

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 379/2019

Date of Institution ... 19.03.2019
Date of Decision ... 21.06.2021

Mr. Nadeem Khan, Girdawar presently posted as Naib Tehsildar
(OPS) Circle Mohmand, District Peshawar.

... (Appellant)

VERSUS

The Senior Member Board of Revenue, Khyber Pakhtunkhwa
Peshawar and two others.

... (Respondents)

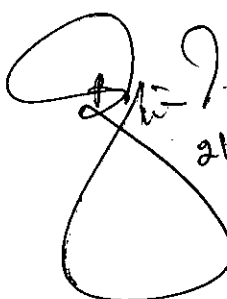
Noor Muhammad Khattak,
Advocate ... For appellant.

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

AHMAD SULTAN TAREEN ... CHAIRMAN
ROZINA REHMAN ... MEMBER (J)

JUDGMENT

ROZINA REHMAN MEMBER (J): Briefly stating the facts necessary for the disposal of the lis in hand are that appellant was inducted as Patwari. He was promoted as Naib Tehsildar. He had been asked by the National Accountability Bureau for the provision of information in connection with an inquiry against the Administration of Al-Hamra Builders, Mardan and others but the said information was allegedly delayed, therefore, charge sheet and statement of allegations were


21/6/21

issued. An inquiry was also conducted and after completion of inquiry, he was awarded major penalty of reduction to five lower stages in time scale. He preferred departmental appeal which was partially allowed, hence the present service appeal.

2. Learned counsel for appellant submits that the appellate order is against law, facts and norms of natural justice as the appellant was not treated in accordance with law and thus violated Article-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. Learned counsel submitted that no show cause notice was served before the issuance of the impugned orders dated 11.12.2018 and 19.02.2019. He contended that no chance of personal hearing was provided to the appellant before issuance of the impugned orders. Lastly, he submitted that no regular inquiry was conducted and the allegations leveled against the appellant were not proved in the inquiry but even then, major penalty was imposed upon appellant. Reliance was placed on 2019 SCMR 1004 and 2020 SCMR 1689.

3. Conversely, learned A.A.G representing the respondents, submits that penalty was imposed keeping in view the guilt of the appellant whose slackness cause a bad image before the National Accountability Bureau, however, he frankly conceded the non-issuance of show cause notice to the appellant.

4. Perusal of record would reveal that initially the issue erupted on the question of the late submission of information to NAB which later on attracted other issues pertaining to concealment of facts as well. On the question of delay, it is evident that the NAB letter

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addressed to D.C Peshawar took twenty days while travelling from the office of D.C Peshawar to the hands of Halqa Girdawar. Such twenty days were spent on marking the letter down the road in the hierarchy. Record further shows that the inquiry committee has narrowed down the guilt of appellant only to the extent of delay in submission of information and that too, was found as not intentional or willful. Second portion of the allegations to the extent of concealment of information was cleared by the inquiry committee with recommendations that since the officials adopted proper procedure and are not guilty of concealing the fact, hence, minor penalty of withholding an increment was recommended only for the guilt of delay. The competent authority while not agreeing with the recommendations of the inquiry report, failed to take mandatory steps as canonized in Rule-14(6) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 by virtue of which, the competent authority was required to record reasons in writing either to remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions, as the competent authority may like to give or may order a de-novo inquiry through different inquiry officer or different inquiry committee, but in the instant case, the competent authority skipped and violated such provision of law. We also did not find on record any other ground or material in support of overweening approach of the competent authority to dissent with the findings of the inquiry committee. It is noticed that appellant was penalized for the charges, which were already cleared by the inquiry committee. To this effect, stance of the inquiry

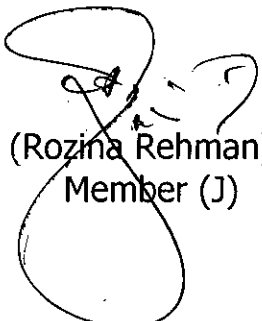
21/6/21

committee with regard to delay was also upheld by the appellate authority vide impugned order dated 19.02.2019. The competent authority also skipped another mandatory provision of law contained in Rule-14(4) bypassing the show cause notice, thus, deprived the appellant from affording appropriate opportunity of defense, so the impugned order is liable to be struck down on this score alone but it would be appropriate to point out some intrinsic flaws in the inquiry proceedings which has snatched the opportunity of offering proper defense from the appellant. Departure from the said pattern and that too without a cogent reason in the present case caused irreparable damage to the appellant at the cost of substantial justice. Show cause notice is a mandatory requirement as well as demand of principle of natural justice. The disciplinary proceedings in hand cannot be termed as fair, just and reasonable to the effect that fixing responsibility on only one echelon of hierarchy in this particular case amounts to shirking responsibility in order to save their own skin. We are of the considered opinion that the disciplinary proceedings were not conducted as per law.


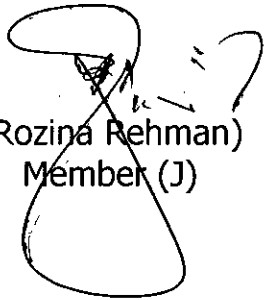
5. In view of the above discussion, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
21.06.2021


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)

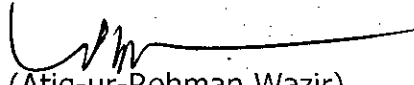
Service Appeal No. 379/2019

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	21.06.2021	<p><u>Present:</u></p> <p>Noor Muhammad Khattak, Advocate ... For Appellant</p> <p>Riaz Khan Paindakheil, Assistant Advocate General ... For respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 21.06.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (Ahmad Sultan Tareen) Chairman </div> <div style="text-align: center;">  (Rozina Rehman) Member (J) </div> </div>

08.02.2021

Appellant in person and Addl. AG alongwith Inamullah, ADK for the respondents present.

Representative of respondents has provided some additional documents which are placed on record subject to all just exceptions from the other side. To come up for arguments on 24.05.2021 before the D.B.



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



Chairman

24.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 21.06.2021 for the same as before.



Reader

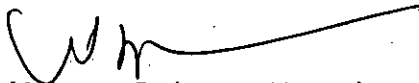
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09.11.2020

Appellant in person present. Mr. Riaz Painsdakhel learned Assistant Advocate General for respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 01.12.2020 for hearing before the D.B.


Chairman


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

~~07~~ 12.2020

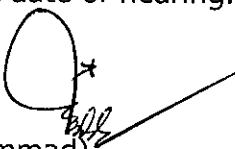
Due to pandemic of Covid-19, the case is adjourned to 23.12.2020 for the same as before.


Reader

23.12.2020

Appellant with counsel and Asstt. AG for the respondents present.

Learned AAG requests for time to bring on the record some more documents including the enquiry report and the record appended therewith. Adjourned to 08.02.2021 for arguments before the D.B. The respondents shall ensure the filing of requisite record on or before next date of hearing.


(Mian Muhammad)
Member(E)


Chairman

09.06.2020

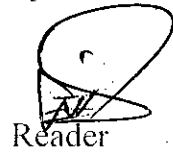
Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 20.08.2020 before D.B.



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20.08.2020

Due to summer vacations, the case is adjourned to 23.09.2020 for the same.

