیرت صباب ڈی کے لیے۔ کہ جسٹی محمد نواز خان زمیندار نے بحیرت صباب ڈی میں

5-0-0 خریدی ہیں۔ ایک لاکھ روپے فی سال انتقال پر لگایا گیا تھا۔

بیورو اور قانونی 20000/2 روپے بطور روٹین لگایا ہے۔ 8 ہزار روپے تحصیلدار

کے لئے لگایا گیا ہے۔ خورد/24000 ہزار روپے سرکاری ٹیکس لگایا گیا ہے۔

2000 تقریباً ہو گیا ہے۔ اب تک اس نے سرکاری ٹیکس جمع نہیں کیا گیا ہے۔

اب جمعہ تک کرنا ہے۔ خورد/24000 ہزار روپے اور بھی جمع دیں دو۔

تو یہ صاحبان بیرون کے میری خریدی گئی زمین میرے نام پر کر دیا جائے

عین نواز پھولی

فونو نمبر 14/2/17

NIC No. 11101-5236771-9

محمد نواز ولد شمش القادریہ علی ضلع بیرون ضلع بیرون ضلع بیرون

mob: - 0332 9648244

دستی درجہ شدہ 2 نواز نسیم خود

ACCEPTED

A.I.

A

D.C. Bahl
14/2/2017

3 Ans

5/10/2017

File

Office

Ans "D" (19)

OFFICE OF THE
ADDITIONAL ASSISTANT COMMISSIONER-IV
BANNU

Annexure "D"

No. 697-99 /AAC-IV

Date Bannu The 20 /07/2017

INQUIRY REPORT

1. Introduction:

On the Application of Mr. Shamsul qibad Shah regarding demanding of money by Gul Zarif Patwari from him. The Honorable Deputy Commissioner Bannu directed the Additional Assistant Commissioner IV Bannu to do an inquiry in the matter (Annex A)

2. History of the Case:

A person named Muhammad Nawaz Shah S/O Shamsul qibad Shah has on 14/02/2017 through a letter at (Annex-B) Complained to Deputy Commissioner Bannu that he has bought 6 kanal-0 Marla-0 Sarsai land Banjar Qadeem in Shagai Michen Khel at a cost of one Lac rupees per Kanal with a total amount of (06) Six Lac and went to the Patwari in order to register the mutation. The photo state of mutation may be seen at (Annex-C). As per attached photo state the land is located in Mouza Shagai Michen Khel in Khata No 540. The previous owners were Balqiaz Khan, Gulzar Khan etc out of a total i-e 1314/18750 Behai Qati equal to 06 Kanal from 85 Kanal- 13 Marals- 0 Sarsai was sold on Rs.1200000/- (twelve lacs) and mutation number 1786 was registered on 10-11-2016 by the patwari. The girdawar did its partal on 14-11-2016 and was approved an Jalsa-Aam on 16-02-2017. The applicant has stated that the total amount was written as (06) Six Lac. The Patwari and Kanugo took Rs.20,000 rupees as routine and Rs.8000/- rupees were taken for Tehsildar. He has further stated that 24000/- rupees were taken in the head of Government taxes. Now the Patwari is demanding a further amount of the Rs.24000/- rupees from him which is illegal. He has further demanded for the registration of the concerned mutation

3. Statement of Allegation.

The Charge Sheet of Gul Zarif Patwari may be seen at (Annex-D) in which the following allegation has been leveled against him.

"That as per written complaint submitted by one Mr. Muhammad Nawaz resident of Shagai Michan Khel. You have obtained an amount of Rs.28000/- as illegal gratification as well as Rs.24000/- as mutation fee/Government tax etc and now were allegedly demanding Rs.24000/- for mutating/ transferring of land". The disciplinary proceeding may be seen at (Annex-E).

3
Attended

AE

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No.	
Of.	
Return date	
Deputy Commissioner Bannu	

(875)

**OFFICE OF THE
ADDITIONAL ASSISTANT COMMISSIONER-IV
BANNU**

No. 697-99/AAC-I V

Date Bannu the 20/07/2017

INQUIRY REPORT

1. INTRODUCTION:

On the Application of Mr. Shamsul Qibad Shah regarding demanding of money by Gul Zarif Patwari from him. The Hon'ble Deputy Commissioner Bannu directed the Additional Assistant Commissioner-IV Bannu to do an inquiry in the matter (Annex-A)

2. History of the case:

A person named Muhammad Nawaz Shah S/o Shamsul qibad Shah has on 14.02.2017 through a letter at (Annex-B) complained to Deputy Commissioner Bannu that he has bouoght 6 Kanal 0 Marla 0 Sarsai Land Banjar Qadeem in Shagai Michen Khel at a cost of one lac rupees per kanal with a total amount of 06 Six lac nad went to the patwari in order to register the mutation. The photostate of mutation may be seen at (Annex-C). as per attachead photo state the land is licated in Mouza Shagai Michen Khel in Khata No 540. The previous owners were balqaiz Khan, Gulzar Khan etc out of a total i.e 1314/18750 Behai Qati equal to 06 Kanal from 85 Kanal 13 Marlas 0 Sarsai was sold on Rs. 1200000/- (Twelve Lacs) and mutation number 1786 was registered on 10.11.2016 by the aptwari. The girdawar did its partal on 14.11.2016 and was approved an Jalsa aam on 16.02.2017. the Applicant has stated that the total amount was written as (06) six Lac. The Patwari and Kanungo took Rs. 20000 rupees as routine and Rs. 8000/- rupees were taken for tehsildar. He has further stated that 24000/- rupees were taken in the head of Government taxes. Now the Patwari is demanding a further amount of the Rs. 24000/- rupees from him which is illegal,. He has further demanded for a registration of concerned mutation.

3. Statement of allegation.

The Charge Sheet of Gul Zarif patwari may be seen at (Annex-D) in which the following allegation has been leveled against him.

"That as per written complaint submitted by one Mr. Muhammad Nawaz resident of Shegai Michen Khel. You have obtained an amount of Rs. 28000/- as illegal gratification as well as Rs. 24000/- as mutation fee/Government tax etc and now were allegedly demanding Rs. 24000/- for mutating / transferring of land". The disciplinary proceeding may be seen at (Annex-E)

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ARRESTED

72 (13) 2

(13)

4. Procedure of the Inquiry:

Both of the Parties i.e complainant and respondent were called for not only recording the statements but record was also consulted.

