

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT ABBOTTABAD

Service Appeal No. 324/2015

Date of Institution... 03.04.2015

Date of decision... 16.01.2018

Ghulam Nabi, Ex-Junior Clerk in the court of Sessions Judge, Mansehra.  
... (Appellant)

Versus

1. The Hon'ble Administrative Judge, Peshawar High court through Registrar of the Peshawar High Court and another. .... (Respondents)

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MR. DILDAR AHMAD LUGHMANI,  
Advocate

... For appellant.

MR. MUHAMMAD BILAL,  
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. AHMAD HASSAN,

... CHAIRMAN  
... MEMBER(E)

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was compulsorily retired from service on 09.02.2011 against which he filed departmental appeal on 28.2.2011 which was partially accepted on 06.03.2015. The appellant then knocked the door of this Tribunal against the appellate order whereby the penalty of compulsory retirement was converted into reduction to lower post with no back benefits. The charge against the appellant was unauthorized issuance of a notice in a civil case.

## ARGUMENTS

3. The learned counsel for the appellant argued that the appellant had only changed the date of next hearing on a notice which was already issued to the defendant in a civil case on a previous date. That the notice which was issued on previous date was not served for the date fixed and thereafter date was adjourned to some other date. But on the request of the plaintiff, the appellant (who was Reader in the concerned court) with bonafide intention changed the next date. That this mistake was not intentional. That there was nothing on record that the appellant had gained any undue advantage for the said very act. That in fact it was the Bailiff of the court who was the main accused and who under the garb of the said notice stopped the ongoing proceedings of demarcation. That despite his involvement he was exonerated by the Appellate Authority and the appellant was awarded the penalty. That there was nothing in the law or rules which could prohibit the appellant from changing the date on a notice. That the procedural due process was not adhered to and hence the whole enquiry proceedings lost its sanctity. That the learned counsel for the defendant who was examined in the enquiry proceedings was not allowed to be cross-examined by the appellant. That the statement of the said counsel was in fact recorded two days prior to the date fixed for the proceedings of the enquiry. That the Authorized Officer did not provide copy of the enquiry report alongwith final show cause notice to the appellant. That the original show cause notice was issued by the concerned Civil Judge in whose court the civil case was pending. That the Civil Judge was unauthorized to issue show cause notice to the appellant. In support of his arguments, learned counsel for the appellant relied upon certain judgments reported as 2006-Tr.C 294, PLD 1981-S.C-176, PLJ 2015-Tr.C 145 and 1993-SCMR-1440. He further added that the department did not file appeal before the august Supreme Court of Pakistan against the order of Appellate Authority. Therefore, back benefits could not be withheld. Reliance was placed on 1999-SCMR-1873.

4. On the other hand, the learned Deputy District Attorney argued that there was no need of any enquiry as the appellant had admitted the allegation on three occasions. That the department had fulfilled all the codal formalities. That the Appellate Authority had already taken a lenient view by converting the penalty.

### CONCLUSION.

5. This Tribunal is first to discuss the objection of the learned counsel for the appellant regarding issuance of first notice by the concerned learned Civil Judge who was not competent to issue show cause notice. The said show cause notice was not issued under the regular disciplinary proceedings but only to provide opportunity to the appellant to clarify his position before recommending disciplinary proceedings to the concerned Authority. The learned Civil Judge had rightly satisfied himself regarding the conduct of the appellant by issuing a show cause notice to him before recommending action against the appellant to the concerned Authority. The judgment relied upon by the learned counsel for the appellant reported as PLJ-2015 Tr.C 145 is irrelevant because in this reported judgment the show cause notice was issued during disciplinary proceedings by an Authority not delegated with that powers.

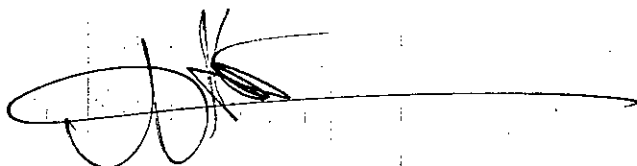
6. The next objection of the learned counsel for the appellant is regarding denial of cross-examining the learned counsel for the defendant and recording his statement two days prior to the date fixed for enquiry. When we go through this statement, the date mentioned at the top and at the bottom is 25.5.2010 but the learned counsel for the appellant is of the view that the date was 23rd May which was changed to 25th May. However, the order sheet of the proceedings clearly show that the said statement was recorded on 25th May and not on 23rd May, 2010. In the said order sheet the presence of the appellant was marked and in the course of examination the word "نادر" is written. The word "نادر" means that there is no cross-examination by the parties. Secondly, if it is presumed for arguments sake that the appellant was not provided right of cross examination then this Tribunal is to see that what prejudice was caused to the

appellant by not cross examining the said witness. If we go through the statement of the said witness nothing has been uttered against the present appellant in the said statement. Then what cross examination could be made by the appellant to the said witness which means that no prejudice was caused to the appellant for not cross examining the said witness. Furthermore, the only charge against the appellant was that he changed the date of next hearing on the notice and this fact was admitted by the appellant in his reply to the charge sheet. Similarly, as to the right of defence what type of defence, the appellant was to adduce against a fact which had already been admitted by him. In such situation there was no need of enquiry, at all, when in reply to the charge sheet, the appellant had admitted that he changed the date on the notice. In such situation, the settled principles of law of evidence is that admitted fact needs not to be proved. After the reply to the charge sheet, the Authorized Officer could have straight away recommended the penalty to the Authority when there was no issue to be proved on the basis of admission of the appellant. In such situation of admitted fact, no prejudice at all was caused to the appellant by not providing the copy of enquiry report or the issuance of final show cause notice by the Authorized Officer. The requirement of the enquiry report and the issuance of final show cause notice though was a legal requirement like statements of witnesses is a legal requirement in enquiry but when the fact was admitted by the appellant then there was no need of further proceedings. Had the appellant denied the charge then, of course, any infirmity or illegality in the proceedings would have caused prejudice to the appellant. Moreover, the Authority had issued final show cause notice to the appellant alongwith copy of the enquiry report before final order and in reply to the said final show cause notice, the appellant had again taken the same stance which he took right from the first day when the show cause notice was issued to him by the learned Civil Judge. The procedural steps are to be seen in the light of the circumstances of each case and if any prejudice is caused due to lapse of any procedural steps then that step becomes mandatory for the reason that by following that procedural steps, the outcome would have been different. The submission of no proof of advantage by the appellant is also

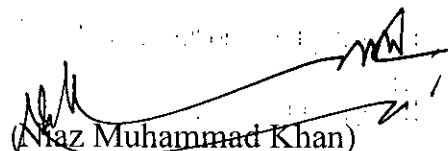
irrelevant as this was not included in the charge nor the loss caused to any party was included in the charge sheet. Exoneration of bailiff by a separate appellate authority in a different inquiry would not benefit the appellant. The said bailiff was exonerated not due to non proof but for other reasons .

7. Coming to the issue of back benefits, the judgment pressed into service by the learned counsel for the appellant reported as 1999-SCMR-1873 deals with such situation when a civil servant is reinstated but the department denied back benefits. The august Supreme Court of Pakistan in this judgment held that the department did not file appeal against reinstatement order, then civil servant would be entitled for the back benefits. But in the present case, the appellant was reinstated with an express order of denial of back benefits to him. When the back benefits were denied by the Appellate Authority then what was the requirement of filing appeal against the Appellate Order which was in favour of the department. It was incumbent upon the appellant to have filed an appeal against the order of Appellate Authority denying back benefits to him. But the appellant had not filed an appeal against the order denying back benefits to him. Secondly no department can file any appeal against order of departmental appellate authority. The judgment deals with situation when a civil servant is reinstated by a Court/Tribunal.

8. As a sequel to above discussion, the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)  
Member



(Naz Muhammad Khan)  
Chairman  
Camp Court, A/Abad

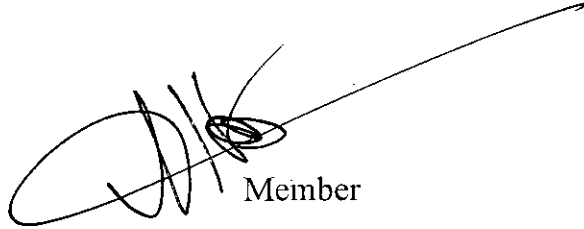
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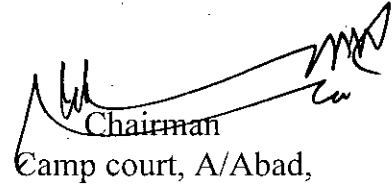
16.01.2018

Appellant with counsel and Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. M. Jamil, Senior Clerk for the respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



Member



Chairman

Camp court, A/Abad,

ANNOUNCED

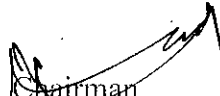
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12. 17.07.2017

Junior to counsel for the appellant and Mr. Muhammad Bilal, DDA alongwith Mr. Imtiaz Ahmad, Assistant for respondents present.

Since the issue of jurisdiction in similar cases is pending at principal seat and those cases are fixed for 16.08.2017. The present case is therefore adjourned till the decision of issue of jurisdiction at principal seat. To come up for further proceedings on 17.10.2017 before D.B at Camp Court A/Abad.

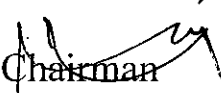
  
Member

  
Chairman  
Camp court, A/Abad

17.10.2017

Appellant with counsel and Mr. Muhammad Bilal, Deputy District Attorney Syed Asif Hussain Shah Superintendent for the respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on 16.01.2018 before the D.B at camp court, Abbottabad.

  
Member

  
Chairman  
Camp court, A/Abad.





یہ کہہ کر عدالت سے Status Quo جاری کر کے اور کام  
 کرنے سے روک دیا۔ تاہم کئی دفعہ عدالت نے اسے متنبہ کیا  
 میں بلیف میں بیان نے جو کچھ کہا یا جو کا دعویٰ کیا اس کا میں یہ قسم  
 دیتا ہوں کہ میں اس میں سے ہر دو آڈیٹرز کا جواب دے گا  
 منظر میں عدالت نے اس کو یہ شکایت کیا کہ آڈیٹرز نے ہر عدالت  
 آڈیٹرز کے افسانے عدالت نے Attraction اور  
 Misrepresentation اور Misinterpretation کی ہے۔  
 اور بلیف کو باایمان بیان کیے از ادنیٰ غلط اور Altered آڈیٹرز  
 کے کہے۔

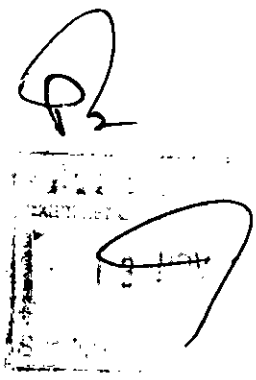
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 Cause Of:       
 Date: 17-11-2007



C402

نقل حکم از دفتر قاضی عالی دادگستری  
عبر دفتر  
17/4/2012  
9/8/2011  
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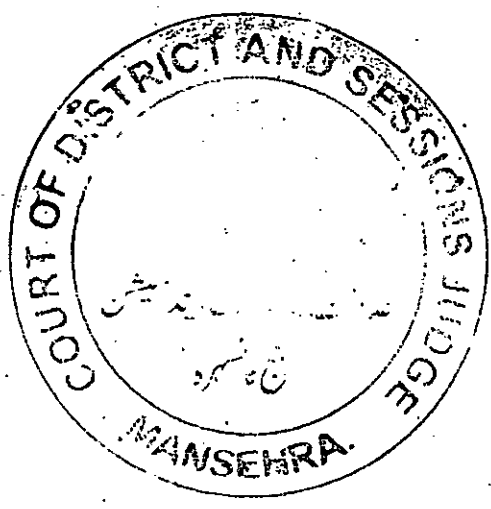
BEFORE THE DISTRICT AND SESSIONS JUDGE  
MANSEHRA

Mian Sultan S/O Shahzullah Ex-Bailiff Senior Civil Judge  
Mansehra.....Appellant

VERSUS

Senior Civil Judge Mansehra.....Respondent

Respected Sir,



P.1  
ATTESTED  
10.5.12

IN THE COURT OF SYED RAFIQUE HUSSAIN SHAH  
DISTRICT & SESSIONS JUDGE, MANSEHRA

DEPARTMENTAL APPEAL NO. 3/DA OF 2011.

DATE OF INSTITUTION 09.08.2011.

DATE OF DECISION 17.04.2012.

MIAN SULTAN SON OF SHAHZULLAH, EX-BAILIFF OF THE ESTABLISHMENT  
OF SENIOR CIVIL JUDGE, MANSEHRA. . . . . APPELLANT.

VERSUS

SENIOR CIVIL JUDGE, MANSEHRA. . . . . RESPONDENT.

JUDGMENT

Appellant Mian Sultan was posted as Bailiff in the  
Court of Civil Judge, Balakot and was performing his official  
duty there.

A civil suit titled Karimullah etc Vs Mst.Rifhat  
Sultana Begum etc was instituted which was entrusted to  
Civil Judge-XII Mansehra. Alongwith the suit an application  
for temporary injunction was filed. The record would show  
that on 08.6.2010 notice pertaining to the application for  
temporary injunction was issued in the names of the  
defendants. On 23.6.2010 wakalatnama on behalf of  
Mst.Rifhat Sultana Begum Defendant No.1 was submitted in  
the Court. Her counsel complained that the notice pertaining  
to application for temporary injunction issued vide order sheet  
No.3 dated 08.06.2010 was a simple notice but it was wrongly  
interpreted by the appellant Mian Sultan Bailiff showing it as  
a status quo order issued by the Court. In view of the  
complaint of the learned counsel for defendant No.1, the

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Syed Rafique Hussain  
District & Sessions Judge  
Mansehra

matter was sent to learned Senior Civil Judge, Mansehra for necessary action against the concerned official.

Senior Civil Judge, Mansehra initiated inquiry against the official, appointing Mr. Aurangzeb Khan then Civil Judge-I Balakot as authorized officer, who appointed Mr. Asad Ali, Civil Judge-II Balakot as inquiry Officer. The Inquiry Officer in his report dated 03.03.2011 submitted his findings to the Authorized Officer to the effect that matter between the parties had been patched up outside the court and no fresh evidence could become part of the file against Mian Sultan Bailiff. The Authorized Officer sent back inquiry file to the Inquiry Officer with direction to record the statement pertaining to compromise or to conduct proper inquiry in to the matter. Inquiry Officer summoned the parties and recorded the statements of two witnesses namely Azeem Girdawar circle and Ghulam Muhammad SHO of police station Ghari Habibullah. The Inquiry Officer expressed dissatisfaction on the statement of Azeem Girdawar holding that he was evading to give straight forward answers. However, the Inquiry Officer came to the conclusion that the appellant Mian Sultan and Azeem Girdawar circle, both were guilty of professional misconduct. It was further observed that Mian Sultan knowingly misquoted/misrepresented the notice of status quo as a full fledged status quo order to stop the demarcation proceedings on the spot. This inquiry report dated 30.05.2011 was submitted to the authorized Officer Mr. Aurangzeb Khan Civil Judge-I Balakot for further necessary order.

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ATTESTED  
10.5.12

H. Rafique

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After perusing the inquiry report, the authorized officer found it not up to the mark and as such the file was sent back to the Inquiry Officer to re-summon and re-examine Azeem Khan Girdawar circle in presence of Mian Sultan to give him opportunity to cross-examine the witnesses. In the light of the findings of the learned Authorized Officer dated 09.06.2011, the Inquiry Officer re-summoned Azeem Khan Girdawar and Mian Sultan Bailiff. On 15.06.2011 Azeem Khan Girdawar was not re-examined by the Inquiry Officer rather he was confronted with the questions, answers dated 28.5.2011. This modus-operandi of the Inquiry Officer was resisted/opposed by the learned counsel for appellant Mian Sultan with specific objection that Questions Answers dated 28.05.2011 did not fall within the purview of statement of Girdawar circle.

After hearing the view points of the learned counsel for appellant Mian Sultan, the learned Inquiry Officer observed as follow:-

"After perusing the record and hearing counsel of the accused, I am of the opinion that arguments forwarded by learned counsel for accused Mian Sultan Bailiff may be true and correct to its own extent but what gathered from the record and from my previous report dated 30.05.2011, is that a simple notice of status quo was converted by accused Mian Sultan Bailiff in to full status quo order, whereas Azeem Girdawar, although he is a qualified person and well versed in his job, did not pay any heed to the Court orders and wrongly stopped demarcation proceedings. Hence both officials are guilty of professional misconduct"

This report was again sent to the Authorized Officer, who vide his report dated 16.09.2010 held Mian Sultan guilty of official mis-conduct and recommended him major penalty i.e. dismissal or removal from service.

P.4  
10.5.12  
Rafique

On the said recommendations, the Authority i.e. Senior Civil Judge, Mansehra removed Mian Sultan Bailiff from his service vide his order dated 21.10.2010. However, on appeal Mian Sultan was reinstated by then learned District & Sessions Judge, Mansehra and the case was sent back for re-inquiry on the ground that the learned Authorized Officer had not served formal charge sheet and statement of allegations upon him.