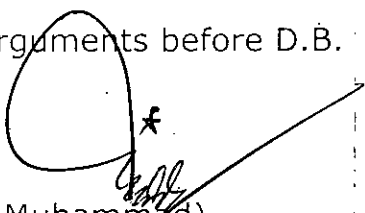


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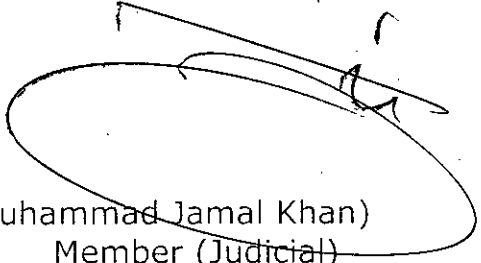
23.09.2020

Appellant is present in person. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith representative of the department Mr. Muhammad Arif, Superintendent are also present.

Appellant requested for adjournment on the ground that his counsel is busy in the Hon'ble Supreme Court of Pakistan and cannot attend the Tribunal today. Adjourned to 12.10.2020 on which to come up for arguments before D.B.



(Mian Muhammad)
Member (Executive)



(Muhammad Jamal Khan)
Member (Judicial)

12.10.2020

Due to incomplete Bench, the case is adjourned. To come up for the same on 09.11.2020 before D.B.



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11.12.2019

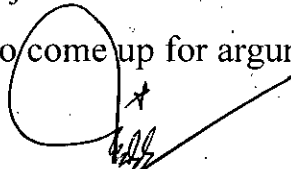
Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 14.02.2020 before D.B.


Member


Member

14.02.2020

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Afan J.C present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourned. To come up for arguments on 25.03.2020 before D.B.


Member


Member

25.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 09.06.2020 before D.B.


Reader

01.07.2019

Appellant with counsel present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Javed Assistant for the respondent present. Written reply not submitted. Representative of the respondents seeks time to furnish written reply/comments. Adjourned. To come up for written reply/comments on 27.08.2019 before S.B.



Member

27.08.2019

Counsel for the appellant and Addl. AG alongwith Muhammad Arif Superintendent for respondent No. 1 present. Nemo present for respondents No. 2 & 3.

Fresh notices be issued to respondents No. 2 & 3. To come up for written reply of all the respondents on 25.09.2019 before S.B.



Chairman

25.09.2019

Junior to counsel for the appellant and Addl. AG alongwith Muhammad Arif, Superintendent and Mir Zaman, DK for the respondents present.

Parawise reply on behalf of respondents furnished which are placed on record. The appeal is assigned to D.B for arguments on 11.12.2019. The appellant may submit rejoinder, within a fortnight, if so advised.




Chairman

15.04.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant has filed the present service appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order of the appellate authority dated 19.02.2019 whereby major penalty of reduction to Five (05) lower stages in time scale awarded to the appellant vide order dated 11.12.2018, was modified/reduced to One (01) lower stage in time scale.

Points urged need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 14.05.2018 before S.B.


Appellant Deposited
Security & Process Fee


Member

14.05.2019

Appellant in person present. Written reply not submitted. Muhammad Arif Superintendent representative of respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 01.07.2019 before S.B.


Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 379/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/03/2019	<p>The appeal of Mr. Muhammad Nadeem 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;"><i>[Signature]</i> REGISTRAR 19/3/2019</p>
2-	20/03/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/04/2019</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 379 /2019

MUHAMMAD NADEEM

VS

SMBR & OTHERS

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6	Departmental appeal	E	18- 22.
7	Appellate order	F	23- 24.
8	Vakalat nama	25.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 379 /2019

Diary No. 354

Dated 19-3-2019

Mr. Nadeem Khan, Girdawar Presently posted as Naib Tehsildar (OPS),
Circle Momand, District Peshawar.....**APPELLANT**

VERSUS

- 1- The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
- 2- The Commissioner, Peshawar Division, Peshawar.
- 3- The Deputy Commissioner, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 19.02.2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ORIGINAL IMPUGNED ORDER DATED 11.12.2018 HAS BEEN PARTIALLY ACCEPTED AND MAJOR PENALTY OF REDUCTION TO FIVE LOWER STAGES IN TIME SCALE HAS BEEN CONVERTED INTO ONE LOWER STAGE IN TIME SCALE AND ALSO IMPOSED BAN NOT TO ENGAGE IN ANY PROCESS RELATED TO LAND MUTATION WITHIN THE JURISDICTION OF PESHAWAR FOR A PERIOD OF SIX MONTHS

PRAYER:

That on acceptance of this appeal the impugned appellate order dated 19.02.2019 may very kindly be set aside and the appellant may be restored on his original time scale (holding the post/scale prior to the issuance of impugned orders dated 11.12.2018 & 19.2.2019) with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

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

- 1- That appellant was initially inducted in the respondent department as Patwari and is now being serving the respondent Department as Naib Tehsildar (OPS), Circle Momand, District Peshawar. That right from appointment till date the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors.
- 2- That during service the appellant was issued charge sheet along with statement of allegations in which chain of allegations have been

Filed to-day
Registrar
19/3/2019

leveled against the appellant. That in response to the said charge sheet and statement of allegation the appellant submitted his detailed reply and denied the allegations leveled against him. Copies of the charge sheet along with statement of allegation and reply are attached as annexure.....**A & B.**

3- That in the said inquiry the allegations leveled against the appellant were not proved and as such the inquiry officers recommended the appellant for minor punishment of withholding of one annual increment on the reason that the appellant was held guilty only to the extent of delay in submission of the report before the high ups. Copy of the inquiry report is attached as annexure.....**C.**

4- That after completion of inquiry the competent authority without taking into consideration the recommendation of the inquiry report and without issuing final show cause notice straight away imposed major penalty of reduction to five lower stages in time scale against the appellant vide impugned order dated 11.12.2018. Copy of the impugned order is attached as annexure.....**D.**

5- That appellant feeling aggrieved from the impugned order 11.12.2018 filed Departmental appeal before the appellate authority. That the said Departmental appeal of the appellant has been partially accepted by the appellate authority vide appellate order dated 19.2.2019 by converting the penalty of reduction to five stage time scale into one lower stage in time scale. Copies of the Departmental appeal and appellate order are attached as annexure.....**E & F.**

6- That appellant feeling aggrieved and having no other remedy filed the instant service appeal before this august Tribunal on the following grounds amongst the others.

GROUND:

A- That the impugned appellate order dated 19.02.2019 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

B- That appellant has not been treated in accordance with law and rules by the respondent Department 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 the respondent Department acted in arbitrary and malafide manner while issuing the impugned original and appellate orders dated 11.12.2018 and 19.02.2019.

D- That no show cause notice has been served against the appellant before issuing the impugned orders dated 18.12.2018 and 19.02.2019.

- E- That no chance of personal hearing/ defense has been provided to the appellant before issuing the impugned orders dated 11.12.2018 and 19.02.2019.
- F- That the allegations leveled against the appellant has not been proved in the inquiry but inspite of that major penalty of one lower stage in time scale has been imposed upon the appellant.
- G- That no regular inquiry has been conducted in the matter of appellant which is as per Supreme Court judgments is necessary in punitive actions against the Civil servants.
- H- That the competent authority is failed to show any reason that why he is not agree with the recommendation of the inquiry committee regarding proposed punishment, therefore the impugned order dated 11.12.2018 is not tenable in the eye of law and prevailing Rules.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 18.03.2019

APPELLANT


MUHAMMAD NADEEM

THROUGH:


NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI


**MIR ZAMAN SAFI
ADVOCATES**



**OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR**

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

No. 2532-33/DCCB DC
Dated Peshawar the 10/8/2018

CHARGE SHEET

1. I, Imran Hamid Sheikh, Deputy Commissioner Peshawar as a competent Authority, in light of the fact finding inquiry by Additional Assistant Commissioner- Revenue Peshawar and in light of National Accountability Bureau, Hayatabad Complex, Peshawar vide letter no 1/34(972.U.No 320225)/W-I/NAB(KP) 492 dated 22-05-2018, hereby charge you, Mr. Nadeem Khan, Girdawar Khalil Circle for the following misconduct/inefficiency.

