

554/15

26.4.2016

Agent of counsel for the appellant and Addl. AG for the respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 13.7.2016 before S.B.


Chairman

13.07.2016


None present for appellant. Addl: AG for respondents present. Written reply not submitted despite extension of last opportunity on the basis of cost of Rs. 1000/-. Requested for further time. Request granted subject to payment of Rs.1500/-(1000+500) which shall be borne by the respondents from their own pockets. To come up for written reply/comments on 30.08.2016


Member

30.08.2016

None present from either side despite repeated calls. The appeal is dismissed in default for want of prosecution. File be consigned to the record room.

ANNOUNCED
30.08.2016


Chairman
30.08.16

03

08.06.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Patwari Halqa and on the ground of misbehaviour/misconduct his service were terminated vide impugned order dated 6.2.2015 regarding which he preferred departmental appeal on 18.2.2015 which was not responded and hence the instant service appeal on 29.5.2015.

That neither proper inquiry was conducted nor appellant associated with the same in the prescribed manners and moreover the punishment is harsh and therefore liable to be set-aside.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 27.8.2015 before S.B.

Appellant Deposited
Security & Process Fee



27.08.2015

Counsel for the appellant and Assistant A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 23.11.2015 before S.B.

Chairman

23.11.2015

None present for appellant. Mr. Mukhtiar Ali, Supdt. for respondent No. 5 alongwith Addl: A.G for all respondents present. Requested for adjournment. To come up for written reply/comments on 29.2.2016 before S.B.

Chairman

29.02.2016

Counsel for the appellant and Mr. Mukhtiar Ali, Supdt. for respondent No. 5 alongwith Addl: A.G for all respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 26.4.2016 before S.B.



Chairman

Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 554/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29.05.2015	<p>The appeal of Mr. Tanveer Hayat presented today by Mr. Muhammad Ijaz Khan Sabi Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	8-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>8-6-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR**

Service Appeal No. 554 /2015

Tanveer HayatAppellant

VERSUS

Settlement Officer, District Chitral.
& others.....Respondents

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2.	Affidavit.		6
3.	Addresses of parties.		7
4.	Copy of the order	A	8
5.	Copy of the written statement	B	9
6.	Copy of impugned order	C	10
7.	Copy of the departmental appeal	D	11-12
8	Wakalat Nama		13

Through

Tally

Appellant

- a3
29.05.2015

Muhammad Ijaz Khan Sabi
Advocate, Supreme Court
15-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell: 0300-9596713

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR**

**N.W.F. Province
Service Tribunal**

Diary No. 606

Dated 29-5-2015

Service Appeal No. 554 /2015

Tanveer Hayat s/o Sher Zaman Khan,
Ex-Patwari Circle III,
Tehsil Mastuj, Distt: Chitral.....**Appellant**

VERSUS

1. Settlement Officer, District Chitral.
2. Director Land Records, Khyber Pakhtunkhwa.
3. Extra Assistant Settlement Officer, Chitral.
4. Settlement Tehsildar, Mastuj Circle III at Booni Chitral.
5. Senior Member Board of Revenue,
Khyber Pakhtunkhwa, Peshawar.**Respondents**

**SERVICE APPEAL U/S 4 OF THE SERVICE
TRIBUNAL ACT R/W SECTION 19 OF
KHYBER PAKHTUNKHWA GOVT:
SERVANT (EFFICIENCY & DISCIPLINE)
RULES 2011 AGAINST THE ORDER OF
RESPONDENT NO.1 DATED 06.02.2015
WHEREBY HE TERMINATED THE
APPELLANT FROM HIS SERVICES AND
THE ORDER OF RESPONDENT NO.2
DATED NIL WHEREBY HE NEITHER
DECIDED THE DEPARTMENTAL APPEAL
OF APPELLANT WITHIN STIPULATED
PERIOD OF TWO MONTHS NOR
CONVEYED HIS ORDER TO THE
APPELLANT IN WRITING.**