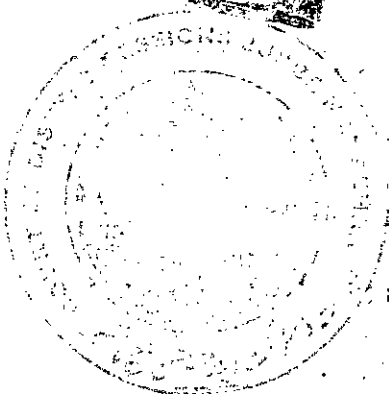
Re-inquiry was conducted as per directions of the appellate forum and again the official was found guilty of misconduct and recommended for major penalty. Consequently, Mr. Mohsin Ali Turk, Senior Civil Judge, Mansehra vide his order dated 30.07.2011 imposed major penalty of removal from service with immediate effect.

In this background Mian Sultan preferred the instant appeal.

Mr. Shad Muhammad Khan, Advocate appeared on behalf of the appellant and contended that it is evident from the record that initially the Inquiry Officer issued notices to the attorney of Mst. Rifhat Ara Begum but as the attorney was reluctant to produce evidence, therefore, the file was sent by the Inquiry Officer to the Authorized Officer, wherein it was observed that the parties had patched up the matter privately. However, the Authorized Officer returned the file to the Inquiry Officer directing him to record the statements of the witnesses particularly that of Ghulam Muhammad SHO and Azeem Khan, Girdawar circle. He next argued that on 24.05.2011, the Inquiry Officer had exonerated the appellant

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 ATTESTED

10.5.12

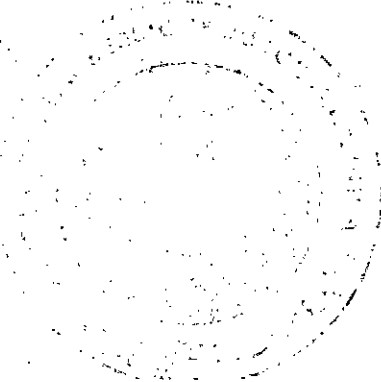


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and sent the file to the Authorized Officer for further proceeding. Consequently the Inquiry Officer had to summon Azeem Girdawar on 28.05.2011 and examined him in absence of appellant. According to the learned counsel for the appellant, the Inquiry Officer refused to record statement of Azeem Girdawar in presence of the appellant and insisted to cross-examine the witness on the basis of his statement already recorded. Learned counsel for appellant submitted that all the proceedings of the so called inquiry were conducted in haphazard manner without affording proper opportunity to the appellant to cross-examine the witnesses and as such the inquiry so conducted was not a fair and aboveboard inquiry. It was also pointed out by the learned counsel for the appellant that sensing hostile situation, the appellant approached the learned Senior Civil Judge, Mansehra (Authority) on 22.01.2011 to transfer the inquiry from the Inquiry Officer in Balakot to some other Inquiry Officer but his application was turned down. It was also pointed out by the learned counsel for appellant that despite the fact that steno Abdul Hakeem was on leave on the relevant day, he was shown to have recorded the proceedings. The learned counsel for the appellant concluded his arguments with the contentions that inquiry in question was not conducted fairly, properly and aboveboard and more-so it was also against the provisions of Section 6(2) of Efficiency and Disciplinary Rules. He prayed to set aside the findings regarding major penalty of the appellant, to reinstate him in

P.6

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 16.5.12



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service and to provide him opportunity to earn bread and butter for his children.

I have gone through all the relevant record. I have been unable to find any evidence or proof on the record to the effect that the appellant got some monetary benefit as sequel to the alleged act of mis-representing, mis-quoting or mis-interpreting the court notice. It is also not evident on the record that the appellant had some special relationship with the plaintiff party for which he took such a big risk of annoying the opposite party. The Girdawar circle namely Azeem who stopped his work on the spot was not a layman. He was a qualified person well versant with the notices of the courts. He should not have been misled by a simple and ordinary Bailiff. It was observed and admitted by the Inquiry Officer that Azeem Girdawar was a qualified person and well versed in his job but he did not pay any heed to the court order and wrongly stopped the demarcation proceeding. This observation of the Inquiry Officer would mean that it was girdawar Azeem who wrongly stopped the demarcation proceeding. It was deposed by Ghulam Muhammad SHO in his cross-examination that he was told by girdawar circle that stay order was issued by the court to stop the work. Statement of girdawar Azeem Khan was recorded on 20.07.2010 but instead of subjecting him to cross examination he was put to questions-answers session. Such modus operandi of the learned Inquiry Officer is not understandable. Abid Hussain Patwari was also examined by the Inquiry Officer on 20.07.2010 and a specific question was asked from him. The relevant question and its answer is reproduced below:-

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ATTESTED

10. S. 12

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کیا بیلف میاں سلطان نے آپ کے سامنے گرد اور سرکل کو زبانی طور پر کہا تھا : سوال نمبر 1  
 کہ حد براری روک دو کیونکہ عدالت کی طرف سے Stay ہوا ہے؟

یہ کہ زبانی طور پر بیلف میاں سلطان نے یہ نہیں کہا تھا کہ کام روک دو۔ بلکہ : جواب  
 اس نے عدالت کا ایک آرڈر پیش کیا اور کہا کہ یہ حکم امتناعی کا آرڈر ہے آپ اس کو  
 وصول کرو اور اصل پر مجھے دستخط کر کے دو۔

Answer of Abid Hussain Patwari is in clear conflict with the answers of Azeem Khan Girdawar and Ghulam Muhammad SHO in this respect.

After deep and proper analysis of the matter, I am of the considered view that the inquiry conducted against the appellant was not of such characteristic/value on the basis of which such a drastic action could have been taken. It is not at all proved to the hilt that appellant acted for achieving some ulterior motive. It is also not proved on the record that the appellant had some personal interest in misinterpreting the court notice. In case the appellant had mis-represented the court notice, Girdawar circle, who was a qualified person, could have followed the legal process. The appellant being a mere Bailiff could not influence Girdawar circle or for that matter SHO of the area to stop work on the spot. A penalty imposed upon the appellant is definitely a harsh penalty not proportionate to the alleged fault on his part.

In a nutshell, I feel constrained to endorse the findings of the Authority regarding removal from service of the appellant. Hence I allow this appeal and consequently while

P. 8

10.5.12

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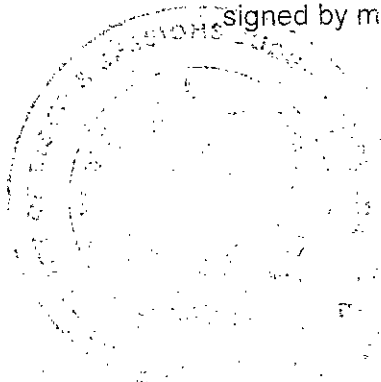
setting aside the findings of learned Senior Civil Judge, Mansehra (Authority) dated 30.07.2011, I hereby reinstate the appellant in service with all back benefits. File be consigned to the Record Room after compilation.

ANNOUNCED.  
17.04.2012

*H. Rafique*  
(SYED RAFIQUE HUSSAIN SHAH)  
DISTRICT JUDGE  
MANSEHRA

CERTIFICATE.

Certified that my this judgment consists of Eight (08) pages, each page has been read over, corrected and signed by me wherever necessary.




*H. Rafique*  
(SYED RAFIQUE HUSSAIN SHAH)  
DISTRICT JUDGE  
MANSEHRA

P.9  
*Hussain*  
10.5.12

C.D. No. 3326  
Date 5.12  
Court File *H. Rafique*  
Urgent *urgent*  
Total *1 fee*  
Name *Rafique*  
Date *10.5.12*  
Date of Trial *filed*  
Cause of Trial *from 10.5.12*  
Date of Judgment *10-05-2012*

17.02.2016

Appellant in person, M/S Muhammad Ashraf, Supdt. and Muhammad Asif, Assistant alongwith Mr. Muhammad Siddique, Sr.G.P for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 19.9.2016 at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

19.09.2016


Appellant alongwith agent of counsel for the appellant and Mr. Fakhre Alam, English Clerk alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Rejoinder submitted. Counsel for the appellant has not turned up from Peshawar. Requested for adjournment. To come up for final hearing on 14.2.2016 before the D.B at camp court. Abbottabad.

  
Member

  
Chairman  
Camp court, A/Abad

14.02.2017

Clerk of counsel for the appellant and Mr. Muhammad Siddique, Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for final hearing on 18.07.2017 before the D.B at camp court. Abbottabad.

  
Member  
Camp court, A/Abad


6 22.7.2015 Appellant in person, M/S Muhammad Ashraf, Supdt for respondent No.1 and Muhammad Asif, Assistant for respondent No.2 alongwith Mr. Muhammad Tahir Aurangzeb, G.P for present. Requested for adjournment. To come up for written reply/comments on 15.9.2015 before S.B at camp court A/Abad.

  
Chairman  
Camp Court A/Abad

15.09.2015 Appellant with counsel, M/S Muhammad Ashraf, Supdt. and Muhammad Asif, Assistant alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 18.11.2015 before S.B at Camp Court A/Abad

  
Chairman  
Camp Court A/Abad

18.11.2015 Appellant in person, M/S Muhammad Ashraf, Supdt. and Muhammad Asif, Assistant alongwith Mr. Muhammad Siddique, Sr.G.P for respondents present. Written reply not submitted due to death of father-in-law of respondent No.2 as stated by representatives of respondents. Last opportunity extended for submission of written reply/comments to 17.2.2016 before S.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

3.

17.04.2015

None present for appellant. The appeal be relisted for preliminary hearing for 30.04.2015 before S.B.

  
Chairman

4.

30.04.2015

Counsel for the appellant. Learned counsel for the appellant seeks adjournment. Adjourned to 14.05.2015 for preliminary hearing before S.B.

  
Chairman

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14.05.2015

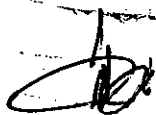
Counsel for the appellant present. Learned counsel for the appellant argued that vide impugned order dated 9.2.2011 the appellant was proceeded against under E & D Rules, 1973 for professional misconduct and was compulsorily retired from service. That the appellant preferred departmental appeal against the impugned order on 28.2.2011 which remained un-responded where-after appellant service appeal No. 1279/2011 but meanwhile the appellate authority modified the original impugned order and converted the penalty into reduction to lower post. That the appellant was constrained to withdraw the earlier appeal and hence the instant appeal against the order of appellate authority dated 6.3.2015 on 3.4.2015.

That the appellant was initially appointed as Junior Clerk and therefore the impugned order of appellate authority is void ab-initio. That furthermore the appellant was proceeded against under E & D Rules while the law applicable to the case of the appellant was Removal from Service (Special Powers) Ordinance, 2000. Places reliance on case law reported as 2007 SCMR 229.

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 22.7.2015 before S.B at camp court Abbottabad as the matter pertains to the territorial limits of Hazara Division.

  
Chairman



Appellant Deposited  
Security & Process Fee



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 324/2015

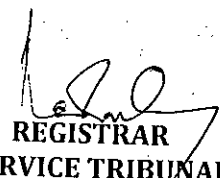
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15.04.2015	<p>The appeal of Mr. Ghulam Nabi resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	15-4-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>17-4-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Ghulam Nabi Ex-Junior Clerk Session Judge Mansehra received to-day i.e. on 03/04/2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Page Nos. 20, 29, 30, 40, 53, 54 and 78 to 81 of the appeal are illegible which may be replaced by legible/better one.
- 2- Annexures of the appeal may be attested.
- 3- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 459 /S.T.


Dt. 7/4 /2015

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

*Note:*

*Sir,* *Re-submitted after compliance.*

  
15/4/2015

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL NO 324 /2015

**GHULAM NABI VS ADMINISTRATIVE JUDGE**

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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4.	Transfer order	C	13.
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6.	Status quo order	E	16.
7.	Application	F	17-19.
8.	Show cause notice	G	20.
9.	Reply	H	21-26.
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23.	Vakalat nama	.....	

**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE**



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL NO. 324 /2015

A.W.F. Province  
Service Tribunal  
Diary No. 299  
Dated 03-04-2015

Mr. Ghulam Nabi, Ex: Junior Clerk,  
In the Court of Session Judge Mansehra ..... **Appellant**

**VERSUS**

- 1- The Honorable Administrative Judge Peshawar High Court through Registrar of the Peshawar High Court, Peshawar.
  - 2- The District and Session Judge Mansehra.
- ..... **Respondents**

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE APPELLATE ORDER DATED 6.3.2015 WHEREBY THE MAJOR PENALTY IMPOSED BY THE RESPONDENT NO.2 VIDE IMPUGNED ORDER DATED 9.2.2011 HAS BEEN CONVERTED TO ANOTHER MAJOR PENALTY OF REDUCTION TO LOWER POST/ GRADE**

**PRAYER:** That on acceptance of this appeal the impugned orders dated 6.3.2015 and 9.2.2011 may very kindly be set aside and the respondents may be directed to re-instate the appellant on his original post of Junior Clerk cum Moharrir 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:**

- 1- that the appellant was inducted in the service as Junior Clerk on 20.11.1995 in the establishment of Senior Civil Judge, Mansehra and later on selected and appointed as Junior Clerk in the establishment of District and Session Judge, Mansehra on 02.10.2001. Copies of the DSC Minutes and appointment order are attached as annexure ..... **A & B.**

*Handwritten signature and date 3/4/15*

re-submitted to-422-  
and filed.

That, the appellant performed his duties in this Department since last 15/16 years without any fault on the part of the appellant.

*Handwritten signature and date 3/4/15*

- 3- That in June 2010 appellant was posted as reader to the court of Mr. Mazhar Hussain, learned Civil Judge-VII, Mansehra. Copy of posting is attached as annexure ..... **C.**

- 4- That 08.06.2010 a suit bearing No.22/1 of 2010 "Kareemullah etc. Vs Riffat Sultana and other" was entrusted to the said court where I was posted as reader by the learned Senior Civil Judge, Mansehra. Being a routine work I have written the first order sheet in it, but there was an application i=for issuance temporary injunction, hence I brought the matter into the notice of my leaned Presiding Officer ordered me to mentioned order for issuance of a simple notice against the opposite party about the same application. Therefore in compliance with the directions of Presiding Officer, I had done so. And orally one of the plaintiff present in the court to file summon forms with the Moharrir of the Court. After getting signature of the learned Presiding Officer, I sent the case file to the Moharrir for the issuance of notice/Summon as per order. The Moharrir of the court prepared notice/summon produce before the learned Presiding Officer for his signature on it. The learned Presiding Officer, after his signature delivered the same direct to plaintiffs present in court and the P.O also directed him to deliver the same before Naib Nazir at Balakot for its execution. Thereafter the plaintiff left the court.
- 5- That on 16.6.2010 (the date fixed in the case) none of the party present except clerk of the counsel of the plaintiff similarly earlier notice/summons delivered to the plaintiff were also not received back after execution.
- 6- That I receipt the previous order sheet for 29.6.2010 (Next date of hearing), in the meanwhile on 22.6.2010 one of the plaintiff appeared before the court and inquired me about his next date of hearing, which I told him. However the plaintiff, requested to Presiding Officer that he failed to obey the order of the court and not delivered the notice/summon to Naib Nazir Balakot due to his sickness. The learned Presiding Officer ordered me to mention next date of hearing on the same notice/summon and the back same to him, which I do. The learned Presiding Officer also ordered the plaintiff to deliver the same to the Naib Nazir Balakot for its execution deliberately. Copies of the order sheet of the suit as well as notice of the S.Q application are annexed as annexure ..... **D & E.**
- 7- That on 23.6.2010 some of the defendants along with counsel appeared before the court and complained about the role of plaintiff who manures the notice of Status-quo instead of simple notice on application.
- 8- That resultantly they have stopped the proceeding of demarcation on the spot on the basis of said notice. In this respect defendant No.1 of the said suit Mst. Rifhat Sultana

through an other application in the court of learned District & Session Judge, Mansehra (Respondent No.2) on 26.6.2010 which is still pending before the court of respondent No.2 for evidence of the parties. Copy of the application is attached as annexure ..... **F.**

**9-** That on 25.6.2010 Mr. Mazhar Hussain, Civil Judge-XII, Mansehra issued show cause notice to the appellant as well as Muhammad Sultan Bailiff and Bilal Raza Moharrir, who is not allowed under the law to issue show cause notice to me because he is not competent authority. He can send report only before the authority for issuing the same. Copy of the show cause notice is attached as annexure ..... **G.**

**10-** That the appellant as well as Bilal Raza Moharrir submitted reply of the said illegal show cause notices in the court of Mazhar Hussain, Civil Judge-XII, Mansehra on 28.6.2010. Copy of the notice is attached as annexure ..... **H.**

**11-** That on 29.6.2010 the then District & Session Judge, Mr. Anwar Hussain passed an office order vide which he appointed respondent No.3 as authorized Officer for the purpose of inquiry. Copy of the office order is attached as annexure ..... **I.**

**12-** That on 10.8.2010 learned Additional Session Judge charge sheeted the appellant and he also provided statement of allegation to the appellant. Copies of the charge sheet and statement of allegation are attached as annexure ..... **J.**

**13-** That authorized Officer further appointed the Senior Civil Judge as inquiry Officer vide order dated 10.8.2010. That the inquiry Officer without any charge sheet or show cause notice initiated the proceedings of the inquiry and the appellant was directed to submit the reply of the charge sheet and statement of allegation. Appellant submitted the same before the inquiry Officer. Copies of the charge sheet and statement of allegation are attached as annexure ..... **K.**

**14-** That inquiry officer conducted the inquiry and returned the file to the authorized Officer vide order dated 01.10.2010. Copies of the orders dated 10.8.2010 and <sup>reply of</sup> 01.10.2010 are attached as annexure ..... **L.**