- i) That on 31-05-2017, National Accountability Bureau, Hayatabad Complex Peshawar asked for the provision of information U/S NAO,1999 in connection with an inquiry against the Administration of Al Hamra builders Mardan & others regarding cheating public at large. The search of properties of Sirajuddin S/O Abdul Qudus and Aisamuddin S/O Abdul Qudus was asked for by NAB authorities but you willfully delayed the report submission for three months time which amounts to misconduct and is against the official decorum.
- ii) That you concealed the facts by submitting Nil report as against the ground realities whereby the accused were owners of land at Mouza Shah Dhand and Mouza Tehkal Payan which shows Malafide intentions on behalf of you.
- iii) That this act of yours amounts to abetting whereby concerned authority could not take necessary action timely.
- iv) That this irresponsible attitude of yours to the official business tantamount to creating trust deficit between National Accountability Bureau Hayatabad Peshawar and Deputy Commissioner Office Peshawar.
- v) That this act of yours resulted in undue inconvenience and embarrassing position for your senior hierarchy.

2. By reason of the above, you appear to be guilty of inefficiency & misconduct under rule -3 (a & b) of Khyber Pakhtunkhwa Government Servants Efficiency & Discipline rules 2011 and have rendered yourself liable to all or any of the penalties Specified Under Rules 4 of the rules ibid.

ATTESTED

Nadeem
Attested
Malik Nadeem Khalid
Advocate High Court

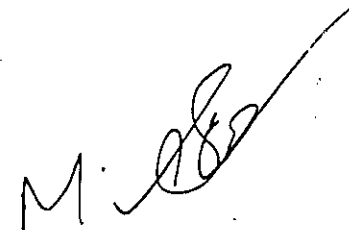
- (5)
3. You are, therefore, required to submit your written defence within (07) days of the receipt of this charge sheet to the inquiry Officer/ Committee.
 4. Your written defense, if any should reach the inquiry Officer/ Committee within the Specified Period, failing to which it shall be presumed that you have nothing to say in defense and in that case you shall be proceeded ex-parte.
 5. Intimate as to whether you desire to be heard in person.
 6. Statement of allegations is enclosed.


DEPUTY COMMISSIONER
PESHAWAR

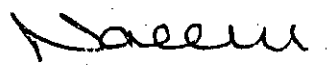
Endst No: 2532-33 / DC B DK

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1. Mr. Nadeem Khan, Girdawar Khalil Circle.


DEPUTY COMMISSIONER
PESHAWAR

ATTESTED



Attested
Malik Naeem Khalid
Advocate High Court



(6) →

**OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR**

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

No. 2534-37/DC.P.DK
Dated Peshawar the 10/8/2018

DISCIPLINARY ACTION

1. I, Imran Hamid Sheikh, Deputy Commissioner Peshawar as a competent Authority, am of the opinion that Mr. Nadeem Khan, Girdawar Circle Khalil has rendered himself liable to be proceeded against for committing the following acts/ omission within the meaning of Rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

STATEMENT OF ALLEGATIONS

- i) That on 31-05-2017, National Accountability Bureau Hayatabad Complex Peshawar asked for the provision of information U/S NAO, 1999 in connection with an inquiry against the Administration of Al Hamra builders Mardan & others regarding cheating public at large. The search of properties of Sirajuddin and Aisamuddin sons of Abdul Qudoos was asked for by NAB authorities but Mr. Nadeem Khan, Girdawar Khalil Circle willfully delayed report submission for three months time which amounts to misconduct and is against the official decorum.
- ii) That Mr. Nadeem Khan, Girdawar Khalil Circle concealed the facts by submitting Nil report as against the ground realities whereby the accused were in owners of land at Mouza Shah Dhand and Mouza Tehkal Payan which shows Malafide intentions on behalf of you.
- iii) That this act of Mr. Nadeem Khan, Girdawar Khalil Circle amounts to abetting whereby delayed and wrong report submission resulted in inaction against the above accused involved in cheating general public at large.
- iv) That this irresponsible attitude of Mr. Nadeem Khan, Girdawar Khalil Circle to the Official business tantamount to creating trust deficit between National Accountability Bureau Complex, Hayatabad, Peshawar and Deputy Commissioner Office Peshawar.
- v) That this act of Mr. Nadeem Khan, Girdawar Khalil Circle resulted in undue inconvenience and embarrassing position for your senior Hierarchy.

ATTESTED
[Signature]

Nadeem
Attested
Malik Nadeem Khalid
Advocate High Court

2. For the purpose of inquiry against the said accused with reference to the above Allegations, Mr Islah uddin Additional Assistant Commissioner Town-I Peshawar & Mr Saedulhah Jan Additional Assistant Commissioner Town - VI are hereby appointed as Enquiry Committee under Rule 10 (1)(a) of the rules ibid.
3. The inquiry committee shall, in accordance with the provisions of the rules, ibid provide reasonable opportunity of hearing to the accused, record their findings and make, recommendations as to punishment or other appropriate action against the accused within 15 days of the receipt of this order.
4. District Kanungo Peshawar Office Peshawar shall join the Proceedings on the date, time and place fixed by the inquiry committee for assistance of the Committee.

**DEPUTY COMMISSIONER
PESHAWAR**

Endst No: 2534-37 / D.C.P. D.C.

Copy Forwarded to

1. Mr. Islah-ud-din, Additional Assistant Commissioner, Town-I, Member Inquiry Committee.
2. Mr. Saeed Ullah Jan, Additional Assistant Commissioner, Town-IV, Member Inquiry Committee.
3. Mr. Nadeem Khan, Girdawar Khalil Circle.

**DEPUTY COMMISSIONER
PESHAWAR**

ATTESTED

Nadeem

Attested
Malik Nadeem Khalid
Advocate High Court

To

The Learned Members of
The Inquiry Committee

B - 8

Subject: REPLY TO CHARGE SHEET AND STATEMENT OF ALLEGATIONS

Dear Sir,

It is most respectfully submitted that vide letter No. 2552-50/DC(p)DK dated 13.08.2018 the competent authority was pleased to appoint inquiry committee to conduct inquiry against the undersigned charge sheet and statement of allegations were also communicated to the under signed. (Annex A)

In response to the above said the undersigned submits his written reply as under.

1. The letter No. 1/25/IW-I/NAB(KP)/904 dated 31.05.2017 issued by the deputy director NAB Peshawar to the Deputy Commissioner Peshawar (Annex B) which was through proper channel forwarded and received by the undersigned on 22.06.2018.

Since the matter required detailed examination of the record, which is in possession of the Patwari, all the Patwaris of circle Khalil (17 in number) were immediately informed with the direction to check the record thoroughly and submit the report urgently.

It is most pertinent to note that the area Tehkal Payan Khalil circle was hit by dengue epidemic and due to the same numerous lives were lost, the undersigned as well

ATTESTED

Nasim
Attested
Malik Nasim Khalid
Advocate High Court



as the Patwaris were in the state of disaster management, provided extra duties to respond to the above emergency therefore the entire staff was pre occupied in relief activities, the undersigned was also verbally given the duties of focal person, in the situation, saving lives was the top priority. It is also worth noting that the letter was sent to 17 Patwaris who were to submit report after detailed check of the record.