Filed to-day
[Signature]
Registrar
29/5/15

=====

Respectfully Sheweth

1. That the appellant joined his duty as Patwari in the Settlement Deptt: District Chitral in the year 2006 and since then he is performing his duty with full devotion, dedication, commitment and with high degree of discipline.
2. That in the whole service career of the appellant no complaint whatsoever has ever been made from any quarter regarding his attitude or behavior as well as his professional conduct and thus he has a clean slate in his hands.
3. That on 07 January 2015 the appellant was suspended by respondent No.1 allegedly on the ground of violation of office decorum and through the same order one Mr. Hazrat Ghulam Settlement Tehsildar Mulkhaw was appointed as Inquiry officer with the direction to look into the matter and submit his report within three days positively. (Copy of the order is attached as annexure 'A')
4. That the said inquiry officer without conducting any regular inquiry or formal inquiry just asked the petitioner to submit his written statement who accordingly submitted the same on 08.01.2015. (Copy of the written statement is attached as annexure 'B')
5. That the inquiry officer submitted his report to respondent No.1 stating therein that petitioner has mis-behaved with his immediate officer before the other staff which is clear violation of office decorum and service rules.

6. That on 16.01.2015 respondent No.1 being the competent authority summoned the appellant and was asked to submit his written statement which he accordingly submitted to him.
7. That respondent No.1 vide impugned order dated 06.02.2015 while imposing a major penalty was pleased to terminate the appellant from his service with immediate effect. (Copy of impugned order is attached as annexure 'C')
8. That the appellant submitted his departmental appeal on 18.02.2015 to respondent No.2 explaining each and every aspect of the issue but after lapse of prescribed sixty (60) days time he did not decide the same. (Copy of the departmental appeal is attached as annexure 'D')
9. That appellant now prefers this service appeal for the following amongst grounds:

GROUNDS

- A. That the impugned order of respondent No.1 and the silence of respondent No.2 over the departmental appeal of the appellant is prima-facie illegal as on one side major penalty of termination of service has been imposed on him and on the other side no regular inquiry as per requirement of Sections 5, 10 & 11 of the Govt: Servants (Efficiency and Discipline) Rules 2011 has been conducted and thus the impugned proceedings from inception to end are illegal, void ab initio and thus ineffective upon the rights of the appellant.
- B. That even the so-called inquiry officer did not bother to record the statements of office fellows of the appellant who were

present at the time of alleged incident of mis-behavior of the appellant and thus it appears that the inquiry officer was all out to opine the guilt of appellant without recording any evidence.

- C. That the quantum of punishment (Termination from Service) does not commensurate with the nature of allegations (even if it is admitted as true) therefore, on this touchstone the impugned order of respondent is not legally sustainable.
- D. That it is the established law that a regular and formal inquiry has to be conducted by the competent authority before imposing the major penalty but in the case of the appellant they have violated the same.
- E. That the explanation offered by the appellant regarding his one day absence and his alleged "mis-behavior" appears to be reasonable, logical and convincing but neither the inquiry officer nor the competent authority appreciated the same which speaks that they were pre-determined to give a full dose to the appellant in terms of punishment.
- F. That the 9 years past service record of the appellant shows that he has never been a regular absentee nor he has ever mis-behaved with any of colleague what to speaks of of senior official of his department but his this past conduct too could not find any reward from the inquiry officer and the competent authority.
- G. That Dil Nawaz Tehsildar Mastuj (who is complainant in case of appellant) and the inquiry officer namely Hazrat Ghulam are first friends and thus the latter has acted under the direct

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influence of the former one and thus on this ground too the appellant has been victimized in a biased manner.

- H. That the impugned order of respondent No.1 is harsh, viz-a-viz the nature of allegation, therefore, on this ground too, the appellant deserves leniency.
- I. That in view of the above facts and circumstances the impugned termination order is illegal, void ab initio and coram non-judice.