**15-** That Additional Session Judge after receiving the inquiry report from authorized Officer again summoned the appellant and supplied the questionnaire as well as final show cause notice to the appellant. Appellant submitted his

reply to the questionnaire as well as final show cause notice 06.11.2010 and 22.11.2010 respectively. Copies of the questionnaire, final show cause notice and reply are attached as annexure ..... **M.**

- 16-** That respondent no.2 heard me in person on 02.12.2010. during the course of personal hearing I had brought it in to the notice of respondent no.2 that both the authorized officers respondent No.3 and inquiry officer respondent No.4 have not initiated any inquiry proceedings against Mr. Bilal Raza Moharrir of the court. Similarly I have also brought into the notice of respondent No.2 that cutting/overwriting made on the notice to the extent of next date of hearing was made by learned Civil judge himself, earlier this fact was not shown in writing due to the honor/prestige of the court as well as civil judge. However, after personal hearing the respondent No.2 adjourned the inquiry proceedings for 09.12.2010 for consideration. On this date, the respondent No.2, fully agreed with the submission of the appellant and remanded the inquiry file back to respondent No.3 for holding similar inquiry against Mr. Bilal Raza Moharrir also, but he did not mentioned single word about cutting of the date on the notice by learned civil judge or in this regard necessary defense evidence. On receipt of inquiry file the respondent No.3 charge sheeted the Bilal Raza Moharrir and supplied the statement of allegation and he was directed to appear before the inquiry officer vide order dated 20.12.2010.copies of the order sheets/charge sheets and statement of allegations are attached as annexure ..... **N.**
- 17-** That Mr. Bilal Raza Moharrir replies of the charge sheet as well as statement of allegation. Copy of the reply of Bilal Raza is attached as annexure ..... **O.**
- 18-** That after compliance of inquiry report the inquiry Officer resubmitted inquiry file before the Authorized Officer respondent No.3 on 03.01.2011, but during this proceedings he has neither given a chance to the appellant for production of defense evidence nor he summoned the Reporting Officer/Presiding Officer as well as plaintiff of the said case who given the summon/notice by the Presiding Officer himself for recording his necessary evidence despite my oral request before the inquiry Officer respondent No.4 during the inquiry proceedings and first personal hearing before the District & Session Judge, (Authority Respondent No.2).
- 19-** That the respondent No.3 resubmitted the inquiry file to respondent No.2 on 07.01.2011 with the same incomplete recommendations. On 14.01.2011 inquiry file against

received by respondent No.2 and he again issued final show cause notice (2<sup>nd</sup>) to the appellant and directed to submit his reply within 7 days. In compliance with the order of respondent No.2, I again resubmitted my reply. Copies of the final show cause notice 2<sup>nd</sup>, reply of the notice and order sheet dated 14.1.2011 are attached as annexure ..... **P.**

**20-** That on 08.02.2011 learned respondent No.2 personally heard the appellant and I also submitted written arguments before the authority and the case was fixed for 09.2.2011 for order. That respondent No.2 again neither considered the reply of final show cause notice nor during personal hearing considered the arguments of the appellant. Copy of the order sheet dated 09.2.2011 along with written arguments are attached as annexure ..... **Q.**

**21-** That on 09.02.2011 learned respondent No.2 passed the impugned order whereby he imposed major penalty on the appellant under NWFP Government Servant Efficiency and Disciplinary Rules, 1973 and passed the order regarding compulsory retirement of the appellant. Copy of the order dated 09.02.2011 is attached as annexure ..... **R.**

**22-** That the appellant submitted a Departmental appeal/representation before respondent No.1 but no reply was received within the stipulated time. That then after the appellant submitted service appeal No.1279/2011 in this august Tribunal but during the pendency of the said service appeal the appellate authority issued the appellate order on the Departmental appeal of appellant vide order dated 6.3.2015 whereby the appellate authority converted the major penalty of compulsory retirement to reduction into lower post. Copies of the Departmental appeal, service appeal and appellate order are attached as annexure ..... **S, T and U.**

**23-** That the appellant seeks the indulgence of this Honorable Court, inter alia, on the following grounds.

**GROUND:**

- i. That all the respondents wrongly, illegally and without any justification imposed major penalty upon the appellant as there is not fault on the part of the appellant.
- ii. That the impugned orders dated 9.2.2011 and 6.3.2015 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

- iii. That Mr. Mazhar Hussain, Civil Judge-VII, Mansehra is not allowed under the law to issue me show cause notice as he was neither Authorized Officer nor inquiry Officer and respondents No.2 to 5 carried out the proceedings of the inquiry on the basis of that show cause notice illegally.
- iv. That appellant has good service record and there is no misconduct, corruption charges of any kind against the appellant.
- v. That appellant wrote the date on notice of status-quo application with the order of the Presiding Officer and also handed over the same to the plaintiff by the Presiding Officer himself.
- vi. That the appellant is a poor low-grade government servant and severely affected by the earthquake of 2005.
- vii. That the appellant has done all the things with the order of the Presiding in good faith without any malafide and without any connivance with any of the party of the suit.
- viii. That the inquiry Officer has not properly inquiry into the matter as he has not recorded the necessary evidence in the inquiry and the appellant was not afforded the opportunity of producing any defense evidence although the appellant insisted on the same in this way the order of the authority i.e. learned respondent no.2 is totally wrong, illegal and without justification.
- ix. That rule 6 (E&D Rules) entitles the accused official to cross examine the witnesses. In this case the Reporting Officer and plaintiffs of the case were not examined during inquiry enabling the appellant to cross examine him, despite my written request as stated in reply of final show cause notice and written statements/arguments.
- x. That the Authorized Officer and the authority paid no attention towards the Supreme Court decision PLD 1981 SC Page-176, provided before them, whereby it was obligatory on authorized Officer to get explanation from the accused official about suggesting/recommendation major penalty. On the basis of authority referred above, the penalty was set aside on appeal b the August Supreme Court in relevant case titled as "Syed Mir Muhammad Shah, Senior Civil Judge Abbottabad Vs. Govt: of NWFP".
- xi. That the appellant served in the Department since 1995 without any stigma on his service record.

- xii. That there is no malafide or illegal gain is established by the respondents during inquiry proceedings, even then the appellant was awarded major penalty without any rhyme and reason.
- xiii. That all the respondents wrongly, illegally and without any justification imposed major penalty upon the appellant as there is no fault on the part of the appellant.
- xiv. That the appellant was not afforded the opportunity of being heard in support of his defense.
- xv. That no regular inquiry has been conducted in the matter of appellant which is as per Supreme Court judgments is necessary before awarding major punishment to the civil servant.
- xvi. That the original post on which the appellant was appointed is Junior clerk, therefore the impugned order dated 6.3.2015 is not passed by the respondent No.1 in accordance with law and prevailing rules hence not tenable and liable to be set aside.
- xvii. That the penalty is too much harsh which is against the norms of justice and equity.
- xviii. That the appellant would like to seek the permission of this Honorable Tribunal to advance some more grounds at the time of arguments.

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

Dated: 3.4.2015

**APPELLANT**



**GHULAM NABI**



**THROUGH:**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

A-8

Annexure - 2  
o/L

From: Chairman & Members,  
Departmental Selection Committee,  
District Judiciary, Mansehra.

To: The Hon'ble District & Sessions Judge,  
Mansehra.

No. 859 Dated Mansehra the 22nd October, 2001.

Subject: APPOINTMENT OF JUNIOR CLERKS BPS-05  
IN DISTRICT JUDICIARY, MANSEHRA.

Memo:  
Kindly refer letter No. 1300-03 dated  
22.09.2001 on the subject.

A total of 148 candidates participated in  
the test & interview. Out of whom twenty one (21)  
candidates got through the test and interview. A mark  
list prepared in this respect of successful candidates,  
is attached as annexure "A", while the detailed result  
of test & interview of all the candidates is attached  
as annexure "B". The extract selected and given for  
typing test alongwith the answer sheets of all the  
candidates is enclosed as Annexure "C".

It is to add that a total of fifty (50)  
marks, twenty five (25) each for typing test and  
interview were earmarked by the Committee.

The candidates obtaining the highest marks  
are selected and recommended for appointment in  
accordance to the availability of posts.

Submitted please.

**ATTESTED**

MUHAMMAD TARIQ,  
Senior Civil Judge,  
Mansehra (Chairman).

1. Syed Aqeel Shah,  
Civil Judge-I, Mansehra.  
(Member).

2. Miss Zeba Rashid,  
Civil Judge/Judge Family  
Court, Mansehra (Member).

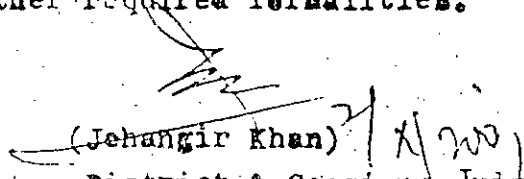
*check  
Steps  
put up a final  
application  
2/x/2001*



O R D E R

2.10.2001.

In light of recommendations of departmental selection committee received vide letter No:859 dated 2.10.2001 and the merit list prepared by such committee, Ghulam Nabi son of Musa Khan resident of Mangrai Tehsil Balaket now posted as Sweeper to the court of Civil Judge/Judicial Magistrate, Oghi, Ayaz Khan son of Sarfraz Khan r/o Dhodial Tehsil Mansehra, Mohammad Sakif son of Taj Mohammad resident of Cheer Bail Gandhian, Tehsil Mansehra, Sardar Mohammad Atif son of Sardar Mohammad Aslam r/o Iqbal Road Supply Bazar Abbottabad, Nasir Mehmood son of Sultan Mehmood Khan r/o Shehal Najaf Khan Tehsil Balaket and Shafqat Rehman son of Shafiqur Rehman process server attached to the court of Senior Civil Judge, Mansehra appearing at serial No: 1 to 6 respectively on the merit list are offered the appointment of Moharrirs EPS-5 purely on temporary basis against the vacant and newly created posts subject to their medical fitness and completion of other required formalities.

  
(Jehangir Khan) 2/10/2001  
District & Sessions Judge,  
Mansehra.

1	2	3	4
17.	Tabarak Ali	08	10
18.	Muhammad Ghazali	07	10
19.	Muhammad Yasir	07	10
20.	Muhammad Imtiaz	05	12
21.	Muqadas Shah	02	15

MUHAMMAD TARIQ,  
Senior Civil Ju  
Chairman.

**ATTESTED**

*[Handwritten signature]*

*[Handwritten initials]*  
2/12

*[Handwritten signature]*  
1. Syed Aqeel Shah,  
Civil Judge-I, Ma  
Member.

*[Handwritten signature]*  
nsehra,

## MERIT LIST SHOWING THE RESULT OF TEST &amp; INTERVIEW FOR APPOINTMENT OF JUNIOR CLERKS EPS-5.

S.No.	Name of candidate	Marks obtained.		Total	Remarks
		Test	Interview		
1.	Ghulam Nabi	10	15	25	
2.	Ayaz Khan	09	16	25	
3.	Muhammad Sakif	08	15	23	
4.	Sardar Muhammad Atif	08	15	23	
5.	Nasir Mehmood	07	15	22	
6.	Shafiqur Rehman	07	14	21	
7.	Fakhar Alam	05	15	20	
8.	Muhammad Ijaz	08	12	20	
9.	Babar Sultan	07	13	20	
10.	Dildar Ahmad	06	14	20	
11.	Ishtiaq Aziz	10	10	20	
12.	Muhammad Rafiq	12	08	20	..... He is retired Army personal and aged more than 45 years.
13.	Muhammad Zubair Khan	10	09	19	
14.	Syed Naveed Shah	06	13	19	
15.	Waliur Rehman	09	10	19	
16.	Muhammad Babar	05	13	18	

**ATTESTED**

*[Signature]*

اپوزیشن (مستحقان) کو مستحق قرار دیا گیا ہے 4/1  
 17-B Appointment order

B-11

**ORDER**

Consequent upon the recommendations of departmental selection committee received in this court vide letter No:859 dated 2.10.2001, the following candidates are hereby appointed as Moharrirs(JC- MPS-5) on the terms and conditions noted below against the posts fallen vacant on account of promotions of Mr. Shaukat Hussain Copy Clerk, Mr. Abdul Ali Shah Copying Examiner and Mr. Mohammad Hameed Reader to Civil Judge/Judicial Magistrate-I, Mansehra against newly created posts:

1. Ghulam Nabi son of Musa Khan r/o village Hangrai Tehsil Balakot now posted as sweeper attached to the court of Civil Judge/Judicial Magistrate, Oghi.
2. Ayaz Khan son of Sarfras Khan r/o village Bhedial Tehsil Mansehra
3. Mohammad Sakif son of Taj Mohammad r/o Baila Cheer Gandhian Tehsil Mansehra.

**TERMS AND CONDITIONS.**

- i) Their employment is purely on temporary basis and is liable to termination without any notice or assigning any reason.
- ii) Such appointment is subject to medical fitness and verification from the local police.
- iii) The appointee shall be governed by service rules prescribed by the Government and august High Court from time to time.

If the candidates accept the above terms and conditions, they should report to this court within seven days, from the receipt of this order.

(JEHANGIR KHAN)  
 DISTRICT & SESSIONS JUDGE,  
 MANSEHRA.

**OFFICE OF DISTRICT & SESSIONS JUDGE, MANSEHRA.**

No: 1429-32 Copy to : Dated 2-10-2001

1. Ghulam Nabi son of Musa Khan sweeper attached to the court of Civil Judge/Judicial Magistrate, Oghi.
2. Ayaz Khan son of Sarfras Khan r/o Hangrai Bhedial Tehsil Mansehra.
3. Mohammad Sakif son of Taj Mohammad r/o Baila Cheer Gandhian ,
4. The District Accounts officer, Mansehra.

For information

(Jehangir Khan)  
 District & Sessions Judge,  
 Mansehra.

**ATTESTED**

Signature: .....  
 Date: 11-10-08

CD No: 11396  
 No: 11-10-08  
 Cont: 1-0  
 Dep: 1-00  
 T: 2-02  
 P: Zahur  
 No: 11-10-08  
 Date of Copy: 11-10-08

Received  
 3/10/2001 A  
 Received Sir,  
 3.10.2001  
 Received  
 3/10/2001



**ORDER**

The following posting & transfers among the ministerial staff are hereby ordered in the public interest with immediate effect till further orders.

S.No	NAME OF OFFICIALS	FROM	TO
1	MR. MUHAMMAD JAMIL	Senior Clerk/Reader to the Court of Mr. Ishtiaq Ahmed Civil Judge, Mansehra	Transferred and posted as a Typist to the Court of Mr. Ishtiaq Ahmed Civil Judge, Mansehra vice#2
2	MR. GHULAM NABI	Junior Clerk/Typist to the Court of Mr. Ishtiaq Ahmed Civil Judge, Mansehra.	Transferred and posted as a Junior Clerk/Reader to the Court of Mr. Ishtiaq Ahmed Civil Judge, Mansehra. vice#1

**(SYED RAFIQUE HUSSAIN SHAH)**  
DISTRICT & SESSIONS JUDGE,  
MANSEHRA

**OFFICE OF THE DISTRICT & SESSIONS JUDGE, MANSEHRA**

No 4995-99 D&SJ, Mansehra dated the 29/10/2008

Copy forwarded for information to the:-

1. Mr. Azhar Ali Khan, Senior Civil Judge, Mansehra.
2. Mr. Ishtiaq Ahmed, Civil Judge, Mansehra.
3. Officials concerned for immediate compliance.
4. Office Copy.

*[Handwritten Signature]*  
**(SYED RAFIQUE HUSSAIN SHAH)**  
DISTRICT & SESSIONS JUDGE,  
MANSEHRA

**ATTESTED**

*[Handwritten Signature]*

*Received today*  
*[Handwritten Signature]*  
*29/10/08*

IN THE COURT OF MR. MOHSIN ALI TURK,  
SENIOR CIVIL JUDGE/JMIC EMPOWERED U/S 30  
Cr.PC, MANSEHRA.

Suit No: 22/11

Year: 2010

D-14

*محمد رفیق سلطان علی* Versus *محمد رفیق سلطان علی*

ORDER - 01

08.6.10

Suit instituted through counsel. Entrusted to the court of

Civil Judge/JM XII

Mansehra for disposal in accordance with law. Plaintiff is directed to appear before the said court today.

(MOHSIN ALI TURK)  
Senior Civil Judge/JMIC,  
Mansehra.

0-02  
8/6/10

File received from the court of learned Jc, Mansehra. Be checked & report.

ATTESTED

P/1  
ATTESTED

Signature: *[Signature]*  
Date: 21-2-11

*Handwritten notes in Urdu script at the bottom of the page, including the word 'Plead' and the date '8/6/10'.*

EX. PA

25/09/10

0-3  
8/6/10  
 صدر کتب مندرجہ بالا - علم درایت دکنی و درستی کے لئے  
 تصدیق کرنے میں - چنانچہ درخواست کے اکتفا علیٰ ذہنی  
 نام سے - دونوں دن رات دستخط ہو کر خارج ہو گئے  
 دن 23 کی طرف سے ہیں - نیز کوئی بابت درخواست  
 ہم دستخط جاری ہو کر مندرجہ بالا کی دستخط  
 سنہ 6/6/10 و 23/6/10

MAZHAR HUSSAIN  
 CIVIL JUDGE/JM  
 Manshira

0-4  
7/6/10  
 صدر کتب مندرجہ بالا - کتب مندرجہ بالا  
 میں سے - صدر کتب مندرجہ بالا کی دستخط ہو کر مندرجہ بالا  
 سنہ 6/6/10 و 23/6/10

P/12

TESTED  
 21-2-11  
 Or.5 23.6.10

MAZHAR/HUSSAIN  
 Civil Judge/JM  
 Manshira

M Hussain  
 23.06.10

Case was fixed for 29.6.10, however, Mr. Mubara  
 Ahmed Lughmani advocate requested for requisition of ins-  
 tant case file which has been requisitioned accordingly.  
 Learned counsel submitted his vikalatnama on  
 behalf of Mst. Rifhat Sultana defdt no.1. He argues that  
 order no.3 dated 8.6.10 regarding a simple notice which  
 has previously not been returned to this court and has  
 been mis-represt yesterday on 22.6.10. Same notice has  
 been mis-represt as a notice of 8.6.