(1) Statements of the Patwari:

The statements of Gul Zareef patwari may be seen at (Annex-F) wherein he has stated that on 09/11/2016 a person Muhammad Nawaz S/O Shamsul qibad came to him along with Balqiaz Khan S/O Bahadar Khan residents of Shagai Michen Khel in order to register Mutation in Khata No-540 Qita 20 area 85 Kanal- 13 Marlas- Behai Qati from which 06 Kanal-0 Marlas-0 Sarsai was sold to Muhammad Nazwaz S/O Shamsul qibad. He took their statements and written down intiqal number 1786 which was approved in Jalsa-Aam on 16-02-2017 and he has not demanded any money from him.

Roznamcha:

From Roznamcha of 09-11-2016 which may be seen at (Annex-G) it is confirmed that the concerned person came to the patwari in order to register mutation in Khata No 540 Shagai Michen Khel total 20 parts equal to 85 Kanal-13 Marlas- with share 278/625 and 411/625 from which 06-Kanals were sold to Muhammad Nawaz S/O Shamsul qibad on Six Lac rupees. The Roznamcha has finger prints of Balqiaz , Muhammad Nawaz Ali Shah and Zareef. The photo state of twenty qitat of Khata No 540 may be seen at (Annex-H). It is very much clear from the mutation that first the mutation was made for 06 Lac Rupees which has been deleted through pen and replaced by 12 Lacs on 16-12-2017 however further reference on the back side of the mutation on which entry has been made on 17-11-2016 it has been rectified that the land is sold on Six Lac. It seems that the document has been tempered.

Statements of the Complainant:

The Complainant was not only cross questioned but also took statements from him. He has told in his statements which may be seen at (Annex-I) which confirmed that first land price was entered as 12 lacs. Which was approved by Tehsildar in Jalsa-Aam and that is why he has to pay Rs.36000/- rupees instead of Rs.24000/- in Tax. The rest of money he has given to his relative which is being returned. He has further stated that he does not want further proceedings against the patwar who is innocent.

Statements of Girdawar:

He has stated that the land has been sold on Six Lacs rupees and he has no knowledge regarding writing of 12 Lacs rupees in Khana 13 of the intiqal the concerned entry has been made by the revenue officer and he has no hand in its tempering. His statements may be seen at (Annex-J).

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Alloster

Conclusion:

It is concluded from the above discussion that two persons named Balqiaz Khan and Muhammad Nawaz Shah came to Gul Zareef Patwari wherein Balqiaz etc sold a piece of land in Mouza Shagai Michen Khel to Muhammad Nawaz Shah in Khata number 540 Bahai Qati total 20 parts equal to 85 Kanal- 13 Marlas out of which 6 Kanals were sold to Muhammad Nawaz S/O Shamsul qibad on Six Lac rupees. The mutation was made on 17-11-2016 and was approved in Jalsa-Aam on 16-02-2017. The mutation was made for 06 Lac rupees which was later changed to 12 Lacs on 16-12-2017. The document has been tempered.

4. Procedure of the Inquiry:

Both of the parties i.e complainant and Respondent were called for not only recording the statements but record was also consulted.

(1) Statement of the Patwari:

The statements of Gul Zareef Patwari may be seen at (Annex-F) wherein he has stated that on 09.11.2016 a person Muhammad Nawaz S/o Shamsul Qibad came to him along with Balqaiz Khan S/o Bahadar Khan residents of Shagai Michen Khel in order to register mutation in Khata No 540 Qita 200 area 85 Kanal 13 Marlas Behai Qati from which 06 Kanal 0 marlas 0 sarsai was sold to Muhammad Nawaz S/o Shamsul Qibad. He took their statements and written down intiqal number 1786 which was approved in Jalsa-Aam on 16.02.2017 and he has not demanded any money from him.

Roznamcha:

From Roznamcha of 09.11.2016 which may be seen at (Annex-G) it is confirmed that the concerned person came to the patwari in order to register mutation in Khata No 540 Shagai Michen Khel total 20 parts equal to 85 kanal 13 marlas with share 278/625 and 411/425 from which 06 Kanal were sold to Muhammad Nawaz S/o Shamsul Qibad on Six Lac Rupees. The Roznamcha has finger prints of Balqaiz, Muhammad Nawaz Ali Shah and Zareef. The Photo state of Twenty Qitat of Khata No 540 may be seen at (Annex-H). it is very much clear from the mutation that first the mutation was made for 06 lac rupees which has been deleted through pen and replaced by 12 lacs on 16.12.2017 however further reference on the back side of the mutation on which entry has been made on 17.11.2016 it has been rectified that the land is sold on six lac. It seems that the documents has been tempered.

Statements of complainant:

The Complainant was not only cross questioned but also took statements from him. He has told in his statements which may be seen at (Annex-I) which confirmed that first land price was entered as 12 lacs. Which was approved by Tehsildar Jalsa-Aaam and that is why he has to pay Rs. 36000/- rupees instead of Rs. 24000/- in Tax. The rest of money he has given to his relative which is being returned. He has further stated that he does not want further proceedings against the Patwari who is innocent.

Statements of Girdawar:

He has stated that the land has been sold on Six Lacs and he has no knowledge regarding writing of 12 lacs rupees in Khana 13 of the intiqal the concerned entry has been made by the revenue officer and he has no hand in its tempering. His statements may be seen at (Annex-J)

Conclusion:

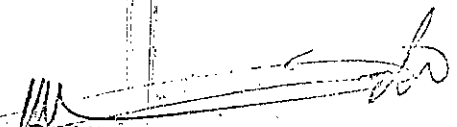
It is concluded from the above discussion that two persons named Balqaiz Khan and Muhammad Nawaz Shah came to Gul Zareef Patwari wherein Balqaiz Khan etc sold a piece of land in Mouza Shagai Michen to Muhammad Nawaz Shah in Khata number 540 Bai Qati total 20 parts equal to 85 Kanal 13 marlas which (sic)

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ATTESTED

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intical the entry has been made on 17/11/2016 which has rectified it as Rs.600000/ rupees which clearly indicate that this entry has been made later on beside this there is clear cut contradiction in the statements the complainant which has made a story which remind me the popular American soap operas which cannot be accepted. The record has been tempered in which the hands of Girdawar and Tehsildar are extremely visible. It seems that the previous statements of the complainant were correct for which the record has been tempered. The statements of the Girdawar is also a merely eye wash as he has not questioned the major changes in the mutation.

Recommendation:

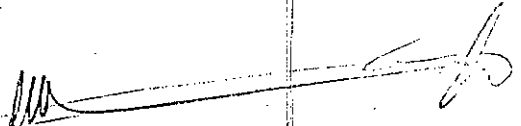
The record was found tempered which clearly indicate that the first statement of the compliment is right. Beside this the statements of the complainant has been changed which further rectify the case against the patwari concerned. The Patwari and Girdawar both seem to be involved in tempering of the record. The Girdawar has entered his signature on six Lic and later on helped the Patwari in order to rectify the second entry and now deny any involvement. Therefore both of them seem involved. Similarly the Tehsildar has also closed his eyes on the alleged corruption of his staff. This as circumstantially proved from the tempered record that the previous allegations of the complainant are correct and he has been compelled to change his statement. The case is submitted for the proper decision of the competent authority.