After completion of report from above Patwaris the same was submitted to the undersigned. As the undersigned did not suspect any concealment on part of the Patwaris being actual custodians of the record, the same was forwarded for necessary action. (Annex C)

That the undersigned has fulfilled his official duties in a prompt and efficacious manner and delay if any was due to the mentioned circumstances.

2. It is submitted that all the land record is in possession and custody of the Patwari Halqa and the undersigned is neither the custodian nor in possession of the record.

As already explained ibid that the matter required scrutiny of the record, therefore all the Patwaris of Khalil circle were informed and the letter was handed over for prompt action. As already stated in the reply of Patwari Halqa Tehkal Payan clearly, and the undersigned did not suspect any foul play regarding information by

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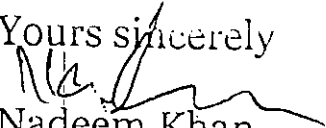
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Malik Naeem Khalid
Advocate High Court


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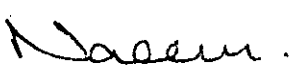
Patwaris the same was forwarded to high ups for necessary action. No malafide was involved on my part.

3. Detailed reply has already been submitted in the above Paras, it is further added that the delay is already explained and the wrong report as mentioned is due to mistake of Patwaris and not the undersigned. The undersigned fulfilled his official duty by sending the letter alongwith directions to the record keepers to thoroughly check the record and thereafter to submit the report to the undersigned. It is submitted that the scenario created is not due to fault of undersigned as already explained.
4. The undersigned has always performed his duties with utmost zeal and professionalism, with outright commitment. Any mishap or situation created is not due to fault of undersigned.
5. In addition to above, I would request to be heard in person.

In light of above I may graciously be exonerated.

Yours sincerely

Nadeem Khan
Girdawar Khalil
Circle


ATTESTED


Attested
Malik Nadeem Khalid
Advocate High Court



OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR

C-11

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

No. 638 AAC-VII

Dated Peshawar the 11/09/2018

To

The Deputy Commissioner,
Peshawar.

Subject: INQUIRY REPORT.

Respected Sir,

Reference to your officer order No. 2252-56/DC(P)/DK, dated 13-08-2018 regarding misreporting by revenue officials to the NAB authorities, the undersigned conducted a detailed inquiring and the inquiring report is submitted please.

Islah-Ud-Din
AAC-Town-1/
Inquiry Officer

Saeed Ullah Jan
AAC-Town-IV/
Inquiry Officer

23/80
17/9/18

A.D.C.
Put up in file with
comments

ATTESTED

PATB ADE
put up

26/09/18

Attested
Malik Naem Khalid
Advocate High Court

INQUIRY REPORT

Subject:

MISREPORTING BY REVENUE OFFICERS/OFFICIALS IN AN INQUIRY AGAINST SIRAJ-UD-DIN, AISAM -UD-DIN.

Reference to Deputy Commissioner Peshawar letter No. 2252-56/ DC

(P)/DK, dated 13-08-2018, the undersigned were appointed as enquiry officers against following officials of Revenue Department.

1. Mr. Muhammad Hamayun, Girdawar Circle Qasba.
2. Mr. Muhammad Naceem, Girdawar Circle Khalil.
3. Mr. Abdul Ghafoor, Ex-Patwar Halq Shah Dhand.
4. Mr. Riaz Ahmad Afridi, Ex-Patwari Halqa Tehkal Payan.

Following allegations were stated in the charge sheet.

- i) That on 31-05-2017, National Accountability Bureau, Hayatabad Complex Peshawar asked for the provision of information U/S NAO, 1999 in connection with an inquiry against the Administration of Al Hamra builders Mardan & others regarding cheating public at large. The search for properties of Sirajuddin S/O Abdul Qudus and Aisamuddin S/O Abdul Qudus was asked for by NAB authorities but you willfully delayed the report submission for three months time which amounts to misconduct and is against the official decrom.
- ii) That you concealed the facts by submitting nil report as against the ground realities whereby the accused were owners of land at Mouza Shah Dhand and Mauza Tehkal Payan which shows Malafide intentions on behalf of you.
- iii) That this act of your amounts to abetting whereby concerned authority could not take necessary action timely.
- iv) That this irresponsible attitude of yours to the official business tantamount to creating trust deficit between National Accountability Bureau Hayatabad Peshawar and Deputy Commissioner Officer Peshawar.

Attested
Malik Naeem Khalid
Advocate High Court

ATTESTED

- v) That this act of yours resulted in undue inconvenience and embarrassing position for your senior hierarchy.

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Brief Facts:

1. The National Accountability Bureau was conducting inquiry under the provision of National Accountability ordinance (NAO), 1999, against Directors/ Shareholder of Al-Hamra Builders.
2. On 31-05-2017 the National Accountability Bureau through letter No. 1/25/1w-1/NABC(KP)/904 requested Deputy Commissioner Peshawar to conduct general search of properties held in the name of accused firm, Al-Hamra Builders or its Directors /Share holder. (Letter from NAB attached as Annex-A).
3. This letter No.1/25/1w-1/NAB(KP)/904, from NAB was marked by the Deputy Commissioner Peshawar to the Additional Deputy Commissioner on 06-06-2017. Additional Deputy Commissioner marked the same to Tehsildar Peshawar on 13-06-2017. Tehsildar Peshawar forwarded the same to Naib-Tehsildar Qasba for compliance on 19-06-2017 who forwarded it to Girdawar Circle on 20-06-2017.
4. The field Qanoongo/Girdawar Circle forwarded the compliance report to Naib-Tehsildar Peshawar and then Tehsildar Peshawar on 2-08-2017 which was further forwarded to National Accountability Bureau on 09-08-2017 as reported by the District Kanoongo on the back of the letter from the NAB. (Attached as Annex "b")

Findings:

The Inquiry committee summoned all the accused officials, heard in person and their written statements, were recorded. Following are the findings of the inquiry committee:-

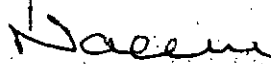
1. That there is no proper date of receiving and forwarding on the letter on the part of the accused officials. 20-06-2017 is the last date mentioned on the letter through which Naib Teshildars, Peshawar forwarded it to the field kanungo/

Naem
Attested
Malik Naem Khalid
Advocate High Court

TESTED


2. That Tehsildar Peshawar and Naib Tehsildar Peshawar after compliance forwarded the same letter on 02-08-2017 to District Kanoongo.
3. That after hearing the accused in person and going through the record it was observed that Directors/ Share holders of Al-Hamra Builders were not owners in the column of ownership in Jamabandi for the year 2009-10 nor their names were available in the index radeefwar. Only mutation numbers were mentioned in the Remarks column from which no meaningful information could be extracted regarding ownerships. (relevant page of the jamabandi is attached as Annex (C)).
4. That after receiving the information back from the NAB regarding transfer of properties by the Directors/ share holders of Al-Hamra Builders, the accused officials acted promptly to attach those properties from further alienation.
5. That the mutations from the Directors/ Shareholders of Al-Hamra Builder were immediately cancelled after information and orders of the court.
6. That it is true that the accused officials somehow failed to provide the information / reply to the Nab authorities well in time due to their involvement in field activities like dengue emergency, polio campaign, court matters and other matters.

Recommendations:-


 Attested
 Malik Naeem Khalid
 Advocate High Court

After hearing the accused officials in person, going through their written statement and record produced as evidence related to the charges leveled against them, the inquiry committee is of the opinion that the accused officials followed the procedure of finding the record through jamabandi in a proper way but the names of the Directors/ shareholders of Al-Hamra Builders were not available in the ownership column of Jamabandi 2009-10 nor in the index radeefwar.