29/10

بسم اللہ الرحمن الرحیم  
معاذ رفعت سلطانہ بیگم

نوٹیشن نمبر 10000/10000  
معاذ رفعت سلطانہ بیگم نے حاضری نامہ  
میں درج کیا ہے کہ وہ 10/10/2010 کو  
معاذ رفعت سلطانہ بیگم کے ساتھ  
معاذ رفعت سلطانہ بیگم کے ساتھ  
معاذ رفعت سلطانہ بیگم کے ساتھ

2553  
22/10

معاذ رفعت سلطانہ بیگم نے درخواست کی ہے کہ وہ  
112 - 113 - 115 - 116 - 117 - 119 - 120 - 469  
121 - 123 - 475 - 472  
121 - 123 - 475 - 472  
معاذ رفعت سلطانہ بیگم کے ساتھ  
معاذ رفعت سلطانہ بیگم کے ساتھ  
معاذ رفعت سلطانہ بیگم کے ساتھ

نائب ناظر  
10/10/2010

معاذ رفعت سلطانہ بیگم نے درخواست کی ہے کہ وہ  
10/10/2010 کو معاذ رفعت سلطانہ بیگم کے ساتھ  
معاذ رفعت سلطانہ بیگم کے ساتھ  
معاذ رفعت سلطانہ بیگم کے ساتھ

MAZHAR HUSAIN  
08/06/10

ATTESTED

Handwritten signature



18

یہ کہ 2/6، 1/6 کے بعد ایصال کیلئے سائلہ نے متعلقہ عدالت درخواست گزار کی جو کہ منظور ہو کر موقع پر دخل ملا۔ لیکن مدعیان کریم اللہ وغیرہ نے ایک بوجس درخواست عذرات پر اپیل دائر کی اور ناجائز طور پر بجائے نمبرات خسره 751/671/129 کی نسبت حکم حاصل کرنے کے قبلہ اراضی مندرجہ درخواست حد براری کی نسبت حکم انتہائی سازشی حاصل کر کے سائلہ کی کارروائی حد براری موقع پر کوادی جس سے سائلہ کو-50,000/- پچاس ہزار روپے کا نقصان ہوا۔ بطور ثبوت حکم نامہ عدالت لف ہے۔

یہ کہ ان دو مقدمات کی اجراء و ایصال ڈگری کو روکنے کیلئے کریم اللہ وغیرہ نے ایک بوجس مقدمہ بعدالت جناب سول جج - ابالا کوٹ دائر کیا جو مورخہ 31-03-2010 کو خارج ہوا اور پھر اس فیصلہ کے خلاف اپیل دائر کی جو مورخہ 08-06-2010 کو خارج ہوئی۔

یہ کہ کریم اللہ وغیرہ نے اسی روز ایک اور بوجس دعویٰ برخلاف سائلہ عدالت سول جج - X 11 میں دائر کیا اور مورخہ 08-06-2010 کو سمن اور نوٹس کے احکامات جاری ہوئے۔ جو اہلکاران عدالت نے دستی حوالہ سلیمان ولد احمد جی کئے۔ جس نے ناظر عدالت بالا کوٹ پیش نہ کئے۔ آئندہ تاریخ پیشی 16-06-2010 مقرر تھی لیکن اہلکاران عدالت نے کریم اللہ وغیرہ کے ساتھ مل کر سازش اور بددیانتی کرتے ہوئے مطابق آرڈر شیٹ سمن جاری نہ کئے۔

یہ کہ سائلہ نے 02-03-2010 کو اپنی اراضیات موسومہ نور داغلی کشتروہ کی حد براری کیلئے تحصیل ایجنسی بالا کوٹ سے احکامات جاری کروائے۔

یہ کہ مورخہ 22-06-2010 حد براری کی کارروائی کیلئے سائلہ کا مختیار

ATTESTED



19

محمد صالح ولد رفیع اللہ اپنے ہمراہ گرواوسرکل، پٹواری حلقہ و پولیس نفری  
 لے کر موقع پر گئے۔ جو بہ ایما و سازش کریم اللہ وغیرہ اہلکاران عدالت سے  
 08-06-2010 کا جاری کردہ حکم نامہ (بجائے 16-06-2010 کے  
 حکم نامے) پر جعلی اندراج کر کے اس کو Status-quo ظاہر کر کے  
 بیلف عدالت نے موقع پر کارروائی حد براری روک دی جسکے وہاں پر موجود  
 دیگر لوگ بھی گواہان ہیں جس سے سائلہ کو زائد از  
 -/50,000 پچاس ہزار روپے کا نقصان بھی پہنچایا جو کہ سائلہ کا کارروائی  
 حد براری پر خرچ ہوا تھا۔ اور عدالت کے ریکارڈ میں غلط تاریخیں ڈال کر  
 Forgery کا ارتکاب کیا۔ اور یہ ساری کارروائی کریم اللہ وغیرہ بمعہ محرر  
 عدالت ریڈر عدالت، ناظر بالا کوٹ اور بیلف نے کی۔ یعنی مندرجہ بالا  
 اشخاص و اہلکاران اس فراڈ میں ملوث ہیں۔  
 استدعا ہے کہ سائلہ کی دائرگی فرمائی جاوے اور ذمہ دار اہلکاران و مدعیان  
 مقدمہ کو قراوقتی سزا دی جائے۔

24-6-11

المرقوم 24-06-2010

ارض

رفعت آراخان خیل عرف رفعت سلطانہ زوجہ الحاج گلنام خان  
 Riffat Ara Khan Khail  
 سکنہ گڑھی حبیب اللہ تحصیل بالا کوٹ ضلع مانسہرہ۔  
 کاپی برائے اطلاع: جناب چیف جسٹس صاحب ہائی کورٹ پشاور۔

p/3

11-2-11

مشمولات:-

- 1- آرڈر شیٹ محررہ 08-06-2010، 16-06-2010 فاضل عدالت۔ 1224
- 2- نقل نوٹس حکم امتناعی۔ محررہ 08-06-2010 10-2-11
- 3- رپورٹ گرواوسرکل۔
- 3- رپورٹ ایس۔ ایچ۔ او۔ تھانہ گڑھی حبیب اللہ (Exempted Fee)
- 5- حکم نامہ عدالت D.O.R. مانسہرہ۔
- 6- درخواست حد براری۔ 11-2-11
- 12-2-11

ATTESTED

*(Signature)*

No. 77/dated Mansehra the 25/6/2010

From:-

Mazhar Hussain,  
Civil Judge-XII,  
Mansehra.

To,

Mr. Ghulam Nabi,  
Reader to the Court of  
CJ-XII, Mansehra.

Subject:

**SHOW CAUSE NOTICE**

Memo:-

In response to show cause notice no.74 dated 24.6.2010 submitted by Mr. Bilal Raza, Muharrir to the court of undersigned, it has been notified that when he wrote a simple notice he did not write date for next date fixed i.e. 16.6.2010 which was later on to be fixed by you (Reader of the court) according to his reply.

Furthermore you were inquired upon about the same in presence of date along with counsel on 23.6.2010, you replied that date has been fixed by you and you admitted that it was part of clerical mistake. Later on vide order No. 4 dated 16.6.2010 this court has not ordered for any notice and order made regarding summon forms, however, you had fixed on same notice which was in respect of next date of hearing which has not been brought in to the notice of the undersigned.

You should explain your position on 28.6.2010 that why legal/departmental proceedings should not be taken against you.

**(Mazhar Hussain)**  
**Civil Judge-XII, Mansehra.**

**ATTESTED**



Handwritten notes at the top of the page, including the number 13 and some illegible text.

No. 77 / dated Mansehra the 25/6/2010.

From:-

Mazhar Hussain,  
Civil Judge-XII,  
Mansehra.

To,

Mr. Ghulam Nabi,  
Reader to the court  
of CJ-XII, Mansehra.

Subject:

SHOW CAUSE NOTICE.

Memo:-

In response to show cause notice no. 74 dated

24.6.10 submitted by Mr. Bilal Raza, Muharrir to the court of undersigned, it has been notified that when he wrote a simple notice he did not write date for next date fixed i.e. 16.6.10 which was later on to be fixed by you (Reader of this court) according to his reply.

Furthermore you were inquired-upon about the same in presence of deaft alongwith counsel on 23.6.10, you replied that date has been fixed by you and you admitted that it was part of clerical mistake. Later on vide order no. 4 dated 16.6.10 this court has not ordered for any notice and order made regarding summon forms, however, you had fixed on same notice which was in respect of next date of hearing which has not been brought in to the notice of the undersigned.

You should explain your position on 23.6.10 that why legal/departamental proceedings should not be taken against you.

*Received to day.*

*25/6/10*

*P/1*

*Mazhar Hussain*  
(Mazhar Hussain)

Civil Judge-XII, Mansehra.

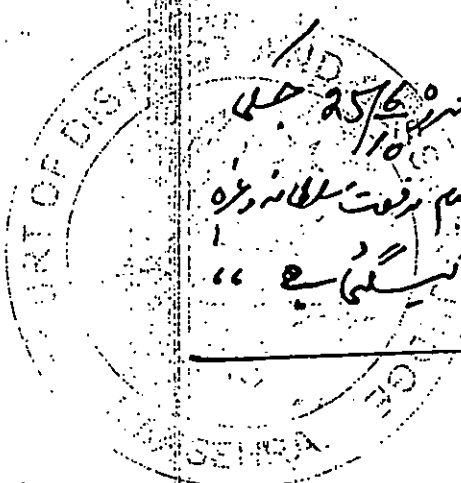
ATTESTED

Signature: *[Signature]*

Date: *21-2-11*

ATTESTED

قبل جواب سیکورٹری کے آرڈر کے تحت سیکورٹری نے جواب لکھا ہے۔  
 14/11/1977  
 25/6/77  
 15/11/77  
 21-11-77



”جوائے شکوہ گانہ کونسل نمبری 77 نمبر 25/6/77 جلی  
 روضہ مقدمہ کنوین کرسیم اللہ ہم مقاضعت سلطانہ وغیرہ  
 میں جواب اور مضامین طلب کیے گئے ہیں۔“

صاحب عالی

جواب شکوہ گانہ کونسل ذیل عرض ہے۔

1- یہ کہ مقدمہ کنوین بالہ ”کرسیم اللہ وغیرہ ہم مقاضعت سلطانہ وغیرہ  
 نمبر 25/6/77 کو عدالت صاحب سیکورٹری کے جواب لکھا ہے۔  
 سیکورٹری سماعت عدالت خزانے سپرد ہوا۔

2- یہ کہ مقدمہ کنوین میں درخواست طہراد جاری کرنے حکم لکھا گیا ہے  
 شامل تھی۔ لیکن عدالت خزانے جوائے آرڈر ڈیپوٹیشن لکھا ہے  
 کہ یہی ہے صرف کونسل بابت درخواست کا مکن ہم مدد عظیم جاری کرنے  
 حکم ہمارا در فرمایا۔ جس پر عدالت نے کونسل کو تہذیب کے  
 پروردگار کے ساتھ ساتھ ساتھ لکھا ہے۔ جس کو پڑھنے  
 سے کہہ دیجئے کہ اس کے ساتھ ساتھ ساتھ لکھا ہے۔

ATTESTED

*[Signature]*

3- یہ کہ فریقین کا تعلق چونکہ فیصل بالکوٹ سے ہے بدین وکیل مدعیان  
 کے Request پر دستا جواب مدعی کیا گیا۔ یہ عدالت نے یہی کہ کونسل  
 خزانہ بزرگ نے نائب ناظر عدالت سکول نے بالکوٹ مدعیان سے فیصلہ کر لیا  
 ہے۔ جس سے کہ اس وقت لکھا ہے اور بالکوٹ کے ساتھ ساتھ لکھا ہے وقت  
 کی کمی کے بعد یہ وقت لکھا ہے عرض ہے دیکھ جاتے ہیں۔ اور عوام کی سہولت

21-2-77



کوئٹہ سے تحریر ہوا۔ اور کس طرح تیار کیا گیا۔ اس بات سے منسلک  
کوئی تعلق نہ ہے کیونکہ یہ قدر عدالت کا کام ہے۔ بند رہا ہے۔

4۔ یہ مقدمہ مذکورہ میں آئندہ لپٹی طرف 16/10/10 سے ماضی مدعیانم مقرر  
ہوئی۔ یعنی 9 دن بعد لپٹی ہوئی تھا۔ حالانکہ مقدمات کی 3 دن  
سے زیادہ کی تاریخ عدالت ہذا سے نہیں ملتی۔ لیکن مقدمہ ہذا میں  
مقدمات میں تھا (Simple Notice) تھا اس لیے 9 دن  
کی تاریخ مقرر ہوئی تھی۔

5۔ یہ کہ طرف 6/10 کو مقدمہ کی فائل عدالت میں لپٹی ہوئی تھی اور طرف  
کا مدعیانہ سے عیاں ہے کہ تو مدعیان خود ماضی میں اور نہ ہی مدعیان ماضی میں  
ہیں۔ صرف مدعیان ماضی میں ہوا۔ نہ ہی طرف اور نہ ہی طرف سے جاری ہونے  
والد کوئٹہ بھی واپس میں ہوا۔ عدلیہ میں جاری ہونے کا حکم صادر ہوا۔

6۔ یہ کہ طرف 22/10 کو عین روز عدالت میں آیا اور طرف نے کت  
تاریخ جاری شدہ کوئٹہ میں یہ مقدمہ عدالت سے خارج کیا۔ اس کے بعد اس کا وجود  
ہے۔ کوئی عام کاغذ نہیں تھا دکھایا اور بتایا ہوا کہ یہ مقدمہ کی  
اصلی تاریخ لپٹی کوئٹہ ہے۔ کیونکہ میں بیمار ہو گیا تھا۔ اور کوئٹہ  
بیماری گزشتہ تاریخ لپٹی پر عدالت ہذا میں پیش ہوئی مقدمہ ماضی  
میں ہے۔ اور کوئٹہ مذکور بھی ہر لپٹی 17/10 عدالت بلوچ  
میں ہے۔ اور کوئٹہ مذکور جو کہ عدالت کی طرف سے مبراہ لپٹی مدعیانم  
میں لپٹی (M. Served) موجود ہے۔ اور عدلیہ میں بھی ہے۔

ATTESTED

*[Handwritten signature]*

—! ورق الیہ!