(DAULAT KHAN)
Additional Assistant Commissioner-IV
Bannu

Even No & Date

Copy forwarded to:

1. The Add Deputy Commissioner Bannu.
2. The Assistant Commissioner Bannu for information please.


Additional Assistant Commissioner-IV
Bannu

2
ACCEPTED

Intiqal the entry has been made on 17.11.2016 which has rectified it as Rs. 600000/- rupees which clearly indicate that this entry has been made later on beside this there is clear cut contradiction in the statements the complainant which has made a story which remind me the popular American soap operas which cannot be accepted. ~~The record has been tempered in which the hands of Girdawar and tehsildar are extremely visible.~~ It seems that the previous statements of the complainant were correct for which the record has been tempered. The statements of the Girdawar is also a merely eye Wash as he has not questioned the Major changes in the mutation.

Recommendation:

The record was found tempered which clearly indicate that the first statement of the compliment is right. Beside this the statements of the complainant has been changes which further rectify the case against the patwari concerned. The patwari and Girdawar both seem to be involved in tempering of the record. The Girdawar has entered his signature on six lac and later on helped the patwari in order to rectify the second entry and now deny any involvement. Therefore both of them seem involved similarly the Tehsildar has also closed his eyes on the alleged corruption of his staff. This is circumstantially proved from the tempered record that the previous allegations of the complainant are correct and he has been compelled to change his statement. The case is submitted for the proper decision of the competent authority.

(Daulat Khan)
Additional Assistant Commissioner-IV
Bannu

Even No & Date

Copy forwarded to:

1. The Add Deputy Commissioner Bannu
2. The Assistant Commissioner Bannu for information please.

Additional Assistant Commissioner-IV
Bannu

S
ACCEPTED



Amir (ادارہ)

بعدالت مناب ڈپٹی مشیر صاحب مہدی نون

محوریت شوکار لوٹس مناب مشرقی (سابقہ گڈ آرڈر سکین مشرقی) نون

مناب عالی!

بہ تعین شوکار لوٹس داتا 18.8.2016 / AE-1 No 5474 / AE-1 مقرر ہے

کہ عورثہ 11/2016 کا کو ریولوشن آفسر نے بچے حکم صادر کیا۔ کہ انتقال نمبر 1786 بمقام

عورثہ شہین میں بالٹان جلسہ عام میں حاضر ہونے سے قاصر ہے

لذا بطور ایلکیشن بیان قلمبند کر کے رپورٹ کر کے

ملا گڈ آرڈر پوراہ پوری حالت عورثہ 2016-11-17 کو برائے بیان لینے

بالٹان موقع پر گیا۔ موقع پر انتقال مذکورہ ملاحظہ کیا۔ اور بالٹان سے

رقبہ فروخت شدہ اور زربیم درج شدہ (چھ لاکھ روپیہ) کے بارے استفسار

کر کے معلومات حاصل کر کے رٹیکوٹھے ثبت کر کے اور بالٹان کا بیان

قلمبند کیا۔ لوقت بیان قلمبندی زربیم ایلکیشن انتقال مذکورہ میں

رقبہ 6 اور زربیم میں چھ لاکھ روپیہ درج ہے۔ جیسا کہ میں نے

اپنے بیان قلمبند شدہ میں زربیم (بطور ایلکیشن عورثہ 2016-11-17

میں ورثہ طور پر تحریر کر کے ہیں۔

لذا بچے کو علم نہیں ہے کہ انتقال مذکورہ میں زربیم چھ لاکھ روپیہ

قلمبند کر کے مطابق ویلوریشن ٹیبل میں بارہ لاکھ درج کر کے

صائبیوالم میں ہے تصور میں انکو آفسر ہمارے بچے خواہ خود قلمروار

ٹھہرایا ہے۔ معاف فرمایا جاوے۔

عورثہ 28/8

رکن

مشرق قان (سابقہ گڈ آرڈر سکین مشرقی) تعین نون

ACCEPTED

14	13	12	11	10	9	8	7
<p>1314 18750</p> <p>60009</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>85273</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>18348</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>368</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>540</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>
<p>11101</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>11101</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>11101</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>11101</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>11101</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>11101</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>11101</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>11101</p> <p>مستورب لکھنؤ و سولہ ماہ</p>
<p>18750</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>85273</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>18348</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>368</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>540</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>
<p>60009</p> <p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>	<p>مستورب لکھنؤ و سولہ ماہ</p>

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17-11-2016

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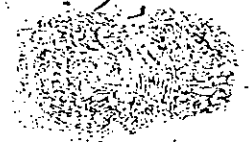
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بیتار رز 8243 18756

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بیتار رز 8243 18756

بیتار رز 60000

And 'G' (17)

CHARGE SHEET

1. I, (Mr. Mian Adil Iqbal, Deputy Commissioner Bannu), as competent authority, hereby charge you, Mr. Gul Zarif Halqa Shegi Machan Khel Bannu as follows:

That you, while posted as Patwari Halqa Shegi Machan Khel Bannu committed the following irregularities:

a. That as per written complaint submitted by one Mr. Muhammad Nawaz resident of Shegi Machan Khel you have obtained an amount of Rs:28000/- as illegal gratification as well as Rs:24000/- as mutation fee/- government tax etc and now you, *allegedly* are further demanding Rs.24000/- for mutating/- transferring of land.

2. By reason of the above, you appear to be guilty of misconduct and corruption under Rule-(3)(b)(C) of the Khyber Pakhtunkhwa Government 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. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer.

4. Your written defense, if any, should reach the Inquiry Officer within the specified period, 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.

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

1169-74
IAE/dt, 27.2.17

Deputy Commissioner
Bannu

Even No & Date:

Copy is forwarded to the:-

1. Additional Deputy Commissioner Bannu.
 2. Additional Assistant Commissioner-IV Bannu for necessary action.
 3. Additional Assistant Commissioner (Revenue) Bannu.
 4. Tehsildar Bannu.
 5. Assistant Establishment to assist the inquiry officer accordingly.
 6. Naqib Ullah Focal Person.
 7. Patwari concerned.
- Accessed*

Ann H" 18

DISCIPLINARY ACTION

1. I, (Mr. Mian Adil Iqbal, Deputy Commissioner Bannu), as competent authority, hereby charge, Mr. Gul Zarif Patwari Halqa Shegi Machan Khel Bannu as follows:

That he, while posted as Patwari Halqa Shegi Machan Khel Bannu committed the following irregularities:

STATEMENT OF ALLEGATIONS

a. That as per written complaint submitted by ^{Mr. Muhammad} ~~Mr. Muhammad~~ Nawaz resident of Shegi Machan Khel, ~~has~~ ^{has} obtained an amount of Rs.28000/- as illegal gratification as well as Rs.24000/- ^{allegedly} ~~as~~ ^{mutation fee / government tax etc} and now he ~~is~~ ^{is} further demanding Rs.24000/- for mutating / transferring of land.