It is, therefore, prayed that by accepting this appeal the impugned order of respondent No.1 dated 06.02.2015 and the impugned order of respondent No.2 dated nil whereby he did not decide the service appeal of the appellant may please be set-aside and consequently the appellant may be re-instated in service with all back benefits.

Through

Tajh.
Appellant

a3
29th May 2015

And

[Signature]
Muhammad Ijaz Khan Sabi
[Signature]
Adnan Aman
Advocates, Peshawar

6

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR**

Service Appeal No. _____/2015

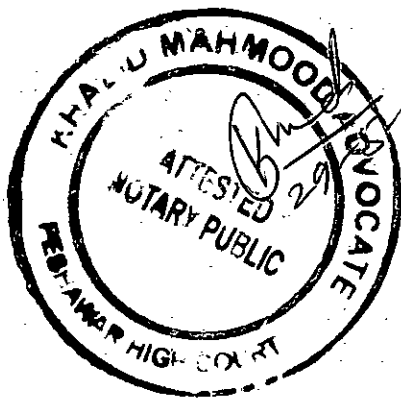
Tanveer HayatAppellant

VERSUS

Settlement Officer, District Chitral.
& othersRespondents

AFFIDAVIT

I, Muhammad Ijaz Khan Sabi, Advocate Supreme Court of Pakistan, do hereby solemnly affirm and declare that contents of the annexed service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



[Handwritten Signature]
a3
DEPONENT

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR**

Service Appeal No. _____/2015

Tanveer HayatAppellant

VERSUS

Settlement Officer, District Chitral.
& others.....Respondents

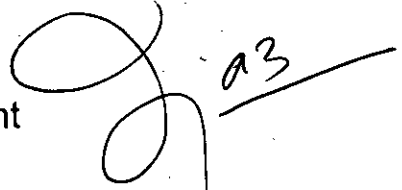
ADDRESSES OF PARTIES:

PETITIONER

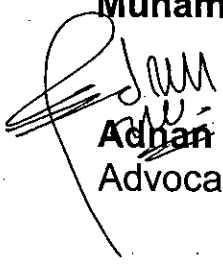
Tanveer Hayat s/o Sher Zaman Khan,
Ex-Patwari Circle III,
Tehsil Mastuj, Distt: Chitral

RESPONDENTS

1. Settlement Officer, District Chitral.
2. Director Land Records, Khyber Pakhtunkhwa.
3. Extra Assistant Settlement Officer, Chitral.
4. Settlement Tehsildar, Mastuj Circle III at Booni Chitral.
5. Senior Member Board of Revenue,
Khyber Pakhtunkhwa, Peshawar.

Through **Tanveer** Appellant 

And **Muhammad Ijaz Khan Sabi**


Adnan Aman
Advocates, Peshawar.

8) Annexure


OFFICE OF THE SETTLEMENT OFFICER CHITRAL "A"

Chitral dated the 7th January 2015

OFFICE ORDER

No. 04 /EXP:/SO/2015. Mr. Tanveer Hayat, Settlement Patwari Circle-III Mastuj is suspended from service with immediate effect, due to violation the office decorum.

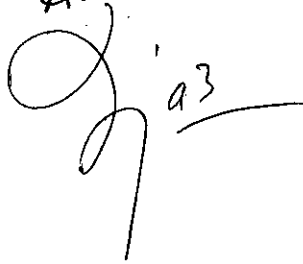
Mr. Hazrat Ghulam Settlement Tehsildar Mulkhwa is hereby appointed inquiry officer with the direction to look into the matter and submit report to undersigned with in 3 days positively. Charge Sheet and statement of allegation is enclosed.