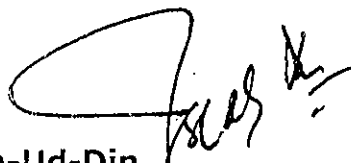
The accused officials also tried to find information via elders of the locality but couldn't find it and hence gave null report. It is pertinent to mention that after receiving information from NAB, the accused acted promptly to attach the said


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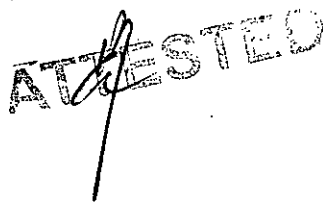
properties and cancelled the mutations and therefore not guilty of concealing the facts regarding properties of the Directors /Share holders of Al-Hamra Builders.

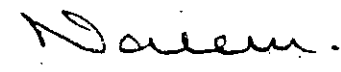
As for as the delay is concerned, it is clear that the Tehsildar Peshawa forwarded the letter to Girdawar Circle for compliance on 20-06-2017 which was returned back by the Girdawar on 02-08-2017 i.e the accused officials took around 40 days in compliance which make them guilty for delaying the report.

Keeping in view the above mentioned facts and findings, the inquiry committee is of the opinion that the accused officials are guilty only to the extent of delay in submission of the report i.e it took forty (40) days to submit their report and which was found not intentional or willful. Therefore the accused officials are recommended for imposition of minor penalty of withholding an increment for a period of one year.


Islah-Ud-Din
AAC-Town-1/
Inquiry Officer


Saeed Ullah Jan
AAC-Town-IV/
Inquiry Officer


ATTESTED


Attested
Malik Naeem Khalid
Advocate High Court



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16

**OFFICE OF THE
DEPUTY COMMISSIONER PESHAWAR**

Address: Gate No: 3, Opposite Pearl Continental Hotel, Khyber Road, Peshawar.

Phone: 091-9212302 Fax: 091-9212303 Email Address: dcpeshawar@hotmail.com

No. 3922 /DC/1P/DK

Dated Peshawar the 11/12/2018

OFFICE ORDER:

Mr. Islah-ud-Din, Additional Assistant Commissioner Town-I & Mr. Saeed Ullah Jan, Additional Assistant Commissioner Town-IV were entrusted upon conducting formal inquiry under Efficiency & Discipline rules 2011 in respect of Mr. Muhammad Nadeem, Girdawar Circle Khalil, Mr. Muhammad Hamayun, Girdawar Circle Qasba, Mr. Abdul Ghafoor, Patwari Halqa Shah Dhand and Mr. Riaz Ahmad, Patwari Halqa Tehkal Payan for concealment of facts / misreporting by submitting nil report regarding ownership record in respect of Siraj-ud-Din s/o Abdul Qadoos and Aisam-ud-Din s/o Abdul Qadoos to National Accountability Bureau, Authorities Hayatabad Complex Peshawar who asked for the same vide letter No: 1/25/100-1/NABC(KP)/904 dated 31-05-2017. The inquiry panel after recording of statement, perusal of record and others recommended withholding of one increment for a period of one year vide enquiry report No: 638/AAC-VII dated 11-09-2018.

Consequently the accused officers / officials were called for a personal hearing by the undersigned on 23-10-2018 at 1000 hrs and on 26-10-2018 proper opportunity of hearing was given to the accused Officers / Officials. After detailed personal hearing, the following facts surfaced.

- 1) That nil report was submitted by the Officers / Officials when Siraj-ud-Din s/o Abdul Qadoos Aisam-ud-Din s/o Abdul Qadoos were owners in both Mouza Shah Dhand and Mouza Tehkal Payan which amounts to concealment of facts.
- 2) That no entry regarding the letter by NAB was made in the peon book further private servant of Mr. Muhammad Nadeem Girdawar namely Mr. Shah Mir dealt the dispatch of the important letter by NAB which shows causal approach and lack of seriousness to Official business of top priority.
- 3) That no entry regarding compliance to NAB was made in Roznamcha Karguzari by any of the revenue Officers / Officials while submitting the report.
- 4) That on 15-08-2017, mutation no 18661 and 18667 were attested from Mr. Siraj-ud-Din s/o Abdul Qadoos which was registered by Patwari, Mr. Riaz Ahmad, compared by Girdawar Mr. Muhammad Nadeem and attested by Niab Tehsildar Mr. Adil Waseem though having the knowledge of NAB investigation in the subject case.

Malik Nadeem
ATTESTED

Nadeem
Attested
Malik Nadeem Khalid
Advocate High Court

5) That equal punishment of withholding of one increment for a period of one year was recommended for all four revenue officers having different scale of misconduct whereby Mr. Muhammad Humayun Girdawar Circle Qasba and Patwari Mr. Abdul Ghafoor are involved in misreporting whereas Mr. Muhammad Nadeem Girdawar Khalil and Patwari Mr. Riaz Khan committed the additional of transferring land from Siraj-ud-Din in spite of the knowledge that the subject case was under investigation by NAB authorities.

In light of the above personnel hearing having gone through the entire record, I Imran Hamid Sheikh, Deputy Commissioner, Peshawar competent authority under Efficiency and Disciplinary rule 2011 award the following penalties upon the officers / officials keeping in view the nature and scale of misconduct to meet the ends of justice.

- A) Minor Penalty of Deduction of two increments from Mr. Muhammad Hamayun, Girdawar Circle Qasba and Patwari Halqa for a period of two years under Section 4 (a)(II) of Efficiency and Disciplinary rule 2011.
- B) Major Penalty of Reduction to 05 lower stages in time scale under Section 4 (b)(i) of Efficiency and Disciplinary rule 2011 in respect of Mr. Nadeem Khan, Girdawar Circle Khalil and Mr. Riaz Ahmad Patwari Halqa Tehkal Payan. Both Mr. Muhammad Nadeem Girdawar Circle Khalil and Mr. Riaz Ahmad, Patwari Halqa Tehkal Bala shall not be engaged in any process related to land mutation for one year within the jurisdiction of District Peshawar.

M. I. S. 7/12/18
 (Imran Hamid Shiekh, PAS)
 DEPUTY COMMISSIONER
 PESHAWAR

No. 3928-29 / Dated Peshawar the 11-12 - 2018

Copy forwarded to the:-

- 1. Commissioner, Peshawar Division Peshawar.
- 2. Assistant Director National Accountability Bureau, PDA Complex Hayatabad, Peshawar.
- 3. Additional Deputy Commissioner, Peshawar.
- 4. Assistant Commissioner Peshawar with the direction to impart training upon Mr. Muhammad Nadeem Girdawar Circle Khalil and Mr. Riaz Ahmad, Patwari Halqa Tehkal Bala regarding proper handling of land mutation affairs.
- 5. Additional Assistant Commissioner Revenue Peshawar.
- 6. Tehsildar Peshawar.
- 7. District Kanungo Peshawar.

M. I. S. 7/12/18
 (Imran Hamid Shiekh, PAS)
 DEPUTY COMMISSIONER
 PESHAWAR

ATTESTED

Nadeem
 Attested
 Malik Nadeem Khalid
 Advocate High Court

The Commissioner,
Peshawar Division, Peshawar

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SUBJECT: DEPARTMENTAL APPEAL AGAINST THE PUNISHMENT OF REDUCTION TO FIVE (05) LOWER STAGES IN TIME SCALE UNDER SECTION 4 (B) (I) OF THE EFFICIENCY AND DISCIPLINARY RULES, 2011:

Respectable Sir,

With due respect and humble submission, I have the honour to state that I have been performing my legitimate duties efficiently and devotedly up to the entire satisfaction of my superiors and there is not a single case of inefficiency and discipline on my part in my service career / record.