2. For the purpose of inquiry against him with reference to above allegations, (Additional Assistant Commissioner-IV Bannu) is hereby appointed as Inquiry Officer to conduct inquiry under rule-10(1) (a) of the ibid rules.

3. He is, therefore, required to submit his written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer.

4. His written defense, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that he has no defense to put in and in that case ex-parte action shall be taken against him.

5. Intimate whether he desires to be heard in person.

Deputy Commissioner
Bannu.

ACCEPTED



Ames 

OFFICE OF THE
DEPUTY COMMISSIONER
BANNU

No 6518 BC/AE/

Dated: 6/10/2017

OFFICE ORDER

Consequent upon the recommendation of Inquiry Officer, Mr. Musharaf Khan Girdawer (BPS-10) involved in Tempering of record. I (Fazal Akbar Deputy Commissioner Bannu) as competent authority imposed Minor Penalty of withholding of three annual increments. with accumulative ^{effect} under rule 4-a(ii) of Khyber Pakhtunkhwa Govt: Servants E&D Rules 2011.

Deputy Commissioner
Bannu

Even No & Date.

Copy forwarded to the:-

- 1- District Comptroller of Accounts Bannu.
- 2- Assistant Commissioner Bannu.
- 3- PS to Deputy Commissioner Bannu.
- 4- Tehsildar Bannu.
- 5- Bill Clerk/Estab: of Deputy Commissioner Office Bannu.
- 6- Official concerned..

Deputy Commissioner
Bannu

8
ACCESSED

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3

BEFORE THE COMMISSIONER BANNU DIVISION

Departmental Appeal No. _____/2018

Musharraf Khan Girdawar Circle Eastern Side, Tehsil & District Bannu

.....(Appellant)

V E R S U S

Deputy Commissioner, Bannu

.....(Respondent)

APPEAL AGAINST THE ORDER NO.6518/BC/AE DATED 05-10-2017 AND ORDER NO.7371/AE/BC DATED 03-11-2017 PASSED BY THE DEPUTY COMMISSIONER, BANNU VIDE WHICH AUTHORITY HAS WITHHOLD THE TWO AND THREE INCREMENTS RESPECTIVELY OF THE APPELLANT.

P R A Y E R :-

ON ACCEPTANCE OF INSTANT PETITION, THE IMPUGNED ORDERS NO.6518/BC/AE DATED 05-10-2017 AND ORDER NO.7371/AE/BC DATED 03-11-2017 PASSED BY THE DEPUTY COMMISSIONER, BANNU TO THE EXTENT OF INCREMENTS MAY VERY KINDLY BE SET ASIDE.

Respectfully Sheweth:-

B R I E F F A C T S :-

1. That the plaintiff is working under this establishment as "Girdawar Circle".

ATTESTED
ATTESTED

Attested

ATTESTED

30-11-2018
Superintendent-
Commissioner Office
Division

21

2. **That** firstly, on the complaint of one Balqiaz Khan, the Deputy Commissioner, Bannu conducted inquiry and after completion of inquiry, the Deputy Commissioner, Bannu passed the order No.2923-36/AE dated 09-09-2016 and imposed penalty on the appellant of reduction to a lower pay scale from BPS-11 to BPS-10. Against the said order, appellant filed a Departmental Appeal before the Deputy Commissioner, Bannu, which was remand back to the Deputy Commissioner, Bannu with the direction for conducting proper/de-novo inquiry and decide the case as per the existing law/rules/policy vide order dated 22-11-2016. The Deputy Commissioner, Bannu was appointed Additional Deputy Commissioner, Bannu as inquiry officer.
3. **That** during the pendency of said de-novo inquiry before the Deputy Commissioner, Bannu, another inquiry was initiated against the appellant and in which show cause notice was issued to the appellant by the inquiry officer.
4. **That** after receipt of show cause, the appellant submitted his written reply and after completion of inquiry, inquiry officer submitted his inquiry report before the Deputy Commissioner, Bannu, thereafter, the Deputy Commissioner, Bannu Mr.

REGISTERED

ATTESTED

(Seal) (2d) (Seal)

Fazal Akbar passed the impugned Order No.6518/BC/AE dated 05-10-2017 and imposed minor penalty of withholding of three annual increments with accumulative effect under Rule 4-A(ii) of Khyber Pakhtunkhawa Govt: Servant E&D Rules 2011. (Copy of order No.6518/BC/AE dated 05-10-2017 is annexure "A").

5. That the Additional Deputy Commissioner Bannu after completion of de-novo inquiry submitted his inquiry report before the Deputy Commissioner, Bannu.
6. That after receipt of inquiry report, Mr. Muhammad Ali Asghar Deputy Commissioner, Bannu restore the appellant to original Pay Scale i.e., BPS-11 while his two annual increments withheld with accumulative effect. (Copy of order No.7371/AE/BC dated 13-11-2017 is annexure "B").
7. That now the appellant has got no other choice but to knock at the door of this Honourable Court for indulgence into the matter, for the redressal of his grievance, inter alia, on the following grounds:-

G R O U N D S :-

1. That the inquiry report was not according to law, hence, the impugned orders liable be set aside.

ATTESTED

- (Seal) (23) (Seal)
2. **That** the whole inquiry proceedings are based with malafide.
 3. **That** the appellant was transferred from the Halqa Sabo Khel Mandan to Halqa Bazaar Ahmad Khan and relinquish the charge of the post of Patwari Halqa Mauza Sabo Khel on 06-08-2014 while the mutation was attested on 25-08-2014, therefore, the application/complaint is factitious, bogus, wrong, hence, liable to be cancellation.
 4. **That** the appellant is honest employee of the Government and has performed his duties in good manner.
 5. **That** on the day of attestation of mutation, Rs.6,00,000/- was mentioned in the column No.13 of mutation but later on, it was altered and Rs.12,00,000/- was mentioned in the relevant column and it was the job of Patwari Halqa that to mention the amount in the mutation and thereafter, receipt of tax was the job of Revenue Officer, therefore, the appellant was not concerned with the same.
 6. **That** appellant is not involved in any corruption case and the present complaint/application has been moved on his own grudges.
 7. **That** the contents of the application/complaint and statement of the complainant Balqiaz Khan

(Signature)

ATTESTED




(24)



recorded before the inquiry officer in first inquiry are not interlinked each other.