(Shah Nadir)
Settlement Officer
Chitral

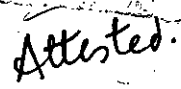
No. 05-12 /EXP:/SO/2015

Copy forwarded to:-

1. The Director Land Records, Khyber Pakhtunkhwa.
2. The PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Extra Assistant Settlement Officer, Chitral
4. The District Accounts Officer, Chitral.
5. Mr. Hazrat Ghulam, Settlement Tehsildar Mulkhwa with the direction to submit inquiry report with in 3 days positively.
6. Mr. Dil Nawaz, Settlement Tehsildar Mastuj with reference to his report No.209-1 dated 6th January 2015.
7. Mr. Tanveer Hayat with a direction to appear the before the inquiry officer when and where called.
8. Office Order File.

Attested.



Settlement Officer
Chitral

Tanveer Hayat
8/1/2015
Attested.


Annexure "B" (9)

کدت جا۔ قصیدار بندوبست سرکل موڈ کو حال ہی / انگریزی آفیسر

عنوان = بیان تحریری

جا۔ عالی

گذشتہ پانچ فزوی تمخواہ کی وادی سے ملے ہیں بہتر جو مورخہ 2015-2016 کو چرائل چھوٹی

بہتر اور اتوار سرکاری تعطیل کی وجہ سے تین ہفتے دن تمخواہ بینک میں رہتے رہا ہونے

کی وجہ سے بہتر رہے ہیں۔ اور فزوی کو پوری پینے ہیں دیر ہوئی اور فزوی دفتر

جو د سے غیر حاضر رہا

جا۔ عالی

فزوی بہتر منگل 2015/01/06 کو ٹیکس ٹھکانے لیا تو قصیدار صاحب بندوبست

ہوئے تھے بلایا اور بہتر کے دن کی غیر حاضری کے متعلق دریافت کیا تو میں نے Excuse کہی

لیکن قصیدار صاحب نے سچے نازیباً الفاظ کہے اور اتنی اہلی اور میں کی کہ سارے ٹیکس ٹھکانے

والوں نے سن لیا۔ اس پر بہتر نے کیا بلکہ مجھے بھڑکانے کی کوشش کی۔ تو میں نے اپنے

دفاع میں قصیدار صاحب کا یا کہ روکنے کی کوشش کی۔ اس دوران الجناہ اور ٹھوکان

گرد اور صاحب نے سچ بجا و کرایا۔ اور معاملہ ختم ہو گیا۔ اس پر قصیدار صاحب نے فزوی

کے حدود میں گھومتے الزامات لگا کر رپورٹ لگا کر 50 صفحہ کو ارسال کر دیا۔

فزوی نے گذشتہ 10 سال سے اپنے کسی کارڈ آفیسر سے سابقہ نہ کیا ہوں اور نہ اس سے

سکرین کا سوجھ سکتا ہوں۔

Attested. 93

Attested
2015/11/08

ایڈیشن سے پانچ فزوی بیان جو کہ دست ہے

10

Annexure
"C"

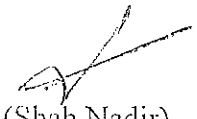
OFFICE OF THE SETTLEMENT OFFICER CHITRAL

Chitral dated the 6th February 2015

ORDER

No. 126 /ST-2/Voll:IV. Mr. Tanveer Hayat, Settlement Patwari BPS-09 mouza Torkhow Tehsil Mastuj on 6th January 2015, misbehaved with his immediate officer. Mr. Dil Nawaz Tehsildar Mastuj at Booni, who reported against the official, on 6th January 2015. The undersigned nominated Mr. Hazrat Ghulam, Tehsildar as enquiry officer. Enquiry officer on 8th January 2015 reported that the official misbehaved with his immediate officer before other staff which is clear violation of office decorum/service rule. On 16th January 2015, the official was given chance for personal hearing before the undersigned who committed his misbehavior.