Unfortunately, I have been involved in an irrelevant case of land mutations falling in the area in which I was shouldering the responsibility of Circle Girdawar Halqa Tehkal Payan, District Peshawar. Para wise comments / replies in respect of the charges and allegations levelled against me in this specific case are given below, in juxtaposition:

Naeem

Attested
Malik Naeem Khalid
Advocate High Court

Para Allegations

Comments / replies

1. That nil report was submitted by the officers / officials when Siraj-ud-Din & Aisan-ud-Din s/o Abdul Qadoos were owners in both Mouza Shah Dhand and Mouza Tehkal Payan which amounts to concealment of facts.

In this connection, it is pointed out that the custodian of the record is the Patwari, who after checking the record prepared & submitted NIL report. The undersigned is not record keeper as such mistake if any committed in checking of record cannot be attributed to the undersigned.

2. That no entry regarding the letter by NAB was made in the peon book further private servant of Mr. Muhammad Nadeem Girdawar namely Mr. Shah Mir dealt dispatch of the important letter by NAB which shows casual approach & lack of seriousness to official business of top priority.

In this connection, it is pointed out that despite having the post of naib qasid, I was not provided proper incumbent by the department. Hence, the question of not maintaining a peon book does not arise. Moreover, it is added here that keeping in mind the importance of the NAB letter, the same was informed to patwari through my cell phone besides copy of the same was sent to him

ATTES
[Signature]

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unofficially and in compliance, he had submitted the NIL report, which was onward forwarded to the higher authorities for further disposal at their ends. As such I didn't commit any laxity and laziness in the discharge of legal obligations. Reports of patwaris in compliance of the NAB's letter prove that it was communicated to them in an apt / timely manner. Hence, the undersigned has not committed any negligence.

3. That no entry regarding compliance to NAB was made in Roznamcha Karguzari by any of the revenue Officers / Officials while submitting the report.

In this connection, it is pointed out that such information and facts are recorded by Patwari in the Roznamcha Karguzari and not by the Circle Girdawar. Hence, this allegation does not pertain to the legal obligations of undersigned.

4. That on 15.08.2017, mutation no 18661 and 18667 were attested from Mr. Siraj-ud-Din s/o Abdul Qadoos which was registered by patwari, Mr. Riaz Ahmad, compared by Girdawar Mr. Muhammad Nadeem and attested by Naib Tehsildar Mr. Adil Waseem though having the knowledge of NAB investigation in the subject case.

a. In this connection, it is pointed out that the party had met patwari & he had prepared mutations after seeking mutual understanding of buyers and sellers (accused) and then submitted the same to circle girdawar despite he was in the knowledge of NAB's letter. Moreover, the accused also met the Naib Tehsildar Circle Qasba in Jalsa-e-Aam during attestation of the mutations. Even then he got fingers print of the accused besides completed and fulfilled other process / formalities.

b. The Deputy Commissioner,

ATTEST

Naseem

Attested
Malik Naseem Khalid
Advocate High Court

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Peshawar nominated Mr. Abdul Naseer Khan, Additional Assistant Commissioner (Revenue) / Peshawar to conduct inquiry in the case. The inquiry officer held the concerned Halqa Patwari responsible for gross misconduct and serious negligence recommending strict disciplinary action against him, while holding the Naib Tehsildar Qasba and Girdawar Qasba responsible for forwarding wrong information and recommended them for minor penalty of "Censure" Copy of the inquiry report is attached as Annexure-A).

- c. The Deputy Commissioner, Peshawar ordered a formal inquiry in the matter through Mr. Islah-ud-Din, AAC -Town-1 and Mr. Saeed Ullah Jan, AAC – Town-IV. The committee not included the Naib Tehsildar Qasba in the list of accused official although he was involved in the whole process.
- d. In its final recommendation, the Committee stated that "after hearing the accused officials in person, going through their written statement and record produced as evidence related to the charges levelled against them, the inquiry committee is of the opinion that the accused officials followed the procedure of

ATTESTED

Naseer
Attested
Malik Naeem Khalid
Advocate High Court

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finding the record through jamabandi in a proper way but names of the Directors / shareholders of Al-Hamra Builder were not available in the ownership column of jamabandi 2009-10 nor in the index." It further states that "after receiving information from NAB, the accused acted promptly to attach the said properties and cancelled the mutations and therefore not guilty of concealing the facts." The last para states that the accused officials are guilty only to the extent of delay in submission the report which is not willful and recommended for minor penalty." (Copy of the inquiry report attached as Annexure-B)

- e. Both the parties (seller and buyers) did not met the undersigned nor there was any indication of NAB's letter on the record during scrutiny, as such the undersigned endorsed the mutations including the specific ones which are under reference. Therefore, it is clear that the undersigned had no knowledge of the letter as no such objection was put by the record keeper who had only consulted the record upon knowledge of the fact that the mutations were cancelled so no loss has occurred. Hence, misconduct or negligence is not proved against the undersigned.

ATTESTED

Naeem

Attested
Malik Naeem Khalid
Advocate High Court

Keeping in view the above facts in mind, it is stated that the major punishment of "reduction to five lower stages in time scale" and restriction that the undersigned not to be engaged in any process related to land mutation for one year within the jurisdiction of District Peshawar is completely against the principle of natural justice.

It is requested that the double punishment awarded to me in this single case may please be waived off to save me and my family from financial loss and mental worries and I may be allowed to continue my services as Naib Tehsildar Circle Momand, District Peshawar.

For this act of kindness, I shall be every grateful and obliged.

Yours obediently,

Dated: 13/12/2018

(Muhammad Nadeem)

Girdawar presently working as
Naib Tehsildar Circle Momand,
District Peshawar

Attested
Malik Naeem Khalid
Advocate High Court

ATTESTED



F-23

IN THE COURT OF
COMMISSIONER PESHAWAR DIVISION
PESHAWAR

DATE OF INSTITUTION 20.12.2018.
DATE OF DISPOSAL 19.02.2019.
APPEAL NO. 01/2019.

MUHAMMAD NADEEM, GIRDAWAR.

(Appellant)

VS

DEPUTY COMMISSIONER PESHAWAR.

(Respondent)

ORDER

This order will dispose of the departmental appeal filed by the above named appellant against the Deputy Commissioner Peshawar order bearing No.3922/DC/P/DK dated 11.12.2018, whereby he was awarded major penalty of reduction to 05 lower stages in time scale under section 4 (b)(i) of Govt. of Khyber Pakhtunkhwa, Efficiency & Disciplinary Rules, 2011. He was further punished not to engage in any process related to land mutation for one year within the jurisdiction of District Peshawar.

Brief facts of the case are that National Accountability Bureau asked Deputy Commissioner Peshawar for the provision of information in connection with an inquiry. However, the appellant along with other revenue officials concealed the facts / misreported by submitting Nil report regarding ownership record in respect of Siraj ud Din s/o Abdul Qadoos and Aisam ud Din s/o Abdul Qadoos to National Accountability Bureau. Moreover, no entry regarding the letter by NAB was made in the peon book, no entry regarding compliance to NAB was made in Roznamcha Karguzari. Further on 15.08.2017, mutation No.18661 and 18667 were attested from Mr. Siraj ud Din s/o Abdul Qadoos which was registered by appellant along with others revenue officials having the knowledge of NAB investigation.