7- یہ کہ من جوابدہ ہونے عدالت عدالت کی طور پر فیڈرل خدمات سرانجام دے رہا ہے اور پبلک ڈیپارٹمنٹ کے ساتھ ساتھ جسٹس لکھی میں ٹین رکھنا اور فیڈرل کو تارخ لکھی بتانا ریڈر کے فیڈرل میں شامل ہے۔ جسے عدالت من جوابدہ ہونے نے اگلی تارخ لکھی لکھی یعنی 29/6/10 تہائی اور کمنٹس اور نوٹس مذکورہ حالت جو کہ عدالت کی جانب سے دستخط اور حکم نمبر 3 سے جاری ہے۔ جس پر بھی وقت کی کمی، ٹینڈر کی عدم دستیابی اور متعلقین کی سہولت کی خاطر (نوٹس وصولیہ زر نقدیہ) 2731-79

B4A

ممبر 24/4/10 بنانہ جناب۔ جسٹس راجا۔ عدالت عالیہ لاہور کی کورٹ

لاہور کی عدالت کی طرف سے پورے ٹیٹل نوٹس کو ہمراہ کمنٹس کے ساتھ 29/6/10 کی لکھی بلکہ والوں کو بتا کر چونکہ نوٹس

مذکورہ جناب جج صاحب P دستخط ہے۔ اور جہاں یہ کمنٹس لکھی

ہونے کی وجہ سے کمنٹس نوٹس بھی لکھی ہو کر بطور (Part & parcel)

تاریخ مقدمہ شامل اس جو باقیہ نقل لکھی ہو کر منسلک ہے۔ "A"

8- یہ کہ جوابدہ آرڈر نمبر 4 نمبر 16/6/10 جہاں یہ جدید کمنٹس آئے ہیں

دفعہ نوٹس کی بنیاد پر منسلک 29/6/10 کیلئے جاری ہونے P حکم صادر

ہوا جس میں "جدید نوٹس" بھی جاری ہونے P حکم صادر ہونا تھا

جو کہ کلر کیل میں ہے۔ جو کہ کیوں ہے۔ نقل آرڈر نمبر

لف جوابدہ ہے۔ "B"

:- ورق لکھی :-

ATTESTED





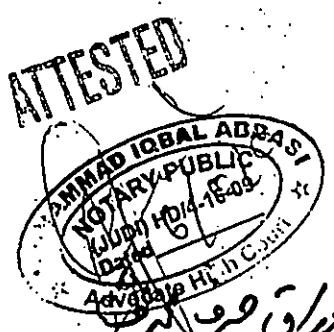
11 - این حالت، معدومات کی روٹی میں من جو ابھرنے کی قسم  
 کی جانب داروں، تعلق داروں سے ہم سرانجام دینے کے لئے  
 بھی بن سکے۔ صرف اور اللہ تعالیٰ کو حاضر خاطر جاننے پورے  
 حقوق / علوم الناس کی خدمت کو مد نظر رکھ کر خدمت  
 سرانجام دی گئی ہے۔ صرف آرڈر ٹیٹ فرما میں عدالت  
 کے ساتھ عدید لٹوٹس جاری ہونے کی تشریح عدالتی سے ناممکن  
 ہے پورے میں ہو سکی۔ چھاپے میں جو ابھرنے سے نافی کا  
 طلب ہے۔ - - - - -

استدعا ہے مندرجہ بالا گزارشات کی روٹی  
 میں سے من جو ابھرنے کو معاف فرمایا جاوے۔

28/6  
15

غیر منی ریڈر عدالت ایل جے جے -

*[Handwritten signature]*



ملنے یا چون کہ جواب و ضمانت ہذا مستعمل بہ ادراک صرف ہے۔  
 صحیح، درست اور معنی بہ حقیقت ہے۔ اس میں کوئی ایریا  
 لفظ بھی معنی بہ وجود نہ ہے۔

ATTESTED

غیر منی ریڈر عدالت ایل جے جے -

*[Handwritten signature]*

(26) کرامت خاں - سوال آج لکھ ما سنیو

جواب - شوکانی نوٹس

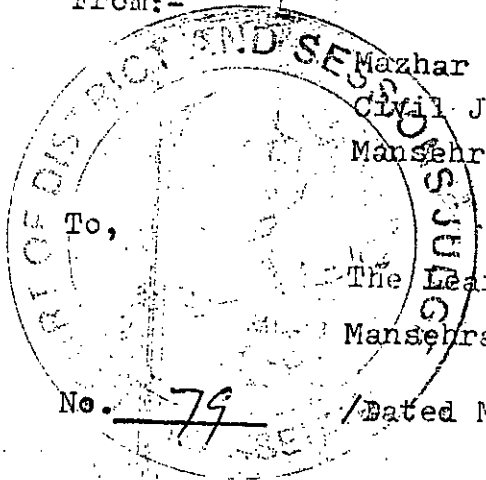
خبا بھائی؟  
پہلے صدر عنوان کر کے اللہ بڑھ بیج رفت سلطان و سیرہ ۱۱ عرصہ  $\frac{8}{10}$  کا و  
دائرہ ہو اور  $\frac{8}{10}$  کا بیچ دن بحوالہ آڈیٹ میں جو مدعا لیم کو نوٹس در وقت تمام  
صادر ہوا۔ مطالبہ عروہ و اول صوبہ نوٹس عارضہ حکم افسانہ کا کوئی بار کیا مگر اس  
میں تاریخ پہنچی کی جگہ خانی دکن کو فتح آج وقت تک آڈیٹ میں بھی نہ تاریخ  $\frac{16}{10}$   
درج نہ تھی اور ریڈر صاحب علاج پہنچنے کی کیا کہ نوٹس در میں خود تاریخ پہنچی  
کھو دو گیا اور نوٹس ریڈر صاحب سے لیکر ہے یا اس کو لیا نہ تھی کہ ریڈر صاحب سے  
نوٹس تک اور ریڈر صاحب کا کیا۔ صدر علم میں لکھنے کے لئے کہ ریڈر صاحب سے  
اسکے علاوہ مدعیان کی طرف سے تاریخ میں داخل نہ تھی وہ

سوائے مدعا لیم حال لکھ تھی  
جس وقت فریقین نے اس نوٹس کی بابت ضمانت چکر بیج صاحب کے ساتھ  
پہنچی تھی تو اس وقت "ج صاحب" جو اس اور ریڈر صاحب سے نوٹس کی تاریخ  
کا ۱۱ میں لکھا تو مذکورہ بالا فقرہ میں ای ریڈر صاحب نے تصدیق لکھا اور ساتھ تاریخ پہنچی تو  
یہ فقرہ یا تو کسی غیر پر لکھا ہے جسے عدلی نوٹس سے یہ تعلق آج صاحب کے ساتھ نہیں

جس ریڈر صاحب عمر کے دفتر میں فریقین کے درمیان میں لکھا گیا اور کیا  
کہ جسے کٹر کی مشیہ نوی ہے تاریخ میں یا تو کٹر پر لکھا ہے اور  
آڈیٹ میں بھی لکھی تھی۔ مطالبہ آڈیٹ میں یا تو کٹر کا حکم صادر نہیں ہوا۔  
اور تاریخ میں  $\frac{16}{10}$  کو اس نے لکھا ہے کہ نوٹس  $\frac{8}{10}$  کا صدر علم سے لکھا گیا  
سروہ ۱۱ میں یہ تاریخ میں بھی لکھی تھی اور وہ ہے۔ جو کہ نوٹس ریڈر صاحب کے  
تاریخ میں لکھا اور خود کار لکھی اس کے معطلات کا زمرہ در میں نہیں ہوا  
اس بابت میں یہ لکھا ہے کہ صاحب خان پوری کو کٹر عدلی نہیں لکھا

در جواب کٹر صاحب فرمایا ہے  
بدرالرحمان محمد عبدالودود  
۱۵/۱۱/۱۰

From:-



Mazhar Hussain,  
Civil Judge-XIII,  
Manshera.

To,

The Learned District & Sessions Judge,  
Manshera.

No. 79 / Dated Manshera 29-6-2010.

Subject:- COMMENTS ON RESPONSE TO SHOW CAUSE NOTICES.

Respected Sir,

In response to complaint of counsel for defdt in case titled "Kareem ullah and others Vs. Mst. Rifhat Sultana" on 23.6.10 where this court has ordered for a simple notice over an application for status quo after receiving case file from the court of learned SCJ, Manshera on 8.6.10 for attendance of defdt on 16.6.10, notice mentioned was not served for a date fixed i.e. 16.6.10 where this court had ordered for fresh summons. However according to the counsel for defdt same notice was mis-represented as a notice of status quo on 22.6.10 by Mian Sultan Bailiff of Tehsil Balakot over which defdt were stopped from demarcation of suit property.

To reach-out real facts show cause notices No.s 74 & 75 were issued to Bilal Raza Muharrir of this court and Mian Sultan Bailiff of Balakot on 24.6.10 respectively. Bailiff Mian Sultan has already been issued another show cause notice no. 739 on 25.6.10 by the learned SCJ, Manshera reply to come on 29.6.10, while written reply of Muharrir Bilal Raza submitted on 25.6.10 reveals that date was to be written by Reader of this court.

Hence Ghulam Nabi Reader was issued show cause notice no.77 on 25.6.10 by the undersigned, written

ATTESTED

Muzhar  
7.6.10

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21-2-11

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reply of which was submitted on 28.6.10.

Replies of both the above-mentioned officials are not satisfactory. Furthermore tone/demeanour of reply of the Reader reveals his high handedness and unprofessional approach, as he has even mentioned his lordship, the honourable Chief Justice of Peshawar High Court, Peshawar in his reply. Similarly notice received on 25.6.10 is also tempered which has been brought into notice of the learned SCJ, Mansehra and is encircled with red ink, where date fixed for hearing has been tempered.

To arrive at real facts both officials concerned are recommended for necessary action under relevant laws and disciplinary action to be taken against them.

Your's Obediently,

*M Hussain*  
(Mazhar Hussain)

Civil Judge-XII, Mansehra.

29.06.10

28

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19/2

ATTESTED

Signature: *M Hussain*

Date: 21-2-11

NO. 10-2-11

Date: 10-2-11

County: Peshawar

Use: Exempted

Name of Copy: From Court Fee

Date of Copy: *[Signature]*

Date of Intimation: 21-2-11

Cause of Delay: *[Signature]*

Date of Delivery: 21-2-11

ATTESTED

*[Signature]*

**OFFICE ORDER:**

Mr. Mazhar Hussain Civil Judge-XII, Mansehra, vide his letter No. 79 dated 29.06.2010 has brought it into notice of the undersigned that the Senior Civil Judge, Mansehra has entrusted aim a fresh suit "Karimullah etc versus Mst: Rifhat Sultana on 08.06.2010, for disposal. After receipt of this suit the court concerned ordered for issuance of simple notice on application for grant of status quo for 16.6.2010, for which date the defendant was also summoned but the defendant was not served, Resultantly, the defendant was re-summoned for 29.6.2010.

In the meanwhile counsel for the defendant has made it complaint before the said Presiding Officer that notice was mis-represented as a notice of status quo on 22.6.2010 by Mr. Mian Sultan, Bailiff to Civil Judge, Balakot, over which defendant was stopped from demarcation of the suit property.

The Presiding Officer concerned has issued show cause notice bearing No. 74 and 75 each dated 24.6.2010 to Mr. Bilal Raza Muharrir of his court and Mian Sultan, Bailiff to the Court Judge-I, Balakot. The Senior Civil Judge, Mansehra has also issued notice to Mr. Mian Sultan, Bailiff vide No. 739 dated 25.6.2010.

In reply dated 25.6.2010, the Muharrir disclosed that in fact the date on the notice dated 16.6.2010 was tempered/re-written by the Reader of the said court. Hence the Reader was served with a show cause notice by the concerned Presiding Officer, vide No.77 dated 25.6.2010, who submitted his reply on 28.6.2010. However the replies submitted by both the officials were declared not satisfactory by him.

The judicial Officer concerned has also mentioned in his letter under reference that the reply of the reader reveals his high handedness and un-professional approach as he has even mentioned his Lordship the Honourable Chief Justice of august Peshawar High Court, Peshawar in his reply. Similarly the Honourable notice received on 25.6.2010 is also tempered which has been brought in to notice of the Senior Civil Judge, Mansehra and is encircled with red ink, where date fixed for hearing has been tempered" which comes at moved by the demeanor conduct of the Reader unbecoming and prejudicial to the office discipline.

In the light of the said report of Mr. Mazhar Hussain, I, Anwar Hussain, District and Session Judge-III, Mansehra being authority deem it proper to probe the matter an sold a departmental inquiry against these officials and as such Mr. Ashfaque Taj, Additional District and Session Judge-III, Mansehra is hereby appointed as Authorized Officer in the matter with the directions to hold an inquiry fix the responsibility on the shoulders of the officials (S) concerned and submit inquiry report alongwith his opinion/ recommendations within possible time for further necessary action and approval of the undersigned.

**ATTESTED**

**District & Session Judge,  
Mansehra/Authority.**



OFFICE ORDER

Mr. Mazhar Hussain Civil Judge-XII, Manshehra, vide his letter No. 79 dated 29.06.2010 has brought it into notice of the undersigned that the Senior Civil Judge, Manshehra has entrusted him a fresh suit "Karimullah etc versus Mst. Rifhat Sultana" on 08.06.2010, for disposal. After receipt of this suit, the court concerned ordered for issuance of simple notice on application for grant of status quo, for 16.06.2010, for which date the defendant was also summoned, but the defendant was not served. Resultantly, the defendant was re-summoned for 29.06.2010.

In the meanwhile counsel for the defendant has made a complaint before the said Presiding Officer that notice was mis-represented as a notice of status quo, on 22.06.2010 by Mr. Mian Sultan, Bailiff to Civil Judge, Balakot, over which defendant was stopped from demarcation of the suit property.

The Presiding Officer concerned has issued show cause notice bearing No. 74 and 75 each dated 24.06.2010 to Mr. Bilal Raza, Muharrir of his court and Mian Sultan, Bailiff to the court of Civil Judge-I, Balakot. The Senior Civil Judge, Manshehra has also issued notice to Mr. Mian Sultan, Bailiff vide No. 739 dated 25.06.2010.

In reply dated 25.06.2010, the Muharrir disclosed that in fact the date on the notice dated 16.06.2010 was tempered/re-written by the Reader of the said court. Hence the Reader was served with a show cause notice by the concerned Presiding Officer, vide No. 77 dated 25.06.2010, who submitted his reply on 28.06.2010. However the replies submitted by both the officials were declared not satisfactory by him.

The Judicial Officer concerned has also mentioned in his letter under reference that tone/demeanor of reply of the Reader reveals his high handedness and un-professional approach as he has even mentioned his Lordship the Honourable Chief Justice of august Peshawar High Court, Peshawar in his reply. Similarly notice received on 25.06.2010 is also tempered which has been brought in to notice of the Senior Civil Judge, Manshehra and is encircled with red ink, where date fixed for hearing has been tempered, which comes annoyed by the demeanor conduct of the Reader unbecoming and prejudicial to the office discipline.

In the light of the said report of Mr. Mazhar Hussain, I, Anwar Hussain, District & Sessions Judge, Manshehra, being Authority, deem it proper to probe the matter and hold a departmental inquiry against these officials and as such Mr. Ashfaq Faj, Additional District & Sessions Judge-III, Manshehra is hereby appointed as Authorized Officer in the matter with the directions to hold an inquiry, fix the responsibility on the shoulders of the official(s) concerned and submit inquiry report along with his opinion/ recommendations within shortest possible time for further necessary action in the approval of the undersigned.

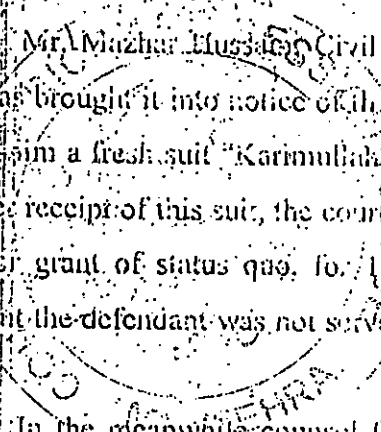
Dated: 29.06.2010

ATTESTED p 11

District & Sessions Judge, Manshehra/Authority. 21-2-11

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**BETTER COPY OF PAGE-30**

**OFFICE OF THE DISTRICT & SESSION JUDGE MANSEHRA**

No: 3887-93 Dated Mansehra the 30/6/2010

Copy forwarded for information & necessary action to:-

1. The Registrar, Peshawar High Court, Peshawar;
2. The Member Inspection Team, Peshawar High Court, Peshawar.
3. Mr. Ashfaque Taj, Additional District and Session Judge-III/Authorized Officer, Mansehra. The inquiry file consisting on 17 sheets is also enclosed herewith.
4. The Senior Civil Judge Mansehra.
5. Mr. Abdul Jabbar Khan, Civil Judge-cum-Judicial Magistrate-XIV, Mansehra for information and communication to the official concerned who has been transferred and posted in his court, recently, for compliance. Please direct him to appear in person before the Authorized Officer as well as Inquiry Officer to be appointed by the Authorized Officer as and when summoned.
6. Mr. Mazhar Hussain, Civil Judge-XII, Mansehra for information and communication to Mr. Bilal Raza, Muharrir of his court for strict compliance. Please direct him to appear in person before the Authorized Officer and Inquiry Officer as and when summoned.
7. Mr. Aurang Zeb Khan, Civil Judge-cum-Judicial Magistrate-I, Balakot for information and communication to Mr. Mian Sultan, Bailiff of his court, for strict compliance. Please directed him to appear before the Authorized officer and (Inquiry Officer as and when summoned; and Office Copy.

**District & Session Judge,  
Mansehra/Authorized**

**ATTESTED**



OFFICE OF THE DISTRICT & SESSIONS JUDGE MANSEHRA

No: 3887-93 Dated Manshra the 30/06/2010.

Copy forwarded for information & necessary action to:-

1. The Registrar, Peshawar High Court, Peshawar;
2. The Member Inspection Team, Peshawar High Court, Peshawar;
3. Mr. Ashfaq Taj, Additional District & Sessions Judge-III/Authorized Officer, Manshra. The inquiry file consisting on 17 sheets is also enclosed herewith;
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5. Mr. Abdul Jabbar Khan, Civil Judge-cum-Judicial Magistrate-XIV, Manshra for information and communication to the official concerned who has been transferred and posted in his court, recently, for compliance. Please direct him to appear in person before the Authorized Officer as well as Inquiry Officer to be appointed by the Authorized Officer, as and when summoned;
6. Mr. Mazhar Hussain, Civil Judge-XII, Manshra for information and communication to Mr. Bilal Raza, Muharrir of his court for strict compliance. Please direct him to appear in person before the Authorized Officer and Inquiry Officer as and when summoned;
7. Mr. Aurang Zeb Khan, Civil Judge-cum-Judicial Magistrate-I, Balakot for information and communication to Mr. Mian Sultan, Bailiff of his court, for strict compliance. Please directed him to appear before the Authorized Officer and Inquiry Officer as and when summoned; and
8. Office Copy.

District & Sessions Judge, Manshra/Authority.

1223  
 10-2-11  
 Received P/2  
 Exempted  
 from court fee  
 21-2-11  
 21-2-11

Sign  
Date 21-2-11

ATTESTED

*[Handwritten signature]*

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CHARGE SHEET.

I-Ashfaqe Taj, Addl: Sessions Judge/Authorized Officer Mansehra charged you within the meanings of section 5 (2) of the efficiency and disciplinary rules 1973 with the following charges.