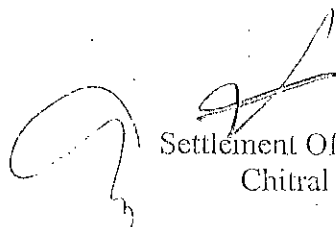
Therefore, a major penalty is imposed on him, and Mr. Tanveer Hayat Settlement Contract Patwari, is hereby terminated from service with immediate effect in the best interest of Settlement Operation, Chitral. Under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 due to his misbehavior.



(Shah Nadir)
Settlement Officer
Chitral

No. 127-32 /ST-2/Voll:IV

Copy forwarded to:-

1. The PS, to Senior Member, Board of Revenue, Khyber-Pakhtunkhwa.
2. The Director Land Records, Khyber Pakhtunkhwa.
3. The District Accounts Officer, Chitral.
4. The Settlement Tehsildar Circle-III Mastuj at Booni.
5. The official concerned.
6. Office order file.


Settlement Officer
Chitral


93
Attested.

بمقامت جناب ڈائریکٹر صاحب کینڈا ریکارڈ میجر ہفتونوزواہ پشاور

مضمون: حکمانہ اہیل بھلائی دفتری آرڈر نمبر No.127-32/SF-2 / VOLTV

تاریخ: 6 فروری 2015ء

333
23.2.05
Abankhwa

جناب عالی!

سائل اپنے استغاثہ کی حفاظت کی خاطر آفتاب کے دفتر

سید جہیزیل مقایمہ پیش کرنے کی اجازت کرنا ہے کہ :-

1- سائل بحیثیت ہنری سٹریٹ ایپارٹمنٹ چرائل میں سال 2006ء سے

اپنی خدمات کی انجام دہی کر رہا ہے تاہم سائل نے نہ ہی اپنے ذمہ داریوں میں کوئی کوتاہی کی ہے اور نہ اپنے کسی متعلقہ افسر یا دفتری عملے کی کوئی نشان شکنی کی ہے، نہ ہی میرے فائنانس کا ایسا و طہرہ رہا ہے۔

2- مورخہ 2 جنوری 2015ء کو بروز جمعہ سائل تنخواہ کی وصولی کی خاطر بونی سے

چرائل آیا تھا۔ جس کے لئے میں نے متعلقہ سرکل کے گروہ سے چھٹی بھی لی تھی۔ چونکہ نیشنل بینک اکاؤنٹ برائے واحد برائے ہونے کی وجہ سے وہاں پر ادائیگی

لوگوں کا جم منقیر رہا اور مجھے تنخواہ نہ مل سکا اور اگلے دو دن یعنی ہفتہ اور اتوار کو گزشتہ تعطیل تھی اس لئے میں دوسرے دن تنخواہ وصول کر کے واپس بونی

اپنے دفتر تکسٹ گھر پہنچا۔

3- مورخہ 6 جنوری 2015ء کو بروز منگل جب سائل دفتر میں کام کر رہا تھا تو

تصلاہ بندوبست بونی دلتواز خان نے مجھے اپنے دفتر میں بلایا۔ جوں ہی میں ان کے دفتر میں داخل ہوا تو تصلاہ موصوف نے دورے عملے کے ساتھ

سری بے عزتی کی اور گرتا گرتا الفاظ اداپ دیتے اور ساتھ ہی دروازہ

کرنے کی کوشش کی جس پر میں نے ان کے ہاتھ روکنے کی کوشش کی

استغاثہ دوران اسٹات نمبروں نے بھیج دیا۔ (طاری 4)