Deputy Commissioner Peshawar constituted an enquiry committee under Govt. of Khyber Pakhtunkhwa Efficiency and Discipline Rules 2011 comprising of Mr. Islah ud Din, Additional Assistant Commissioner Town-I and Mr. Saeed Ullah Jan, Additional Assistant Commissioner Town-IV. After receipt of the recommendations of the enquiry committee, the Deputy Commissioner Peshawar awarded major penalty of reduction to 05 lower stages in time scale under section 4 (b)(i) of Govt. of Khyber Pakhtunkhwa, Efficiency & Disciplinary Rules, 2011 to the appellant. He was further punished not to engage in any process related to land mutation for one year within the jurisdiction of District Peshawar.

ATTESTED

Appellant present and heard. Comments received from Deputy Commissioner Peshawar also examined. Perusal of the record reveals that the appellant is guilty only to the extent of delay in submission of the report which was not intentional. The enquiry committee also recommended minor penalty of withholding an increment for a period of one year.

Keeping in view the above, the appeal is partially accepted and punishment of the appellant is reduced to one lower stage in time scale under section 4 (b)(i) of Govt. of Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011. Moreover, ban imposed upon the appellant not to engage in any process related to land mutation within the jurisdiction of District Peshawar is also reduced to six months.

Announced
19.02.2019

Shahab Ali
COMMISSIONER
PESHAWAR DIVISION PESHAWAR

Aleshi
T.S
~~Acting Commissioner (Peshawar)
Peshawar Division Peshawar~~

ATTESTED
[Signature]

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

OF 2019

Muhammad Nadeem

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

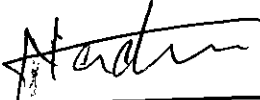
SMBR & Others

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Nadeem

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. ___/___/2019



CLIENT


ACCEPTED

NOOR MOHAMMAD KHATTAK

SHAHZULLAH KHAN YOUSAFZAI

&


MIR ZAMAN SAFI
ADVOCATES

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No. **0345-9383141**

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Appeal No.379/2019

Mr. Nadeem Khan, Girdawar presently posted as N/Tehsildar (OPS),
Circle Mohmand, District Peshawar(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Senior Member Board of Revenue.
 2. Commissioner Peshawar Division, Peshawar.
 3. Deputy Commissioner Peshawar.
-(Respondents)

PARAWISE REPLY

Respectfully Sheweth,

Preliminary Objections.

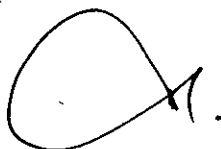
1. That the applicant in the instant case has no locus standi or cause of action to institute present appeal.
2. That the applicant has not come to this honourable court with clean hands.
3. That the applicant is estopped by his own conduct to file the instant appeal.
4. That the application is not maintainable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

REPLY ON FACTS

1. Correct to the extent that the appellant is an employee of the Revenue Department.
2. Further matter pertains to record.
2. Correct to the extent that reply to Charge Sheet/Statement of allegations was submitted. However the same was not satisfactory.
3. As per Efficiency and Discipline Rules 2011, the Competent Authority have powers to impose penalties as deemed necessary according to the guilt and have no compulsion to accept the recommendation of the enquiry committee in this regard.
4. As Para-3 above. The penalty was imposed keeping in view the guilt of the appellant, being a responsible Revenue Officer, whose slackness caused a bad image before the National Accountability Bureau.
5. No Comments.
6. No Comments.

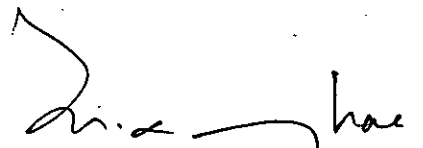
GROUND


- A. Incorrect. The order has been issued in the very light of Khyber Pakhtunkhwa Efficiency & Discipline rules 2011 and keeping in view the extent of guilt committed by the appellant.

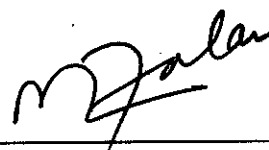


- B. Incorrect. All the procedures mentioned in the E&D Rules 2011 were adopted during the course of Inquiry.
- C. Incorrect. The enquiry was based on facts and hence competent authority decided the case and issued orders. No malafide intention was involved rather the attitude of the appellant was taken seriously and penalties were imposed according to the Rules.
- D. Incorrect. Opportunity for proper personal hearing was granted to the appellant on dated 02/11/2018 whereby statement of appellant was recorded.
- E. Incorrect. As Para-D above.
- F. Incorrect. No violation either in procedure for completion of inquiry or awarding of penalty has been made. Efficiency & Discipline rules 2011 were followed strictly.
- G. Incorrect. Proper enquiry was conducted by issuance of Charge Sheet and Statement of Allegations which has been accepted by the appellant and duly replied by him.
- H. Incorrect. The competent authority is not bound to accept the recommendation of the enquiry officer/committee under Efficiency and Discipline Rules 2011.
- I. No comments.

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


Deputy Commissioner
Peshawar
(Respondent No.3)


Commissioner Peshawar Division,
Peshawar
(Respondent No.2)


Senior Member Board of Revenue
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)



**OFFICE OF THE
DEPUTY COMMISSIONER / DISTRICT COLLECTOR
PESHAWAR**

Khyber Road Kacheri Gate No.3 District Courts Peshawar

No. 1398 /DC(P)DK

Dated Peshawar the 04/07/2019

To

Mr. Hikmat Yar Malik,
Assistant Director (investigation)
NAB, Khyber Pakhtunkhwa, Peshawar.

Subject:

**PROVISION OF INFORMATION U/S 19 OF NAO 1999, INQUIRY
AGAINST RIAZ AHMAD PATWARI MOZA TAHKAL PAYAN,
GHAFOOR KHAN PATWARI MOZA SHAH DHAND, PESHAWAR
AND OTHERS REGARDING HAMPERING OF INVESTIGATION
(MES ID#173926)**

Reference your letter No.1/25/1051-320304/IW-I/NAB (KP)/1334 dated
01/07/2019 on the subject noted above.

The required documents are enclosed herewith as per following details for
further necessary action as desired please.

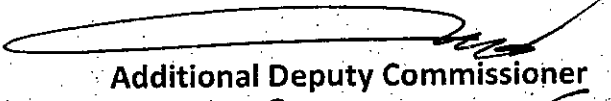
- Copy of NAB Letter No.1/25/IW-I/NAB(KP)/904 31/05/2017 (Annex-A)
- Enquiry Report (Annex-B)
- Copy of the Office Order against the officials (Annex-C)

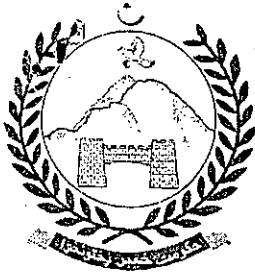
Enc. As Above


Additional Deputy Commissioner
Peshawar,

Endst. No. 1399 DC(P)/DK

Copy forwarded to the PS to Deputy Commissioner, Peshawar.


Additional Deputy Commissioner
Peshawar



OFFICE OF THE
DEPUTY COMMISSIONER
PESHAWAR

No. 2306 /DC(P)/DK
Dated Pesh. the 20/07/2018

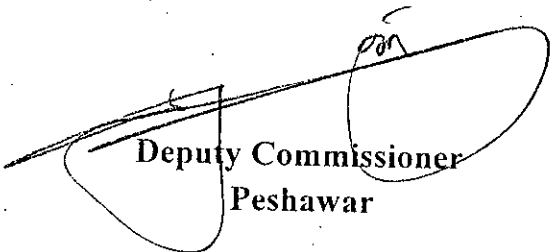
To

Syed Mahmood Ali,
Deputy Director (Coord)
For Director IW-I, NAB, Khyber Pakhtunkhwa, Peshawar.