8. **That** the petitioner has got spotless and unblemished service career and therefore the stoppage of his increments is obviously against the law as well as discriminatory and arbitrary.
9. **That** complainant has not produced any documentary evidence before the Inquiry Officer in support of his allegations/contentions.
10. **That** according to Land Record Manual (Dastoor-ul-Amal the entry cannot be made on Jamabandi until the mutation has been attested.
11. **That** the petitioner is the only and lonely source of income and livelihood of his large family and seeks indulgence of your good and worthy office into the matter for the sake of justice and protection of his legal and vested right.
12. **That** the appellant has never committed any error or negligence during his full time of service.
13. **That** additional grounds will be taken at the time of arguments with the permission of this Honourable Court.

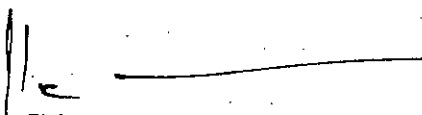
It is, therefore, most humbly prayed that on acceptance of instant petition, the impugned the impugned orders No.6518/BC/AE dated 05-10-2017 and


ATTESTED

order No.7371/AE/BC dated 03-11-2017 passed by the
Deputy Commissioner, Bannu to the extent of increments
may very kindly be set aside.

Dated: 2/2/2018

Petitioner
Through his counsel

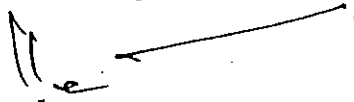

Khush Amir Khattak
Advocate High Court

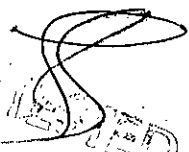
AFFIDAVIT

I, Musharraf Khan, the appellant stated on oath
that the contents of the Appeal are correct and nothing
have been kept secret from this Honourable Court.

Deponent

Identified by:-


Khush Amir Khattak
Advocate High Court


ATTESTED
ATTESTED

(36)

BEFORE THE COMMISSIONER BANNU DIVISION

Departmental Appeal No. _____/2018

Musharraf Khan Girdawar Circle Eastern Side, Tehsil & District Bannu
.....(Appellant)

V E R S U S

Deputy Commissioner, Bannu
.....(Respondent)

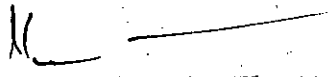
“MEMO OF ADDRESSES”

Respectfully Sheweth:

The parties may easily be served on the addresses, referred to herein above.

(Petitioner)

Through counsel


(Khush Amir Khattak)
Advocate High Court)


ATTESTED
ATTESTED

Commissioner

(27)

BEFORE THE PESHAWAR HIGH COURT, BANNU BENCH

Departmental Petition: /2018

Musharraf Khan V s Deputy Commissioner Bannu

APPLICATION FOR CONDONATION FOR ABOVE TITLED CASE.

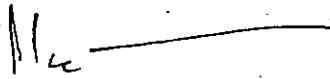
Respectfully Sheweth:

- i. That the above titled case was handed over to me by the appellant for filing.
- ii. That some of unavoidable circumstance I couldn't submit the petition on time.
- iii. That the valuable rights of appellant are involved in above titled case.
- iv. That if the delay is condoned than the appellant will get justice from this Honourable Court.

It is, therefore, most humbly prayed that to condone the delay and to allow for submission of the above titled petition.

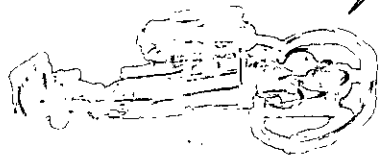
Petitioner

Through Counsel



Khush Amir Khattak
Advocate High Court


ATTESTED



Any "K" (Kor)

28

29-11-2018

30-11-2018

30-11-2018

نقل حکم صرف
درخواست
قرارداد

Service appeal:

Musharaf Khan, Patwari VS DC, Bannu.

Date	Proceedings
29-11-2018	<p><u>Date of Institution:</u> 23-02-2018 <u>Date of Decision:</u> 29-11-2018</p> <p><u>Order:-</u></p> <p>The instant Service Appeal is instituted by the appellant against the following two orders passed by Deputy Commissioner, Bannu:-</p> <ol style="list-style-type: none"> Order dated 05-10-2017 vide which Deputy Commissioner, Bannu imposed minor penalty of withholding three annual increments with accumulative effect under E&D Rules 2011. Order dated 13-11-2017 vide which Deputy Commissioner, Bannu imposed minor penalty of withholding two annual increments with accumulative effect under E&D Rules 2011. <p>Comments were requisitioned from Deputy Commissioner, Bannu which were accordingly furnished. The case is examined thoroughly in light of NWFP (now Khyber Pakhtunkhwa) Civil Servants Appeal Rules 1986 and arrive to the conclusion that the appellant is panalized in two different cases on various dates by Deputy Commissioner, Bannu. Aggreived from the ibid orders, the appellant should have preferred separate appeals within 30 days to the Appellate Authority which he failed to do. The instant appeal is time barred as it does not fulfill the requirement of Rule 3 of NWFP Civil Servants Appeal Rules 1986.</p> <p>In view of the above orders of the Deputy Commissioner, Bannu are hereby maintained which needs no further intereferece. The instant appeal is therefore, dismissed with no order as to cost.</p>

ATTESTED

Received

Attested

[Signature]
30-11-2018

Commissioner
Bannu Division

Superintendent
Commissioner Office

بعدالت

سروس انٹرنیشنل پرائیویٹ لمیٹڈ

صنف بنام کسٹمرز و کپریٹو

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

CCM

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ
آن مقام کسٹمرز و کپریٹو کیلئے محکمات اللہ اور پروٹیکشن

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

22201-992525

Attested
By
Imdadullah Khan
Advocate
CCM CUA

12
واہ
کے لئے منظور

المقوم
بمقام
Pheemullah

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

LAHORE

Appeal No.4/2019.

Muhammad Sharaf Khan.....Appellant.

VERSUS

Commissioner Bannu Division and others..... Respondents.

Joint Para-wise comments/reply of the respondents is as under: -

Respectfully Sheweth.

Preliminary Objection.

1. The appeal is not maintainable under the law.
2. The appellant has got no cause of action.
3. The instant appeal is not maintainable in the present form.
4. That the appellant has not come to this hon'ble Tribunal with clean hands.
5. That the appellant has concealed actual facts from this Hon,ble Tribunal.

Facts.