Whereas you Mr. Ghulam Nabi, Reader, attached to the court of Mr. Mazhar Hussain, Civil Judge-XII Mansehra have been charged of committing misconduct and severe allegations have been leveled by the Presiding Officer, interalia, that a case titled "Kareemullah and others vs Mst Rifat Sultana and others" was instituted on 08.06.2010. That on the very same date simple notice over an application of S.Q was issued and next date of hearing was fixed as 16.06.2010. Examination of copy of notice which was returned to that court by the counsel for defendant No.1, reveals that next date of hearing was fixed as 29.06.2010. It further reveals that said notice was supposed to be issued on 08.06.2010, vide order No.3 of same date. However, same was issued by you on your own on 22.06.2010, while that court had ordered for notice only for 16.06.2010 and not for 29.06.2010. On 16.06.2010 vide order sheet No. 4 the court of Civil Judge-XII had ordered for fresh summons and not for notice. That you not only turn over the previous notice issued on 08.06.2010 into a fresh notice on your own but also tempered with the record by mentioning summons as a notice and writing next date over previous notice, which shows that you have committed gross negligence and misconduct in performing your duties and violated the Govt: servant rules as provided, under the NWFP, (Government Servant (Efficiency and Disciplinary) Rule 1973.

Therefore, you are hereby served with this statement of allegation that why you should not be proceeded under the abovementioned rules in accordance with law. You should submit your reply before the inquiry Officer, when you are called upon.

Dated: 10.08.2010.

**ATTESTED**

ASHFQUE TAJ,  
Addl: District & Sessions Judge-III  
Authorized Officer,  
Mansehra.

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STATEMENT OF ALLEGATIONS

32

Whereas you Mr. Ghulam Nabi, Reader, attached to the court of Mr. Mazhar Hussain, Civil Judge-XII Mansehra have been charged of committing misconduct and severe allegations have been leveled by the Presiding Officer, interalia, that a case titled "Kareemullah and others vs Mst. Rifat Sultana and others" was instituted on 08.06.2010. That on the very same date simple notice over an application of S.Q was issued and next date of hearing was fixed as 16.06.2010. Examination of copy of notice which was returned to that court by the counsel for defendant No.1, reveals that next date of hearing was fixed as 29.06.2010. It further reveals that said notice was supposed to be issued on 08.06.2010, vide order No.3 of same date. However, same was issued by you on your own on 22.06.2010, while that court had ordered for notice only for 16.06.2010 and not for 29.06.2010. On 16.06.2010 vide order sheet No. 4 the court of Civil Judge-XII had ordered for fresh summons and not for notice. That you not only turn over the previous notice issued on 08.06.2010 into a fresh notice on your own but also tempered with the record by mentioning summons as a notice and writing next date over previous notice, which shows that you have committed gross negligence and misconduct in performing your duties and violated the Govt: servant rules as provided, under the NWFP, Government Servant (Efficiency and Disciplinary) Rule 1973.

Therefore, you are hereby served with this statement of allegation that why you should not be proceeded under the abovementioned rules in accordance with law. You should submit your reply before the inquiry Officer, when you are called upon.

Dated: 10.08.2010.

*ASHFQUE TAJ*  
ASHFQUE TAJ,  
Addl: District & Sessions Judge-III  
Authorized Officer,  
Mansehra.

*copy received*  
*Ghulam Nabi*  
*Reader to civi (Judge XII)*

ATTESTED

ATTESTE  
21-2-11



4  
میرزا حسن صاحب 16/10/2010 کو لکھی ہوئی تھی۔

اور میرزا حسن صاحب 22/10/2010 کو حاضر عدالت ہوا اور کہنے لگا کہ

میں گزشتہ لکھی ہوئی میرزا حسن صاحب سے لکھی ہوئی تھی۔ لکھی ہوئی

تاریخہ لکھی ہوئی ہے۔ اور ساتھ ہی وہ لکھی ہوئی

تھی لکھی ہوئی ہے جو 16/10/2010 کو لکھی گئی تھی۔

میرزا حسن صاحب نے کہا کہ وہ ثابت بنا کر عدالت حاضر ہوئے ہیں۔

کو وہ لکھی ہوئی ہے۔ لکھی ہوئی ہے۔ لکھی ہوئی ہے۔

اس کے ساتھ ہی وہ لکھی ہوئی ہے۔ لکھی ہوئی ہے۔

کری

5  
میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ

میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ

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میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ

میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ

میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ

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میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ

میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ میرزا حسن صاحب نے کہا کہ

ATTESTED

میرزا حسن صاحب

کے لیے یہ بھی بدینہ لکھو رکھا جا رہا ہے۔

6. دورانِ مددیت اپنی دلجوئی سرکھام دینے وقت ہمیشہ یہ انتہائی  
گوشش کی جائے کہ غلطی کا احتمال نہ ہو۔ سکین منگلی  
سے نمبر اور ذات صرف اور صرف "رب عظیم" کے ہیں۔ انسان  
سے کیفیت انسان منگلی ہی جاتی ہے۔

7. کسبِ دستِ عظیم اور عدالت کی نظر میں سب سے کوئی  
کوئی بھی نہیں ہو تو سب کے لیے صافی اہلکبار ہے۔  
اور سب سے ممتاز رہنے اور سب سے بہتر ہے۔ صافی بُرا باک ہے۔

رقم 03/9  
2010

مستحق کا بھی بھلائی اور عدالت خراب ہے۔  
صافی اور عدالت خراب ہے۔

ATTESTED

*[Signature]*





میرے ہسپتال 24/10 کا لکھی ہوئی رپورٹ میں سے کوئی بھی مافر نہ تھا۔  
 اور میری مقدمہ نمبر 22/10 کو مافر عدالت پر آ کر وہ کچھ لکھا کہ  
 میں گزشتہ لکھی ہوئی رپورٹ میں بیماری مافر نہیں ہو سکا۔ گزشتہ لکھی  
 ہوئی رپورٹ میں سے مافر نہ تھا۔ اور ساتھ ہی وہ لکھا کہ  
 میں لکھی ہوئی رپورٹ میں سے مافر نہ تھا کہ لکھی ہوئی رپورٹ میں سے  
 مافر نہ تھا کہ وہ مافر ناظر عدالت مافر نہ تھا۔ مافر نہ تھا۔  
 مافر نہ تھا۔ مافر نہ تھا۔ مافر نہ تھا۔ مافر نہ تھا۔ مافر نہ تھا۔  
 مافر نہ تھا۔ مافر نہ تھا۔ مافر نہ تھا۔ مافر نہ تھا۔ مافر نہ تھا۔

میری عدالت مافر نہ تھا کہ لکھی ہوئی رپورٹ میں سے مافر نہ تھا۔  
 لکھی ہوئی رپورٹ میں سے مافر نہ تھا۔ لکھی ہوئی رپورٹ میں سے مافر نہ تھا۔  
 لکھی ہوئی رپورٹ میں سے مافر نہ تھا۔ لکھی ہوئی رپورٹ میں سے مافر نہ تھا۔  
 لکھی ہوئی رپورٹ میں سے مافر نہ تھا۔ لکھی ہوئی رپورٹ میں سے مافر نہ تھا۔  
 لکھی ہوئی رپورٹ میں سے مافر نہ تھا۔ لکھی ہوئی رپورٹ میں سے مافر نہ تھا۔  
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کتاب میں مذکور ہے کہ یہ کتاب ہے۔

6. دورانِ مدونیت میں دلچسپی اور محنت سے وقت بھرنا اور انتہائی  
کوشش کی وجہ سے غلطی کا احتمال نہ ہو۔ کتبیں غلطی  
سے پیدا ہونے والی ہیں اور صرف "بزرگ" کے ہونے سے انسان  
سے غلطی انسان غلطی سے بھی ہوتی ہے۔

7. کتب پر دست لگانے اور عدالت کے نظریوں سے کتب کو  
کوٹھالی میں رکھنے سے تو بچنے کے لیے صاف اہمیت ہے۔  
اور آئندہ وقتوں میں اس سے بچنا ہے۔ صاف فرمایا جائے۔

رقم 03/9  
2010

میں نے اس کتاب کو عدالت سے 24/9/10ء میں حاصل کیا۔  
اس کتاب پر عدالت نے ایک فیصلہ صادر کیا ہے۔

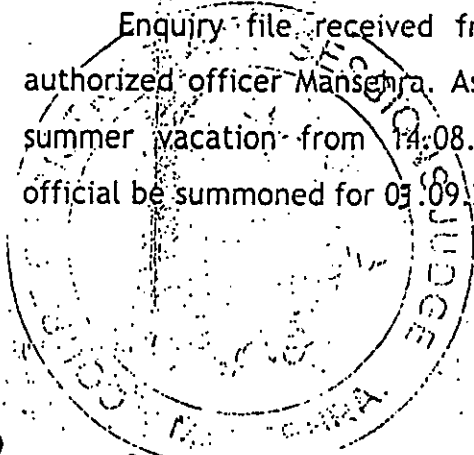
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IN THE COURT OF MOHSIN ALI TURK,  
SENIOR CIVIL JUDGE/ENQUIRY OFFICER, MANSEHRA.

Order- 01  
12.08.2010

Enquiry file received from the court of learned authorized officer Manshra. As I am going to proceed on summer vacation from 14.08.2010 hence, the accused official be summoned for 03.09.2010.



(MOHSIN ALI TURK),  
Senior Civil Judge/JMIC,  
Mansehra.

Order 2  
09.09.10

Accused official present.  
Reply Submitted.  
To come up on 06.09.10

Order- 03  
06.09.2010

Accused/official present.  
Reply submitted by the accused official is not satisfactory. Hence, it is directed that let evidence be recorded regarding allegations levelled against the accused official. Nazir of the court concerned is therefore, summoned along-with original record for 14.09.2010.  
Counsel for the defendants should also be summoned for the date fixed.

SCJ/Enquiry Officer,  
Mansehra.

م. علی رضا نے جواب دیا ہے کہ اس کی اطلاع ہے۔

م. علی رضا نے جواب دیا ہے کہ اس کی اطلاع ہے۔  
16-9-10  
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Signature: [Signature]  
Date: 21-2-11

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10/10/10

Or-4  
20/9/10

Accused/official present.  
Moharrir of the court concerned  
be summoned along with record  
for 25-9-10.

**Mohsin Ali Turk**  
S.CJ/Judicial Magistrate  
empowered U/S 30Cr Pc  
Mansehra.

Order-05  
25.09.2010.

Accused/official present.  
Statements of Mubarik Ahmed Lughmani  
advocate, Bilal Raza Muharrir to the court of  
Civil Judge XII and Muhammad Hanif Naib Nazir  
Balakot recorded.  
Statement of accused official will be  
recorded on 27.09.2010.

Order-06  
27.09.2010

Accused/official namely Ghulam Nabi  
present and his statement recorded.  
To come up for further proceedings on  
01.10.2010.

*[Signature]*  
SCJ/Enquiry Officer,  
Mansehra.

P/2

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Signature.....*[Signature]*  
Date 21-2-10

**INQUIRY FILE**

0-1. 17.7.2010.

Inquiry file received from the Court of learned District Judge Mansehra against delinquent official Ghulam Nabi Reader. Be registered. Issue notice against him for 10.08.2010.

(Ashfaque Taj)  
ASJ-III Mansehra.

0.2. 10.08.2010.

Mr. Ghulam Nabi (delinquent official) Reader attached to the court of Civil Judge-XII Mansehra present. He has been served with statement of allegations and charge sheet.

Learned Senior Civil Juddge mansehra is hereby appointed as Inquiry Officer with direction to conduct inquiry against delinquent official Ghulam Nabi (Reader) accordingly and to submit his report as early as possible.

The Official concerned is directed to submit his reply before the inquiry office within seven days and also to appear before the quarter concerned on direction.

Inquiry file be sent to the learned Senior Civil Judge Mansehra accordingly.

(Ashfaque Taj)  
ASJ-III/Authorized  
Officer Mansehra.

**ATTESTED**



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INQUIRY FILE.

C.1. 17.07.2010.

Inquiry file received from the Court of learned District Judge Mansehra against delinquent official Ghulam Nabi Reader. Be registered. Issue notice against him for 10.08.2010.

*Ashfaque Taj*  
(Ashfaque Taj)  
ASJ III Mansehra.

**0.2. 10.08.2010.**

Mr. Ghulam Nabi (delinquent official) Reader attached to the Court of Civil Judge XII Mansehra present. He has been served with statement of allegations and charge sheet.

Learned Senior Civil Judge Mansehra is hereby appointed as Inquiry Officer with direction to conduct inquiry against delinquent Official Ghulam Nabi (Reader) accordingly and to submit his report as early as possible.

The Official concerned is directed to submit his reply before the Inquiry Officer within seven days and also to appear before the quarter concerned on direction.

Inquiry file be sent to the learned Senior Civil Judge Mansehra accordingly.

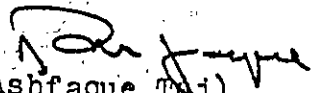
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*Ashfaque Taj*  
(Ashfaque Taj)  
ASJ-III/Authorized  
Officer Mansehra.

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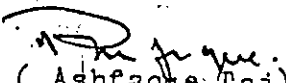
14.10.10.

Inquiry file received back from  
SCJ/Inquiry Officer. To come up for  
further consideration and proceedings  
on 20-10-10

  
(Ashfaque Taj)  
ASJ-III/Authorized  
Officer Mansehra.

OR: 20.10.10.

The undersigned is busy in  
some murder cases, as such the proceedings  
in the instant Inquiry is adjourned and  
fixed for 22.10.10.

  
(Ashfaque Taj)  
ASJ-III/Authorized  
Officer Mansehra.

Order-5  
22.10.2010.

Inquiry report received from  
inquiry officer/Senior Civil Judge  
Mansehra and thoroughly perused.

Mr. Mazhar Hussain Civil Judge-  
XII, Mansehra, vide his letter No. 79,  
dated 29.6.2010 brought into the notice  
of authority that a civil suit under  
titled "Karimullah vs Rifat Sultana",  
was entrusted to his court on  
08.06.2010 for disposal. The court

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Signature

Date

21-2-11



issued notice on the application for grant of status quo for 10.06.2010, but the defendant party was not served and they were re-summoned for 29.6.2010.

In the meanwhile the counsel for defendant made a complaint before the Presiding Officer that notice of status quo was distorted and misrepresented, as order of status quo on 22.6.2010 by Mian Sultan bailiff to the court of Civil Judge Balakot and defendants were stopped from demarcation of suit property.

Consequent upon the Presiding Officer called explanation from Muharrir concerned. In response to said explanation Bilal Raza Muharrir submitted reply on 25.06.2010 and disclosed that in fact date of notice dated 16.6.2010 was tampered by the reader of said court. Per-se reader was also served with show cause notice by the concerned Presiding Officer, vide notice No. 77 dated 25.6.2010. The said Reader (accused/official) Ghulam Nabi submitted reply on 28.6.2010. However, reply was found not to be satisfactory and adequate enough. The matter was.

**ATTESTED**



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16.6.2010

sent to the authority by the presiding officer, vide letter No. 79 dated 29.6.2010. So, authority deem it appropriate to probe into a matter and to hold a departmental inquiry. As such the undersigned was appointed by the authority as an authorized Officer. The accused/official was called upon and served with statement of allegation and charge sheet in terms of (Efficiency and Disciplinary) Rule, 19973 and Senior Civil Judge Mansehra was appointed as an Inquiry Officer.

The detail inquiry report have been received from the said inquiry Officer, in which he held the accused-official guilty of official misconduct.

I have gone through the whole inquiry report. Admittedly, the accused official had tampered with the notice. Issuance of summons/notices is neither the job of reader nor his domain. He had over-written a date of hearing on the previous notice and handed over the same to the plaintiff without court order. The justification being given by the accused-official carries no

substance and weight. So, I found myself in utter consonance with the inquiry officer. Since, the accused-official has been found guilty of official misconduct, so I hereby recommended major penalty in terms of section 4(1)(b)(ii) of N.W.F.P Government Servant Efficiency and Disciplinary Rule 1973, i.e Compulsory retirement.

Submitted please.

~~SECRET~~  
**ATTESTED**  
/

IN THE COURT OF MOHSIN ALI TURK,  
SENIOR CIVIL JUDGE/ENQUIRY OFFICER, MANSEHRA. (43)

ENQUIRY AGAINST GHULAM NABI (JUNIOR CLERK/READER)

Enquiry Report  
01.10.2010

In light of order of Mr. Ashfaq-e-Taj, Additional Sessions Judge-III, Mansehra/authorized officer, I summoned the accused official namely Ghulam Nabi Junior Clerk (Reader of the court of CJ-XII Mansehra), took his reply to the charge sheet and statement of allegation, furnished by the learned authorized officer and record requisite evidence of the concerned followed by statement of the accused official.

I perused statements of Bilal Raza Moharrir of the court of Civil Judge XII Mansehra who also produced the Judicial File, Mohammad Hanif Naib Nazir Balakot and Mubarak Ahmed Lughman, who is counsel for the defendant in case titled "*Karimullah etc Versus Mst: Riffat Sultana etc*". The accused official was invited to ask cross-examinations from the witnesses.

Two issues are related to case titled "*Karimullah etc Versus Mst: Riffat Sultana etc*". One to Mian Sultan bailiff who has reportedly misrepresented & misinterpreted orders of the court, and have asked the Girdawar Circle to stop demarcation proceedings, on the spot. For the matter, separate enquiry proceedings are pending against the bailiff.