Subject: **PROVISION OF INFORMATION U/S 19 OF NAO, INQUIRY AGAINST SIRAJ-UD-DIN, ASIM-UD-DIN OFFICERS/OFFICIALS OF REVENUE DEPARTMENT, PESHAWAR AND OTHERS REGARDING CONTRAVENTION OF SECTION 23 (A) OF NAO-1999 AND CORRUPTION & CORRUPT PRACTICES**

Reference your letter No.1/25/972/IW-I/NAB (Khyber Pakhtunkhwa)/1078 dated 11/07/2018 on the subject noted above.

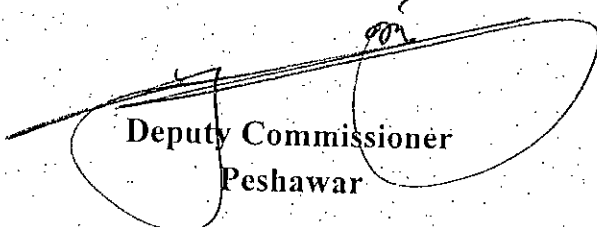
It is intimated that this office has taken serious note of the subject concealment by the revenue officers/officials whereby Mr. Abdul Naseer, Additional Assistant Commissioner (Revenue) Peshawar has been nominated to inquire into matter and submit his report by fixing responsibility on the delinquent Revenue Officers/Officials involved within a week time positively (by 24/07/2018). As and when the report is received the names of the officers/officials responsible will be forwarded for necessary action please.


Deputy Commissioner
Peshawar

Endst. No. 2307-10 DC(P)/DK

Copy forwarded to the:

1. Additional Deputy Commissioner Peshawar.
2. Mr. Abdul Naseer, Addl.Asstt. Commissioner (Rev) Peshawar for necessary action.
3. Mr. Hikmat Yar Malik, Assistant Director (Investigation Officer), NAB, Khyber Pakhtunkhwa Peshawar.
4. Assistant to Commissioner (Rev/GA) Peshawar Division Peshawar for information, w/r to his letter No.2-3/NAB/AR/2018/9159 dated 10/07/2018.


Deputy Commissioner
Peshawar



OFFICE OF THE DEPUTY COMMISSIONER PESHAWAR

Address: Gate No: 3, Opposite Pearl Continental Hotel, Khyber Road, Peshawar.

Phone: 091-9212302 Fax: 091-9212303 Email Address: dcpeshawar@hotmail.com

No. 3922 /DC/P/DK

Dated Peshawar the 11/12/2018

OFFICE ORDER:

Mr. Islah-ud-Din, Additional Assistant Commissioner Town-I & Mr. Saeed Ullah Jan, Additional Assistant Commissioner Town-IV were entrusted upon conducting formal inquiry under Efficiency & Discipline rules 2011 in respect of Mr. Muhammad Nadeem, Girdawar Circle Khalil, Mr. Muhammad Hamayun, Girdawar Circle Qasba, Mr. Abdul Ghafoor, Patwari Halqa Shah Dhand and Mr. Riaz Ahmad, Patwari Halqa Tehkal Payan for concealment of facts / misreporting by submitting nil report regarding ownership record in respect of Siraj-ud-Din s/o Abdul Qadoos and Aisam-ud-Din s/o Abdul Qadoos to National Accountability Bureau, Authorities Hayatabad Complex Peshawar who asked for the same vide letter No: 1/25/100-1/NABC(KP)/904 dated 31-05-2017. The inquiry panel after recording of statement, perusal of record and others recommended withholding of one increment for a period of one year vide enquiry report No: 638/AAC-VII dated 11-09-2018.

Consequently the accused officers / officials were called for a personal hearing by the undersigned on 23-10-2018 at 1000 hrs and on 26-10-2018 proper opportunity of hearing was given to the accused Officers / Officials. After detailed personal hearing, the following facts surfaced.

- 1) That nil report was submitted by the Officers / Officials when Siraj-ud-Din s/o Abdul Qadoos Aisam-ud-Din s/o Abdul Qadoos were owners in both Mouza Shah Dhand and Mouza Tehkal Payan which amounts to concealment of facts.
- 2) That no entry regarding the letter by NAB was made in the peon book further private servant of Mr. Muhammad Nadeem Girdawar namely Mr. Shah Mir dealt the dispatch of the important letter by NAB which shows causal approach and lack of seriousness to Official business of top priority.
- 3) That no entry regarding compliance to NAB was made in Roznamcha Karguzari by any of the revenue Officers / Officials while submitting the report.
- 4) That on 15-08-2017, mutation no 18661 and 18667 were attested from Mr. Siraj-ud-Din s/o Abdul Qadoos which was registered by Patwari, Mr. Riaz Ahmad, compared by Girdawar Mr. Muhammad Nadeem and attested by Niab Tehsildar Mr. Adil Waseem though having the knowledge of NAB investigation in the subject case.

- 5) That equal punishment of withholding of one increment for a period of one year was recommended for all four revenue officers having different scale of misconduct whereby Mr. Muhammad Humayun Girdawar Circle Qasba and Patwari Mr. Abdul Ghafoor are involved in misreporting whereas Mr. Muhammad Nadeem Girdawar Khalil and Patwari Mr. Riaz Khan committed the additional of transferring land from Siraj-ud-Din in spite of the knowledge that the subject case was under investigation by NAB authorities.

In light of the above personnel hearing having gone through the entire record, I Imran Hamid Sheikh, Deputy Commissioner, Peshawar competent authority under Efficiency and Disciplinary rule 2011 award the following penalties upon the officers / officials keeping in view the nature and scale of misconduct to meet the ends of justice.

- A) Minor Penalty of Deduction of two increments from Mr. Muhammad Hamayun, Girdawar Circle Qasba and Patwari Halqa for a period of two years under Section 4 (a)(II) of Efficiency and Disciplinary rule 2011.
- B) Major Penalty of Reduction to 05 lower stages in time scale under Section 4 (b)(i) of Efficiency and Disciplinary rule 2011 in respect of Mr. Nadeem Khan, Girdawar Circle Khalil and Mr. Riaz Ahmad Patwari Halqa Tehkal Payan. Both Mr. Muhammad Nadeem Girdawar Circle Khalil and Mr. Riaz Ahmad, Patwari Halqa Tehkal Bala shall not be engaged in any process related to land mutation for one year within the jurisdiction of District Peshawar.

M. Imran 7/12/18
(Imran Hamid Shiekh, PAS)
DEPUTY COMMISSIONER
PESHAWAR

No. 3928-29 / Dated Peshawar the 11-12 - 2018

Copy forwarded to the:-

1. Commissioner, Peshawar Division Peshawar.
2. Assistant Director National Accountability Bureau, PDA Complex Hayatabad, Peshawar.
3. Additional Deputy Commissioner, Peshawar.
4. Assistant Commissioner Peshawar with the direction to impart training upon Mr. Muhammad Nadeem Girdawar Circle Khalil and Mr. Riaz Ahmad, Patwari Halqa Tehkal Bala regarding proper handling of land mutation affairs.
5. Additional Assistant Commissioner Revenue Peshawar.
6. Tehsildar Peshawar.
7. District Kanungo Peshawar.

M. Imran 7/12/18
(Imran Hamid Shiekh, PAS)
DEPUTY COMMISSIONER
PESHAWAR