- 1 Correct. The appellant was appointed as Patwari and later on promoted to the post of Girdawar Circle BPS-11
- 2 Correct.
- 3 Correct.
- 4 One Muhammad Nawaz S/O Shams-UI-Qibad Shah complained to the Deputy Commissioner, Bannu that he has purchased 6 Kanals Bunjar Qadeem land in Shegi Michan Khel @ 100,000/- per Kanal. Total amount comes Rs.600,000/- and went to Patwari for entry of mutation. The Patwari and Girdawar received Rs.20,000/- for themselves, Rs.8000/- for Tehsildar and Rs.24000/- as Govt taxes. But despite of that, the Patwari has not deposited the Govt taxes and again demanding amount Rs.24000/- of the Govt taxes from him. The matter was entrusted to Additional Assistant Commissioner-IV, Bannu to probe into the matter. The said officer conducted inquiry and submitted his report. In light of recommendations of the inquiry officer, show cause notice was issued to the appellant to which he submitted written reply and thereafter, minor penalty withholding of three increments with accumulative effect under Rule 4-a(ii) of the Khyber Pakhtunkhwa Govt Service E &D Rules, was imposed vide order bearing No.6518/BC/AC dated 05.10.2017. The

Kan

accused/official/appellant preferred a single appeal against the two separate orders bearing No. 6518/BC/AC dated 05.10.2017 and No. 7371/AE/BC dated 03.11.2017 to the Commissioner Bannu Division on 02.02.2018. Respondent NO.2 (Deputy Commissioner, Bannu) submitted detailed comments. The Commissioner, Bannu Division vide order dated 29.11.2018 dismissed the appeal with the observation that the appellant is penalized in two different cases on various dates by the Deputy Commissioner, Bannu, hence, the appellant should have preferred separate appeal within 30 days and the instant appeal was declared time barred. Copies of show cause notice No. 5474/AE/E-I dated 18.08.2017, office order No. 6518/BC/AE dated 05.10.2017 and comments are enclosed as annexure A, B & C respectively.

- 5 Detailed reply is available in Para 4.
- 6 Incorrect. The reply of the Para is available in the inquiry report already submitted by appellant as annexure D and comments submitted before Commissioner, Bannu Division, quoted in Para 4 above.
- 7 Incorrect. Reply of the Para is available in show cause notice annexure A above.
- 8 Incorrect. Show cause notice above was also issued to the appellant.
- 9 Correct.
- 10 Incorrect. Before passing the impugned orders, all codal formalities were fulfilled.

Grounds:

- a. Incorrect. The order is strictly in accordance with law.
- b. Incorrect. As submitted above.
- c. Incorrect. Full opportunity of defense of his case was provided.
- d. Incorrect.
- e. Incorrect. Reply is available in Para-4 of the facts above.
- f. Incorrect. As submitted above.
- g. Incorrect
- h. Incorrect.
- i. Incorrect. Proper Show Cause notice was issued to the petitioner/appellant.
- j. The appeal is not maintainable under the law.

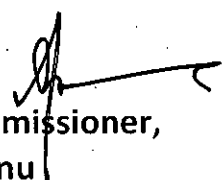
In view of the above, facts and circumstances, the appeal having no force, is liable to be dismissed. It is therefore, requested that the same may be dismissed.



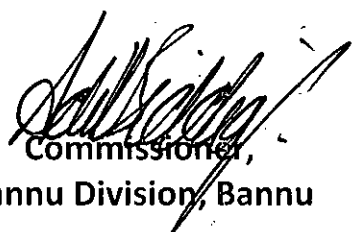
**Additional Assistant Commissioner (R)
Bannu**



**Additional Deputy Commissioner,
Bannu**



**Deputy Commissioner,
Bannu**



**Commissioner,
Bannu Division, Bannu**

27

OFFICE OF THE
DEPUTY COMMISSIONER
BANNU

No. 5474 /AE/E-I

Dated: 18/8/2017

SHOW CAUSE NOTICE

1. I (Fazal Akbar Deputy Commissioner Bannu), as competent authority, under the Khyber Pakhtunkhwa Government servants (efficiency and discipline) Rules 2011, do hereby served you Mr. Musharaf Girdawar circle Sharqi Tehsil & District Bannu) as follows.

2. On going through the finding and recommendation of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer

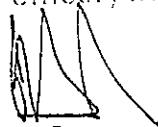
3. I am satisfied that you have committed the following acts/omission specified in rule 3 (b) and (c) of the said rules.

As per detail report of Inquiry Officer that you have entered his signature on six lac and later on helped the Patwari in order to rectify the 2nd entry and now deny any involvement.

4. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

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


A copy of the finding of the inquiry officer/inquiry committee is enclosed.


Deputy Commissioner
Bannu

Even No & Dated.

Copy Forwarded to the:

1. The Additional Assistant Commissioner - IV Bannu for ly/r to his report dated: 03-07-2017.
2. Assistant Commissioner Bannu.


Deputy Commissioner,
Bannu

میں نے بارہ لاکھ روپے کو واپس لے کر تین بارہ لاکھ روپے درج ہے



OFFICE OF THE
DEPUTY COMMISSIONER
BANNU

No. 6518 BC/AE/

Dated: 5/10/2017

OFFICE ORDER

Consequent upon the recommendation of Inquiry Officer, Mr. Musharaf Khan Girdawer (BPS-10) involved in Tempering of record. I (Fazal Akbar Deputy Commissioner Bannu) as competent authority imposed Minor Penalty of withholding of three annual increments with accumulative ^{effect} under rule 4-a(ii) of Khyber Pakhtunkhwa Govt: Servants E&D Rules 2011.

Deputy Commissioner
Bannu

Even No & Date.

Copy forwarded to the:-

- 1- District Comptroller of Accounts Bannu.
- 2- Assistant Commissioner Bannu.
- 3- PS to Deputy Commissioner Bannu.
- 4- Tehsildar Bannu.
- 5- Bill Clerk/Estab: of Deputy Commissioner Office Bannu.
- 6- Official concerned.

Deputy Commissioner
Bannu

BEFORE THE (

NER BANNU DIVISION BANNU

Departmental appeal of Mr. Musharaf Khan Girdawar.

Respected sir,

Detail comments of the undersigned are as under:-

Preliminary objections.

The appeal is not maintainable under the law as the appeal should have been submitted through the Head of the office under section 4(2) of Khyber Pakhtunkhwa Peshawar Civil Servant (Appeal) Rules 1986.

Facts.

1. Correct.

2. Correct.

3. In-correct.

4. Incorrect. In fact the appellant have been penalized in two separate disciplinary cases i.e. one in complaint submitted by Muhammad Nawaz s/o Shumsulqabad and the other submitted by Balqiaz Khan S/O Muhammad Ayaz Khan. The appellant was supposed to submit both the appeal separately as he was penalized in both the cases through separate orders. However short brief/comment upon both the cases are sub as under...