Allegation against Ghulam Nabi (Reader) is that he has made tempering in notice of the court and have cut & overwritten the date of hearing on notice issued on 08.06.2010. This was a notice of injunction petition submitted by plaintiffs in case titled "*Karimullah etc Versus Mst: Riffat Sultana etc*". Allegation is that Reader of the court of Civil Judge XII Mansehra has cut the date of hearing which was 16.06.2010 and have overwritten it as 29.06.2010. In his reply to show cause notice, statement of

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allegation & charge sheet, he admitted this fact. He stated that he has cut and overwritten the date but not with mala fide. He stated that on 22.06.2010 when the notice was brought to him un-served, he, instead of issuing a fresh notice, overwrote the date of hearing on the same notice and delivered it to the plaintiff for delivery to the Naib Nazir at Balakot. This fact is admitted by the Naib Nazir Balakot that notice was brought to him by the plaintiff himself.

As per statement of the accused official he has got 14 years of service as Junior Clerk/Moharrir in the Civil courts and he is supposed to know each & every process. What was the process of issuance of summons & notices and how these were to be sent for service. Notice dated 08.06.2010 was part of the Judicial Record and it was to be kept in Judicial Record whether it was served or not. When court has directed on 16.06.2010 that fresh notice should be issued, the accused/official was to issue a fresh notice and not to overwrite date of hearing on the previous notice. Why he delivered a notice to the plaintiff when as per order sheet there was no directions from the Presiding Officer in this regard. Where there were no express directions, notice was to be sent for service through proper channel and proper channel for service of notice was office of the Nazir. Delivery of notice to one of the plaintiff without order of the court, on his request shows that the reader concerned has shared his intention with the plaintiff. Act of Ghulam Nabi (Reader) of the court is no way justified. He has deviated from the settled rules regarding issuance of summons and notices and as such guilty of official misconduct.

Report alongwith record is submitted before the learned Authorized Officer for his perusal and further necessary action.

**ATTESTED**

*[Signature]*

*[Signature]*

(MOHSIN ALI TURK),  
Senior Civil Judge/Enquiry Officer,  
Mansehra.

تخل سوال - جواب از مثل سفتلر بیدالک صاب فی الزار سرفان در سرفان و صافیت

14/11/11



محرر  
01/11/11

FROM THE OFFICE OF DISTRICT & SESSIONS JUDGE  
MANSEHRA.

M-45

Questionnaire handed over to Ghulam Nabi Copyist Ex- Reader  
Civil Judge-XII, Mansehra at the time of personal hearing.

Q. # 01 When did you join this department ?

Ans. I join this department on 20.11.1995.

Q. # 02 What was your initial rank with pay & Grade ?

Ans. I was appointed as Sweeper in BPS-01 & in all my pay was  
Rs. 1728.00 per month.

Q. # 03. What is your present pay, grade and post ?

Ans. In all, I am receiving Rs. 16,002.00 per month in BPS-07  
and working as Copy Clerk in this court.

Q. # 04. For how long you have remained as Muharrir ?

Ans. About three years.

Q. # 05. For how long you have remained posted as Reader ?

Ans. About two years and six months.

Q. # 06. Do you know the job description of Muharrir attached to the  
Civil Courts? Give brief account.

Ans. The duties of a Muharrir attached to the Civil Courts is as  
under, please :-

- i). Entries of the fresh suits, remanded/ transfer cases etc  
in the relevant register.
- ii). Issuance of process according to daily order sheets of  
the court concerned.

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ATTESTED

Signature *[Handwritten signature]*  
Date 21-2-11

- iii). Consignment of the decided files to the Record Room after necessary compilation, within the prescribed time limit.
- iv). Daily maintenance of "Faisla Behi" Register.
- v). Preparation of daily peshi files, according to cause list prepared and supplied by the Reader of the concerned court.
- vi). Preparation of weekly, fortnightly, monthly, quarterly, six monthly and annual statements, so desired.
- vii). Submission of transfer cases (if any) to the concerned court through Dak Behi.
- viii). Submission of required record to any Appellate Court.

Q. # 7. Do you know the job description of Reader, if so, give brief account ?

Ans. The duties of a Reader attached to the Civil Courts is as under, please :-

- i) Maintenance of Peshi Register, Fine Register, Commission Register, Register for rejection or return of plaint, Library Register, Stock and Assists of the court register, Faisla Behi Register, Receipt Book of fine and Correspondence file.
- ii) Preparation of daily cause list of the court.
- iii) Issuance of Parcha Peshi to each party in each case.
- iv) To properly assist the Presiding Officer/Court as and when required.

Q. # 8. It is in your reply to the show cause notice that you had tempered time, date on the notice to save the time of parties as well as of court, if so, can you refer to such instances in other cases.

Ans. No, Sir.

Q. # 9. In case no such activity has been shown in other cases, then what was the consideration to temper the date in the notice in this particular case ?

Ans. In fact, this was the first appointment of Mr. Mazhar Hussain, as learned Civil Judge at Mansehra and I was serving in the said court as Reader. I was directed by him to write order sheets in all the cases, fixed for the day and your honour can summoned all the files of that particular period and can compare my hand writing with each order sheet of every case. The parties of this case belongs to Balakot Sub-Division, but it was instituted at Mansehra Head Quarter, because the Government was a party in this case. After receipt of this case file from the court of learned

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of

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Senior Civil Judge, Mansehra, on 08.06.2010, first order for issuance of summons to the defendants for 16.06.2010 alongwith notice on the application for issuance of temporary injunction, for the date fixed was also made with the directions to the plaintiff party to file the form summons within three days, which the filed on the same date. The Muharrir of the court after preparation of summons and Notice produced before the learned Presiding Officer for his signatures, who orally ordered me to deliver the same to the plaintiff party (by hand) with the directions to the plaintiff party to produce the summons/notice before Naib Nazir, Balakot, for execution.

But on 16.06.2010 neither the plaintiff party was present in person nor summon/ notice earlier delivered to them was received back served or un-served, however, Clerk of counsel for the plaintiff was present. Hence the case was adjourned to 29.06.2010 for the same proceedings and directions respecting filing of summons within three days.

The plaintiff met me on 22.06.2010 in the court room and inquired about his next date of hearing. He also informed me that due to some personal un-avoidable circumstances, he has not produced the summoned/notice duly signed by the Presiding Officer, before the Naib Nazir, Balakot for execution and the same are still with him.

At that time I was busy in official work, as such in order to save the time not only of the court, but also the party, I wrote the next date of hearing already fixed in the case, on the notice/ summon, returned the same back to the plaintiff and asked him to produce the same before Naib Nazir, Balakot for its timely execution, as the date was short.

I assure you sir, that the tempering of the date was made in good faith and no malafide was involved in it. I also assure you sir, that this practice will not be repeated by me, in future.

It is, therefore, requested that I may very kindly be forgiven at this stage on humanitarian grounds.

I shall be very thankful to you for your this act of kindness.

**ATTESTED**

Submitted for sympathetic consideration, please

Your Most Obedient Servant

(Ghulam Nabi),  
Ex-Reader to  
Civil Judge-XII,  
Mansehra.

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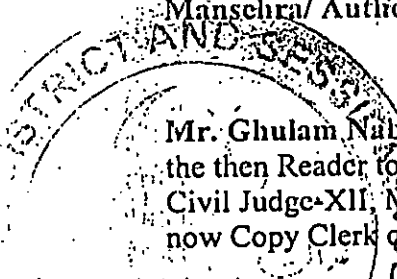
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The District & Sessions Judge, Manshra/ Authority.



Mr. Ghulam Nabbi, the then Reader to the court of Civil Judge-XII, Manshra now Copy Clerk of this court.

No. 6472 Dated Manshra, the 15/11/2010.

SUBJECT: FINAL SHOW CAUSE NOTICE. I

Memo.

Mr. Mohsin Ali Turk, Senior Civil Judge, Manshra/Inquiry Officer has completed and submitted inquiry report to Mr. Ashfaq Taj, learned Additional District & Sessions Judge-III/Authorized Officer, Manshra in which the Inquiry Officer has declared you responsible for delivery of notice to one of the plaintiff after tempering the date on it, without order of the court, on his request which clearly shows that you have shared your intention with the plaintiff. You have deviated from the settled rules regarding issuance of summons and notices and as such your this act comes within the ambit of misconduct, as such, I, Muhammad Arshad, Distt: & Sessions Judge, Manshra being Authority fully satisfied with the inquiry proceedings and agree with the recommendations of learned Authorized Officer regarding award of major penalty of "Compulsory retirement from service", to you.

In light of above noted circumstances you are hereby served with this final Show Cause Notice under the NWFP Government Servant (Efficiency & Discipline) Rules, 1973 and communicating to you about the major penalty to be imposed. In this respect copy of the Inquiry report is also enclosed herewith for your perusal, as per requirement of relevant Rules.

You are, directed to submit your reply (in person) within seven days from the receipt of this notice, otherwise it should be presumed that you have no defense to protect yourself and no excuse will be considered, later-on. You will also be heard in person.

District & Sessions Judge, Manshra/ Authority.

No. 6473-75 Dated 15/11/2010.

Copy forwarded to :-

1. The learned Registrar, Peshawar High Court, Peshawar, for favour of information, please;
2. The learned Member Inspection Team, Peshawar High Court, Peshawar, for favour of information, please;
3. The learned Additional District & Sessions Judge-III, Manshra/Authorized Officer, with reference to his order sheet No. 5 dated 22.10.2010, for information, please;
4. The Senior Civil Judge, Manshra/ Inquiry Officer with reference to his inquiry report dated 01.10.2010, for information.
5. Office Copy.

ATTESTED

ATTESTED

Signature Date 21-2-11

District & Sessions Judge, Manshra/ Authority.

IN THE COURT OF HONOURABLE DISTRICT & SESSIONS JUDGE  
MANSEHRA/ AUTHORITY.

SUBJECT. REPLY TO FINAL SHOW CAUSE NOTICE.

Respected Sir,


I have the honour to submit my submissions as under please :-

1. That I would like to draw your kind attention towards first letter of the then my learned Presiding Officer i.e Mr. Mazhar Hussain, Civil Judge-XII, Mansehra addressed to your goodself in which he charged two officials including myself. The other one official was Mr. Bilal Raza Muharrir of the said court and the report/letter was written by him for initiating disciplinary action against we both officials. On the other hand despite the fact that the then learned District & Sessions Judge, Mansehra (being Authority) at the time when Mr. Ashfaq Taj, learned Addl: Sessions Judge-III, Mansehra was appointed as Authorized Officer, had directed him to probe into the matter against we both officials i.e Reader and Muharrir vide office order No. 3887-93 dated 30.06.2010 of this court but the learned inquiry officer as well as learned Authorized Officer has not touched him during the inquiry proceedings or in submission of inquiry report.
2. That it is pertinent to mention here for your kind information that one of the defendants namely Mst. Rifhat Ara Khankhel alias Rifhat Sultan wife of Alhaj Gulfam Khan of village Garhi Habibullah had also filed an application before this learned court which is still pending. However, in this application too she had also charged we both officials i.e Reader and Muharrir of the said court alongwith 14/15 other persons/officials.
3. That it is very much clear from the report of learned Inquiry Officer as well as recommendations of the learned Authorized Officer that the petitioner is not involved in any corruption charges.
4. That so far as the question of tempering of date is concerned, the same has not been tempered with any malafide, however I have submitted detailed in this regard in my early reply of questionnaire dated 06.11.2010 in question No. 9 which is not only sufficient but I also relay on the same.
5. It is, therefore, requested that I belongs to a poor family, I am also affectee of earthquake 2005, in light of aforementioned facts, I may very kindly be exonerated from this inquiry or at least my penalty may please be converted into minor penalty and obliged.

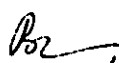
Thanking your honour for your this act of kindness.

Dated. 22.11.2010.

Your Most Obedient Servant



  
(Ghulam Nabi),  
Copy Clerk of this Court.

**ATTESTED**

P/2 ATTE  
  
21-2-11

FROM A  
FORM OF ORDER SHEET  
COURT OF MUHAMMAD ARSHAD, DISTRICT JUDGE, MANSEHRA.

CASE NO. OF VERSUS

Serial No. of order or proceedings.	Date of order or proceedings	Order or other proceedings with signature of Judge or Magistrate & that of parties or counsel when necessary.
1	2	3
	<u>23.10.2010.</u>	<p>Enquiry file against Ghulam Nabbi Reader received from the court of Mr. Ashfaq Taj, learned Additional District &amp; Sessions Judge-III, Mansehra/ Authorized Officer.</p> <p>Keeping in view the findings of the enquiry officer and recommendations of the authorized officer, accused Ghulam Nabbi be summoned for <u>29.10.2010</u> for personal hearing.</p> <p style="text-align: right;">             (MUHAMMAD ARSHAD)            DISTRICT JUDGE,            MANSEHRA.         </p>
OR-02	<u>29.10.2010.</u>	<p>Ghulam Nabbi, accused present in person. Questionnaire regarding his conduct as Reader is given to him. To come up for his answers and personal hearing on <u>06.11.10</u>.</p> <p style="text-align: right;">             (MUHAMMAD ARSHAD)            DISTRICT &amp; SESSIONS JUDGE,            MANSEHRA.         </p>
03.	<u>06.11.2010.</u>	<p>Accused/official present. Questionnaire handed over to him received back duly filled in and placed on file. The inquiry proceedings are conducted in accordance with Government Servants (Efficiency &amp; Discipline) Rules, 1973. Since the Authorized Officer has recommended Major Penalty, I, therefore, order that a final show cause notice be issued to the official. Copies of the inquiry proceedings and recommendations of authorized officer be also made available to him. The accused/official shall submit his reply to the show-cause notice within seven days from the receipt of show-cause notice. To come up on <u>15.11.2010.</u></p>

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 21-11-10

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 DISTRICT & SESSION JUDGE,  
 MANSEHRA.

OR-04.

15.11.2010

Ghulam Nabbi accused/official present. Requests for time to submit reply to show-cause notice. To come up on 23-11-10.

DISTRICT & SESSIONS JUDGE,  
MANSEHRA.

OR-05

22.11.2010

Ghulam Nabi accused/official present. Submitted reply to show cause notice. To come up for personal hearing on 26.11.2010.

District & Sessions Judge  
Mansehra

OR-06

26.11.2010

Ghulam Nabi accused/official absent. The office reported that accused/official is on three days causal leave. To come up 02.12.2010 for personal hearing.

District & Sessions Judge  
Mansehra

Q. 7 02-12-10

Ghulam Nabi official / accd present. Personally heard. Stated that one Bilal Raz Muharrar was also to be proceeded against but neither the authorized officer nor the inquiry officer has mentioned any thing in their reports. He also claimed innocence & stated that everything was done was by him in the presence of the Presiding officer. To come up for consideration on 09-12-10. 24/10/08

P/11

ATTESTED

Signature

No.

21-2-11

53

SI

51

OR-04

09.12.2010.

Inquiry file perused. The accused/official Ghulam Nabi had pointed out during personal hearing that inquiry has been conducted only against him, whereas one Bilal Raza Muharrir has not been proceeded against despite directions by the District & Sessions Judge, Mansehra. Perusal of order dated 29.06.2010 of my learned predecessor revealed that the inquiry was to be conducted against Bilal Raza Muharrir and the present accused/official Ghulam Nabi. The Inquiry findings as well as the recommendations of the authorized officer are silent in this respect. The inquiry file is returned to Mr. Ashfaq Taj, Learned Additional District & Sessions Judge/Authorized Officer Mansehra for needful in the light of above observations and return the same at the earliest.

*[Signature]*  
District & Sessions Judge  
Mansehra

13.12.10.

Inquiry file resubmitted by the learned District & Sessions Judge Mansehra. Be registered.

Issue notice to Bilal Raza Muharrir for 20.12.10.

*[Signature]*  
(Ashfaq Taj)  
ASJ-III/Authorized  
Officer Mansehra.

**ATTESTED**

*[Signature]*

P/12  
**ATTESTED**  
Signature *[Signature]*  
Date 21/12/10

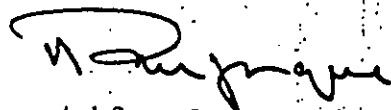
ORDER  
20.12.2010.

Mr. Bilal Raza Muharrir to the court of  
Learned Civil Judge-XII, Mansehra present and  
he has been served with statement of allegation  
and charge sheet.


I being authorized officer hereby  
reappoint learned Senior Civil Judge Mansehra  
as an inquiry officer with directions to conduct  
Inquiry against delinquent official mentioned  
above and also submit report as early as  
possible.

The official is directed to submit his  
reply before the Inquiry Officer within seven  
days and also to appear before the quarter  
concerned on his directions.

The inquiry file be sent to the learned  
Senior Civil Judge Mansehra accordingly.



Ashfaque Taj,  
Addl: District & Sessions Judge-III,  
Mansehra.

P/113  
ATTESTED  
Signature   
Date 21-12-10

IN THE COURT OF MOHSIN ALI TURK,  
SENIOR CIVIL JUDGE/ENQUIRY OFFICER, MANSEHRA.

N-52

Order- 03  
03.01.2011

Bilal Raza Muharrir to the court of Civil Judge XII Mansehra present and he submitted his written reply. In his reply he stated that the case titled "Karimullah etc Versus Riffat Sultan etc" was newly instituted before the court in which date was not yet fixed but the reader asked him to prepare a notice in the name of defendants. He stated that reader told him that he will subsequently record date of hearing in the said notice.

The role of Bilal Raza Muharrir is preparation of notice without recording date of hearing on the said notice. The matter in issue is however, somehow different. The issue is that the reader of the court has made overwriting over the notice which was issued for 16.06.2010 and which is available on file as Ex PB. The said reader also admitted this fact earlier. Thus, so far as the overwriting on notice and fixation of another date of hearing on the same notice is concerned, Bilal Raza Muharrir has got no connection with this issue rather the said Muharrir is not connected with misconduct which got proved against reader of the court.