Handwritten initials/signature

Handwritten signature and date 13.2.2015

Handwritten number 243

Attested

بعد ازاں تقیدار موصوف نے اپنے باہر ہو کر سٹینٹ آفیسر کی رپورٹ بھیجی جس پر ایسی اور صاحب نے کسی انکوائری کے بغیر بھی بذریعہ آرڈر نمبر No-05-12/1549/50 ملاحظہ کر دیا۔ اور ساتھ ہی محنت غلام تقیدار کو انکوائری آفیسر مقرر کیا جو تقیدار، دلنواز خان کا براہ راست ماتحتی اور قریبی ساتھی ہے جو میرے ساتھ زیادتی ہوتے وقت دفتر میں بھی موجود تھا۔ تقیدار محنت غلام سب ڈویژن مستوح کے صرف ایک سرکل کا ذمہ دار ہے جبکہ دلنواز خان پورے سب ڈویژن مستوح کا انچارج ہے اس نے کسی ماتحتی آفیسر کو انکوائری آفیسر مقرر کرنا انصاف کے سراسر خلاف ہے اور غیر قانونی بھی جس کی رپورٹ کبھی بھی بن جائیگا نہیں ہو سکتی۔

۵۔ جب سٹینٹ آفیسر صاحب نے 16 جنوری 2015ء کو ذاتی سعادت کی خاطر اپنے دفتر بلایا تو میں نے انکوائری آفیسر کی جانب داری کا حوالہ دیکر کسی نیز جانبدار انکوائری آفیسر کی تقرری کی درخواست کی۔ کیونکہ انکوائری آفیسر محنت غلام نے خود اس بات کا اقرار کیا تھا کہ انکوائری رپورٹ پر زبردستی ان سے دستخط کرایا گیا تھا۔

۶۔ سٹینٹ آفیسر صاحب بری درخواست پر دوبارہ انکوائری غیر جانبدارانہ انداز میں کرا کر معاملہ سلجھانے کے بجائے اسے معمولی دفتری بات کو اور بھی الجھا دیا اور مجھے یہ ایک جنبش قلم ملازمت سے برطرف کر دیا جو کہ انصاف اور سہولت روزگار کی طرح خلاف درزی ہے۔

۷۔ جن برائیاں صدر جہ بالا گزارشات کے پیش نظر حضور والا سے عہد دارانہ طور پر کسی کی جانب سے (Attested) براہ معیار درخواست کی جاتی ہے کہ حضور والا انزواہ مزید نوازی سے ملازمت پر بحال کرنے کا حکم صادر فرمائیں تاکہ انصاف کے تقاضوں کی تکمیل بھی ہو سکے اور میرا مستقبل بھی متاثر نہ ہو سکے۔

امید ہے کہ حضور والا مجھ مزید کی سہا زندگی بھر اپنا پیش گئے۔
 امیر رضا
 سب ڈویژن، پٹواری سرکل، کوٹلی، مستوح

WAKALATNAMA (Power Of Attorney)

IN THE COURT OF Service Tribunal Khyber Pakhtunkhwa

Tanveer Hayat

(Petitioner)
(Plaintiff)
(Applicant)
(Appellant)
(Complainant)
(Decree Holder)

VERSUS

Settlement Officer Chitral & others

(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

I/ We, the undersigned
in the above noted Service appeal, do hereby appoint
**Mr. Muhammad Ijaz Khan Sabi, Alam Khan Adenzai, Ijaz
Muhammad Qadri, Meena Khan Qaiser & Adnan Aman** Advocates
Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for
me/us as my /our counsel in the above noted matter, without any liability for their
default and with the authority to engage/ appoint any other Advocate/Counsel
at my/our matter.

Attested & Accepted By.

MR. MUHAMMAD IJAZ KHAN SABI,
Advocate Supreme Court of Pakistan

ALAM KHAN ADENZAI,

IJAZ MUHAMMAD QADRI,

MEENA KHAN QAISER

&

ADNAN AMAN
Advocates, Peshawar
B-15, Haroon Mansion, Khyber Bazar,
Peshawar Office: 091-2551553

Tanveer Hayat
Signature of Executants

Tanveer Hayat
s/o Sher Zaman Khan
R/o Jhang Bazar
P/o Chitral, Tehsil
& District Chitral
Ex-Patwari Circle III
Tehsil Mastuj, Distt Chitral