One Muhammad Nawaz s/o Shamsul Qabad Shah Ali Khel r/o Shegai Mechan Khel Bannu submitted a written complaint stating that he has purchased 6 canal land but the Kanungo/Girdawar circle Sharqi (Mr. Musharaf Khan) and Patwari of the concerned Halqa have got an amount of Rs: 20000/- for themselves and Rs: 8000 for Tehsildar as illegal gratification whereas Rs: 24000/- as govt. taxies. He added that despite of attestation of mutation, the concerned Revenue field staff is further demanding an amount of Rs: 24000/- copy of mutation is enclosed as flag "A". He proper disciplinary action was initiated against him accordingly. He was charged sheeted and the Additional Assistant Commissioner-IV Bannu was appointed as an inquiry officer. The inquiry officer conducted proper inquiry and submitted report which shows that the record (Mutation in question) was found tempered which clearly indicate that appellant seem to be involved in tempering of the record. The appellant had verified the sale amount of Rs: 600000/- Six laces and later on rectified the second entry. This is circumstantially proved from the tempered record that the previous allegations of the complainant were correct and later on he was compelled to change the statement. Copy of inquiry report is at flag-B. In light of recommendation of the inquiry officer minor penalty of withholding of three increments were imposed upon him accordingly.

The 2nd complaint was submitted against the appellant by Balqiaz Khan S/O Muhammad Ayaz Khan r/o Sabo Khel Mandan Bannu regarding entered sale transaction of Mutation No.1477 attested on 19-06-2014 from the name of Inqiaz Shah in favour of Afsar Ali Shah and mentioned its reference in remarks column of the current Jamabandi while the subsequent alienation of the said property made by Afsar Ali Shah vide Mutation No.1481, 1482 and 1483 attested on 25-08-2014 was not entered in the record. Proper inquiry was conducted against the appellant through Additional Assistant Commissioner (Revenue) Bannu at (Flag-C) who after completed all legal process submitted inquiry report and in light of recommendation of inquiry report, the appellant was reduced to lower pay scale from BPS-11 to BPS-10 vide this office order at flag-D. The appellant accordingly moved an appeal before the Honorable Commissioner Bannu Division Bannu, who remanded the case back to this


office for de-novo inquiry. In compliance with the Commissioner Bannu Division Bannu, this office conducted de-novo inquiry through Additional Deputy Commissioner Bannu who after completion of inquiry submitted report recommending restoration of pay scale of the appellant (Ex-Patwari Halqa Sabo khel) to his original scale BPS-11 with retrospective effect and instead his two annual increments were suggested to be withheld in light of recommendation of inquiry officer. As such the appellant was accordingly restored to his original pay scale and instead his two annual increments were withheld by imposing minor penalty in light of recommendation of inquiry officer vide flag-E.

5. Correct.
6. Correct.
7. No Comments.

Grounds:

1. Incorrect, inquiry report was based on fact and is according to laid down rules/policy.
2. Incorrect, No malafid intention is involved in inquiry process and the whole process was finalized transparently.
3. Incorrect, as per detail reply above point No.4 of fact.
4. No comments.
5. Incorrect. It was his responsibility to check and examine entries.
6. No comments.
7. Incorrect, as per detailed given in reply to fact point No.4.
8. No comments, as all process is transparent and accordingly to rules/policy in-vogue.
9. Incorrect, as detail above.
10. No comments.
11. No comments.
12. No comments.
13. No comments.

The comments are submitted as desired please.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Amir E
بہنچ نون

بعدالت جناب ڈپٹی

جنوب مشرقی لوٹس جناب مشرقاً (سابقہ گڈ آرڈر سیکس شرقی) نون

جناب عالی!

بہ تعینل شوکار لوٹس دامت 18.8.2016 / AF-1 No 5474 / مرنہ ہے

کہ فوراً 11/2016 کا کو ریویو افسر نے مجھے حکم ہمارا کیا - کہ منتقل ہونے پر 1786 ہونے

حد فتح شہر پین فل میں بالٹان جلسہ عام میں حاضر ہونے سے قاصر ہے

لذا بطور رہنمائی بیان قلمبند کرنے اور لکھ کر

من گد گرد پورا پوری حالت فوراً 2016.11.17 کو ہرے بیان لینے

بالٹان موقع پر گیا - موقع پر منتقل مذکورہ ملاحظہ کیا - اور بالٹان سے

رقبہ قدرت شدہ اور زر بیمہ درج شدہ (چھ لاکھ روپیہ) کے بارے استفسار

کرنے معلومات حاصل کرنے کے موقع پر ثبت کئے اور بالٹان کا بیان

قلمبند کیا - یوقت بیان قلمبندی بذریعہ رہنمائی منتقل مذکورہ میں

رقبہ 6 اور زر بیمہ میں چھ لاکھ روپیہ درج تھے - جیسا کہ میں نے

اپنے بیان قلمبند شدہ میں بذریعہ (بطور رہنمائی) فوراً 2016.11.17

میں واضح طور پر تحریر کئے ہیں -

لہذا مجھے کوئی علم نہیں ہے کہ انتقال مذکورہ میں زر بیمہ چھ لاکھ روپیہ

قلمبند کرنے مطابق ویلوریشن ٹیبل میں بارہ لاکھ روپیہ کے ہیں -

جناب عالی میں بے قصور ہوں انکو انرا افسر ہمارے مجھے خواہ خواہ قصور وار

ٹھہرایا ہے - معاف فرمایا جاوے -

دفعہ 28/8

رہنمائی

مشرقاً بالٹان (سابقہ گڈ آرڈر سیکس شرقی) تعینل نون

27

OFFICE OF THE
DEPUTY COMMISSIONER
BANNU

No. 5474 /AE/E-I

Dated: 18 / 8 / 2017

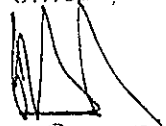
SHOW CAUSE NOTICE

1. I (Fazal Akbar Deputy Commissioner Bannu), as competent authority, under the Khyber / Pakhtunkhwa Government servants (efficiency and discipline) Rules 2011, do hereby served you Mr. Musharaf Girdawar circle Sharqi Tehsil & District Bannu) as follows.
2. On going through the finding and recommendation of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer
3. I am satisfied that you have committed the following acts/omission specified in rule 3 (b) and (c) of the said rules.

As per detail report of Inquiry Officer that you have entered his signature on six lac and later on helped the Patwari in order to rectify the 2nd entry and now deny any involvement.


4. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
5. If no reply to this notice received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and that case an ex-parte action shall be taken against you.

A copy of the finding of the inquiry officer/inquiry committee is enclosed.


Deputy Commissioner
Bannu

Even No & Dated.
Copy Forwarded to the:

1. The Additional Assistant Commissioner -IV Bannu for Av/r to his report dated: 03-07-2017.
2. Assistant Commissioner Bannu.


Deputy Commissioner,
Bannu.

میں نے بارہ لاکھ روپے کو تیس لاکھ روپے میں تبدیل کرنے کے لیے ایک نوٹس جاری کیا ہے۔

Service appeal:

Musharaf Khan, Patwari VS DC, Bannu.

<u>Date</u>	<u>Proceedings</u>
29-11-2018	<p><u>Date of Institution:</u> 23-02-2018 <u>Date of Decision:</u> 29-11-2018</p> <p><u>Order:-</u></p> <p>The instant Service Appeal is instituted by the appellant against the following two orders passed by Deputy Commissioner, Bannu:-</p> <ol style="list-style-type: none">1. Order dated 05-10-2017 vide which Deputy Commissioner, Bannu imposed minor penalty of withholding three annual increments with accumulative effect under E&D Rules 2011.2. Order dated 13-11-2017 vide which Deputy Commissioner, Bannu imposed minor penalty of withholding two annual increments with accumulative effect under E&D Rules 2011. <p>Comments were requisitioned from Deputy Commissioner, Bannu which were accordingly furnished. The case is examined thoroughly in light of NWFP (now Khyber Pakhtunkhwa) Civil Servants Appeal Rules 1986 and arrive to the conclusion that the appellant is penalized in two different cases on various dates by Deputy Commissioner, Bannu. Aggrieved from the ibid orders, the appellant should have preferred separate appeals within 30 days to the Appellate Authority which he failed to do. The instant appeal is time barred as it does not fulfill the requirement of Rule 3 of NWFP Civil Servants Appeal Rules 1986.</p> <p>In view of the above, orders of the Deputy Commissioner, Bannu are hereby maintained which needs no further interference. The instant appeal is therefore, dismissed with no order as to cost.</p> <p style="text-align: right;"><u>Commissioner</u> <u>Bannu Division</u></p>

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK,
PESHAWAR.

Service Appeal No.4/2018

Musharaf KhanAppellant
Versus

Commissioner Bannu Division & others.....Respondents

REJOINDER ON BEHALF OF
APPELLANT WITH REGARD TO THE
PARA-WISE COMMENTS SUBMITTED
BY RESPONDENTS.

Respectfully Sheweth;

Reply Preliminary objections:

1-5) Objections No.1 to 5 are incorrect, hence denied. No reason has been advanced to show that the appellant has no cause of action or any valid objections have been raised to justify the so-called preliminary objections.

REPLY ON FACTS:

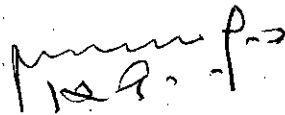
1-3) Paras No.1 to 3 need no rely. All the paras raised in the appeal are correct

- 4) Para-4 is denied. With regard to para-4 it is stated that no allegation of tempering in the record viz-a-viz an amount of Rs.12,00,000/- had been established on the part of appellant as evident from mutation No.1786 annexed with the appeal at page 16 where report of the appellant on the following page of the same document indicates that the appellant correctly entered an amount of Rs.600,000/- as the purchased price of land measuring 06 kanal on 17.11.2016 which was subsequently changed/ tempered by the concerned Halqa Patwari on the verbal directions of Revenue Officer/ Tehsildar on the 16.02.2017, hence the appellant has no role whatsoever in tempering with the figure of Rs.600,000/- by converting the same into Rs.12,00,000/-. Since rest of the paras of the appeal have not been specifically responded, therefore, the same are admitted as evasive denial on the part of respondents amounts to admission of the claim of the appellant.
- 5 to 10) Paras 5 to 10 of the appeal have not been specifically responded therefore, merely by writing the word incorrect is not sufficient to satisfy the purpose of law, hence all these paras of the appeal have been admitted by the respondents.

REPLY ON GROUNDS:

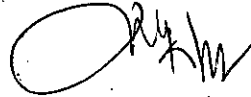
All the grounds "A to J" have been wrongly set up by the respondents and once again miserably failed to provide a plausible answer to the grounds raised in the appeal, hence all the grounds of appeal have been admitted by the respondents.

Keeping in view the aforesaid submissions, it is, most humbly prayed that the legal points raised in the rejoinder are to be considered as part and parcel of the main appeal hence the appeal of the appellant may please be accepted with cost.



Appellant

Through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 20.11.2019



BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK,
PESHAWAR.

Service Appeal No.4/2019

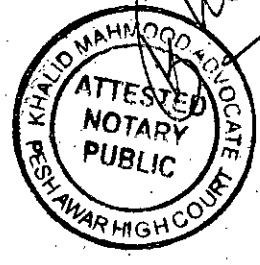
Musharaf KhanAppellant

Versus

Commissioner Bannu Division & others.....Respondents

AFFIDAVIT

I, Musharaf Khan son of Aziz Khan presently working as District Qanungo/ Naib Tehsildar, Tehsil and District Bannu do hereby affirm and declare on oath that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



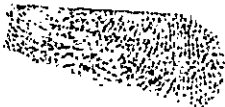
[Signature]
Deponent

29/7/2021

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BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK.
PESHAWAR.

Service Appeal No.4/2018

Musharaf KhanAppellant

Versus

Commissioner Bannu Division & others.....Respondents

REJOINDER ON BEHALF OF
APPELLANT WITH REGARD TO THE
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[Handwritten signature]

Appellant

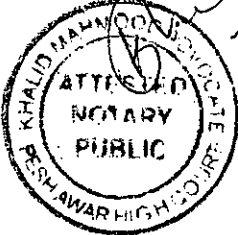
Through

[Handwritten signature]

Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 20.11.2019

[Handwritten signature]
20-11-19



A circular notary seal for Khalid Mahmood Advocate, Notary Public, Peshawar High Court. The seal contains the text: KHALID MAHMOOD ADVOCATE, ATTORNEY AT LAW, NOTARY PUBLIC, PESHAWAR HIGH COURT.

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK.
PESHAWAR.

Service Appeal No.4/2018

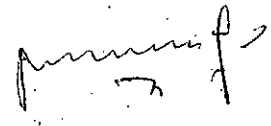
Musharaf KhanAppellant

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Deponent

01/09/2021 D.B. Salahuddin Sb.

Musharraf Khan. 4/2019

Impugned - 5/10/2017. P/10

Dep't Appeal 2/2/2018 P/20

Rejectful - 29/11/2018. Communicated 29/11/2018.

PLDSC 724 R.

Recurring case of

P/17 - Charge Sheet. 27/2/17. on another person.

P/18 - -

P/16 -

No statement of allegations

No show cause.

Which was served upon Gulzarib.

No action against Tehsil dar.

Sections 4-7 S & D Rules. No specific instructions.

7 period - F 12 29

ADA/-

(D)