With these observations, I feel no need of any further enquiry against Bilal Raza Muharrir and recording of any evidence.

This report is submitted before the learned authorized officer with the observations that in my opinion Bilal Raza Muharrir is innocent.

File be sent to Mr. Ashfaque Taj, Learned Additional District & Sessions Judge Mansehra (Authorized Officer).



(MOHSIN ALI TURK),  
Senior Civil Judge/JMIC/Enquiry Officer,  
Mansehra.

**ATTESTED**



**BETTER COPY OF PAGE-53**

**Order**

07.01.2011.

Inquiry report received from inquiry officer/Senior Civil Judge Mansehra and thoroughly perused.

The matter was brought by Mr. Mazhar Hussain Civil Judge-XII, Mansehra vide his comments submitted in reply to complaint of defendants counsel into the notice of authority that in a civil suit under titled Karimullah versus Rifat Sultana, the court issued notice on the application for grant of status quo for 10.6.2009. But the defendant party was not served and they were re-summoned for 29.6.2010.

In the meanwhile the counsel for defendant made a complaint before the presiding officer that notice of status quo was distorted and misrepresented as order of status quo on 20.6.2010 by Mian Sultan Bailiff performing duty with the court of Civil Judge Balakot and defendant were stopped from demarcation of suit property.

Consequent upon the presiding officer called explanation from Muharrir concerned. Bilal Raza Muharrir submitted reply on 25.6.2010 and disclosed that in fact date of notice dated 16.6.2010 was tempered by the reader of the said court. Per-se reader was also served with show cause notice vide notice No. 77 dated 6.2.2010. Ghulam Nabi on 28.6.2010 submitted rely and he categorically admitted that he had issued the notice. The reply was found not to be satisfactory and adequate enough so, the presiding officer sent the matter to authority for necessary action. The authority deemed it appropriate to probe into matter and to hold a departmental inquiry, the undersigned was appointed as authorized officer. In the light of record it transpired that the reader of the court had admitted in show cause notice that he had handed over the notice to the plaintiff party and that he had overwritten the date over the notice the proceedings against the reader Ghulam Nabi was initiated only. Senior Civil Judge Mansehra was appointed as an inquiry officer and he in result of inquiry held the accused-official guilty. The undersigned being an authorized officer agreed and submitted the inquiry report before the Authority with recommendation of major penalty i.e. compulsory retirement. The accused official in reply to final show cause notice before authority raised plea that Muharrir of the court namely Bilal Raza was equally charged for the wrong being done but he had been proceeded. So, the inquiry was again marked to the undersigned to also proceed against Muharrir of the Civil Judge-XII

**ATTESTED**  
a



ORDER  
07.01.2011.

Inquiry report received from inquiry officer/Senior Civil Judge Mansehra and thoroughly perused.

The matter was brought by Mr. Mazhar Hussain Civil Judge-XII, Mansehra vide his comments submitted in reply to complaint of defendants' counsel into the notice of authority that in a civil suit under titled Karimullah versus Rifat Sultana, the court issued notice on the application for grant of status quo for 10.6.09. But the defendant party was not served and they were re-summoned for 29.6.2010.

In the meanwhile the counsel for defendant made a complaint before the presiding officer that notice of status quo was distorted and misrepresented as order of status quo on 20.6.2010 by Mian Sultan Bailiff performing duty with the court of Civil Judge Balakot and defendants were stopped from demarcation of suit property.

Consequent upon the presiding officer called explanation from Muharrir concerned. Bilal Raza Muharrir submitted reply on 25.6.2010 and disclosed that infact date of notice dated 16.6.2010 was tempered by the reader of the said court. Per-se reader was also served with show cause notice vide

**ATTESTED**

*[Handwritten signature]*

notice No. 77 dated 6.20.2010. Ghulam Nabi on 28.6.2010 submitted reply and he categorically admitted that he had issued the notice. The reply was found not to be satisfactory and adequate enough so the presiding officer sent the matter to authority for necessary action. The authority deem it appropriate to probe into matter and to hold a departmental inquiry. ~~Next~~ the undersigned was appointed as an authorized officer. In the light of record it transpired that the reader of the court had admitted in show cause notice that he had handed over the notice to the plaintiff party and that he had overwritten the date over the notice. ~~Therefore,~~ proceedings against the reader Ghulam Nabi was initiated only. Senior Civil Judge Manshra was appointed as an inquiry officer and he in result of inquiry held the accused-official guilty. The undersigned being an authorized officer agreed and submitted the inquiry report before the Authority with recommendation of major penalty i.e compulsory retirement. The accused official in reply to final show cause notice before authority raised plea that Muharrir of the court nameiy Bilal Raza was equally charged for the wrong being done but he had not been proceeded. So, the inquiry was again marked to the undersigned to also proceed against Muharrir of the Civil Judge-XII.

**BETTER COPY OF PAGE-54**

As explanation was also called from him by the presiding officer. In compliance of the order of authority the Muharrir was summoned and he was served with statement of allegation as well as charge sheet. Afresh, Senior civil judge Mansehra was appointed as an inquiry officer. The learned inquiry officer has given following observations in his inquiry report.

The rôle of Bilal Raza Muharrir is preparation of notice without recording date of hearing on the said notice. The matter in issue is however, somehow different. The issue is that the reader of the court has made overwriting over the notice which was issued for 16.6.2010 and which is available on file as Ex.PB. The said reader also admitted this fact earlier. Thus, so far as the overwriting on notice and fixation of another date of hearing on the same notice is concerned, Bilal Raza Muharrir has got no connection with this issue rather the said Muharrir is now connected with misconduct which got proved against reader of the court.

With these observation, I feel no need of any further inquiry against Bilal Raza Muharrir and recording of any evidence.

The report is submitted before the learned authorized Officer with observations that in my opinion Bilal Raza Muharrir is innocent.

I find myself in agreement with the findings of learned inquiry officer to the extent that Bilal Raza Muharrir is ingenuous and innocent. As far as the inquiry against Ghulam Nabi reader is concerned it has already been completed and submitted so, there is no need to proceed afresh against him.

Inquiry report submitted please.

**ASHFAQUE TAJ**

Addl: District & Session Judge-III/

Authorized Officer

Mansehra

**ATTESTED**

*[Handwritten signature]*

54

as explanation was also called from him by the presiding officer. In compliance of the order of authority the Muharrir was summoned and he was served with statement of allegation as well as charge sheet. Afresh, Senior civil Judge Manshra was appointed as an inquiry officer. The learned inquiry officer has given following observations in his inquiry report.

"The order of B.M. Raza Muharrir is preparation of notice without recording date of hearing on the said notice. The order in issue is however, set aside by court. The issue is that the reader of the court has made overwriting over the notice which was issued for 16.06.2010 and which is available on file as Ex.PB. The said reader also admitted this fact earlier. Thus, so far as the overwriting on notice and fixation of another date of hearing on the same notice is concerned, B.M. Raza Muharrir has got no connection with this issue rather the said Muharrir is not connected with

**ATTESTED**



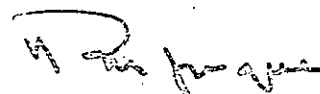
misconduct which got proved against reader of the court.

With these observation, I feel no need of any further inquiry against Bilal Raza Muharrir and recording of any evidence.

The report is submitted before the learned authorized Officer with observations that in my opinion Bilal Raza Muharrir is innocent."

I find myself in agreement with the findings of learned Inquiry officer to the extent that Bilal Raza Muharrir is ingenuous and innocent. As far as the Inquiry against Ghulam Nabi reader is concerned it has already been completed and submitted so, there is no need to proceed afresh against him.

Inquiry report submitted p/c. sc.



Ashfaq Taj  
Addl. District & Sessions Judge-III/  
Authorized Officer  
Manshra

من جارجی بیٹے اور منسل سندھ میں ایک قیام ہے کہ اور منسل قیام کے دستخط کے ساتھ  
 14/11/10  
 09/11/10  
 CHARGE SHEET  
 01/10-1  
 (55)  
 (3)

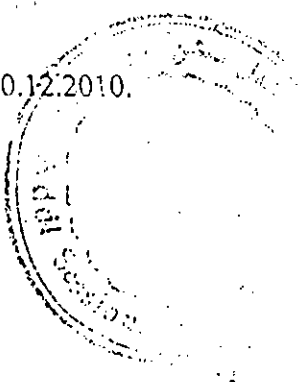
I Ashfaque Taj, Addl: Sessions Judge/Authorized Officer Mansehra charged you within the meanings of section 5 (2) of the efficiency and disciplinary rules 1973 with the following charges.

Whereas you Mr. Bilal Raza, Muharrir, attached to the court of Mr. Mazhar Hussain, Civil Judge-XII Manshra have been charged of committing misconduct and severe allegations have been leveled by the Presiding Officer, interalia, that a case titled "Kareemullah and others vs Mst Rifat Sultana and others was instituted on 08.06.2010. That on the very same date simple notice over an application of S.Q was issued and next date of hearing was fixed as 16.06.2010. Examination of copy of notice which was returned to that court by the counsel for defendant No.1, reveals that next date of hearing was fixed as 29.06.2010. It further reveals that said notice was supposed to be issued on 08.06.2010, vide order No.3 of same date. However, same was issued by you on your own on 22.06.2010, while that court had ordered for notice only for 16.06.2010 and not for 29.06.2010. On 16.06.2010 vide order sheet No. 4 the court of Civil Judge-XII had ordered for fresh summons and not for notice. That you not only turn over the previous notice issued on 08.06.2010 into a fresh notice on your own but also tempered with the record by mentioning summons as a notice and writing next date over previous notice, which shows that you have committed gross negligence and misconduct in performing your duties and violated the Govt: servant rules as provided, under the NWFP, Government Servant (Efficiency and Disciplinary) Rule 1973.

Therefore, you are hereby served with this statement of allegation that why you should not be proceeded under the abovementioned rules in accordance with law. You should submit your reply before the inquiry Officer, when you are called upon.

Dated: 20.12.2010.

**ATTESTED**



*Ashfaque Taj*  
 ASHFQUE TAJ  
 Addl: District & Sessions Judge-III  
 Authorized Officer,  
 Mansehra.

Signal *12*  
 Date *21-2-11*

*Bilal Raza*  
 Received  
*20/12/10*

STATEMENT OF ALLEGATIONS

56

Whereas you Mr. Bilal Raza, Muharrir, attached to the court of Mr. Mazhar Hussain, Civil Judge-XII Manshra have been charged of committing misconduct and severe allegations have been leveled by the Presiding Officer, interalia, that a case titled "Kareemullah and others vs Mst Rifat Sultana and others was instituted on 08.06.2010. That on the very same date simple notice over an application of S.Q was issued and next date of hearing was fixed as 16.06.2010. Examination of copy of notice which was returned to that court by the counsel for defendant No.1, reveals that next date of hearing was fixed as 29.06.2010. It further reveals that said notice was supposed to be issued on 08.06.2010, vide order No.3 of same date. However, same was issued by you on your own on 22.06.2010, while that court had ordered for notice only for 16.06.2010 and not for 29.06.2010. On 16.06.2010 vide order sheet No. 4 the court of Civil Judge-XII had ordered for fresh summons and not for notice. That you not only turn over the previous notice issued on 08.06.2010 into a fresh notice on your own but also tempered with the record by mentioning summons as a notice and writing next date over previous notice, which shows that you have committed gross negligence and misconduct in performing your duties and violated the Govt. servant rules as provided, under the NWFP, Government Servant (Efficiency and Disciplinary) Rule 1973.

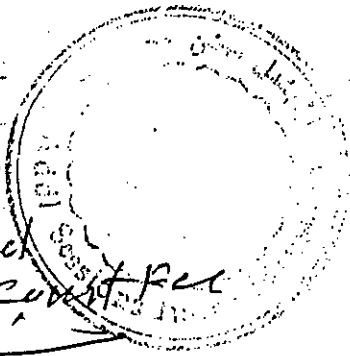
Therefore, you are hereby served with this statement of allegation that why you should not be proceeded under the abovementioned rules in accordance with law. You should submit your reply before the inquiry Officer, when you are called upon.

Dated: 20.12.2010.

*Ashque Taj*  
ASHQUE TAJ,  
Addl: District & Sessions Judge-III  
Authorized Officer,  
Manshra.

ATTESTED

ATTESTED  
Signature *Pr*  
Date 21-2-11



1223  
10-2-11  
Free copy  
Exempted  
From Court Fee  
21-2-11  
21-2-11

20/12  
Bilal Raza

مجلس قومی پاکستان اسلام آباد  
 (11) سیکشن 9  
 14/10/2010  
 گورنر صاحب محترم پاکستان ایئر لائنز

جواب انٹرنیشنل چارج مسٹر 20/10/10  
 ذیل عدالت

(51) - 0

3  
 20/10/2010  
 11/10/10

صاحب عالی

1۔ ایک دفعہ عنوان "ایئر لائنز" ویزہ بنام مسعود رفیق سیدانہ ویزہ  
 میں صاحب بولنگ نے 11/10/10 صاحبہ اللہ سے من سائل و ٹوکار نوٹس نمبر 74  
 حورہ کے 24/10/10 صاحبہ کیس اور 24/10/10 کو سب سے کیا  
 پیردہ کو ٹوکار کی رپورٹ اور 28/10/10 صاحبہ کیس اور 29/10/10  
 کے آفس آرڈر کے ذریعے صاحبہ برائے سائل و ٹوکار صاحبہ ADJ صاحبہ  
 سے بھاری (Authorized officers) حورہ سے۔ جنہوں نے  
 اس صاحبہ کو انٹورنری ایئر فورس سے کیا اور اس صاحبہ کے عدالت  
 سے بیان وکلہ کیا۔ جس پر عدالت نے بھاری حورہ سے کیا  
 2۔ ٹوکار نوٹس میں درج کردہ ایک آرڈر میں تاریخ 28/10/10  
 کو لکھنے سے۔ جو آرڈر میں لکھا گیا ہے۔ اور تاریخ رکھنا  
 اور عدالت کا کام ہے۔

3۔ ایک دفعہ عنوان "ایئر لائنز" ویزہ بنام مسعود رفیق سیدانہ ویزہ  
 کے 8/10/10 حورہ سے اور عدالت نے اس آرڈر میں حورہ کے 8/10/10  
 ایئر فورس سے کیا اور عدالت نے اس آرڈر میں حورہ سے کیا  
 تاریخ میں لکھی گئی۔ اور عدالت نے اس آرڈر میں حورہ سے کیا  
 حورہ سے اور عدالت نے اس آرڈر میں حورہ سے کیا  
 عدالت نے اس آرڈر میں حورہ سے کیا اور عدالت نے اس آرڈر میں حورہ سے کیا  
 کہ عدالت نے اس آرڈر میں حورہ سے کیا اور عدالت نے اس آرڈر میں حورہ سے کیا

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21-2-11





قرہہ کے 8 نوٹس رقم پر کہ خود ریڈر عدالت بنا جو سند عدالت کا وقت ضمیمہ ہو  
 وادی - اور عدالتی ریکارڈوں کے اعتبار سے وہ سب نوٹس ریڈر کا خود  
 کرنا: نوٹس میں تاریخ ریڈر عدالت نے اپنی قلمی لکھی جس کا اعتراف ہی رہے  
 جو سب میں ریڈر عدالت کے پاس - اور عدالتی سند میں ہی نوٹس خود ہی  
 جاری کر دیا (عدالتی ریڈر کا خود سوا نوٹس کی خود کافی نام پر دستخط  
 کرنا ہوں جس کے فقرہ بند جس میں اس کا اعتراف موجود ہے - عدالتی سند  
 اسی طرح تھا پوری اور رقم کا اثر رہی رہے جو سب کا فقرہ بند کی رہیں ہوا  
 میں لکھی ہے - جو سند عدالت ہے)

اس میں اس بات کو واضح کرنا ہے عدالت نے ہی ریڈر عدالت کا جو سب لکھنے  
 سے پر خطا ہو رہی ہے جس میں تمام کی اپنی اور رقم سے قرہہ کے 22 نوٹس خود ہی بیان  
 کرتا ہے۔

4 - یہ کہ خود ریڈر عدالت نے 4 قرہہ کے 16 اپنی جانب ہی عدالت نے ہی ریڈر  
 جو سب کا فقرہ بند 9 عدالت سند - آرڈر سند بند 3 قرہہ کے 8 کا جاری  
 کردہ نوٹس جو سند رقم پر اس کے لئے ریڈر عدالت نے تاریخ میں خود لکھی - آرڈر سند  
 بند 4 قرہہ کے 16 کا وقت نوٹس میں وہیں میں نے لکھا ہے کہ جس  
 تاریخ کے ساتھ ساتھ یا خود عدالت بنا جو سند میں ہی آرڈر سند بند 4 نوٹس  
 جاری کرنا کا کوئی ضمیمہ عدالت میں نہیں ہوا ہے اس لیے جس نے کوئی اور  
 نوٹس میں ہی آرڈر سند بند 4 قرہہ کے 29 میں جاری کیا ہے - اس میں  
 لکھنا ہے کہ جس کی ریڈر عدالت نے وہ جو سب کا فقرہ بند میں لکھنے سے  
 اس کی بات رقم پر ہی ہے (فقرہ بند کو لکھنے سے پر خطا ہے اس کا جو سب میں  
 لکھا ہے)

ATTESTED

5: یہ کہ سب میں نوٹس میں کوئی سند نہیں لکھی ہے - اور نہ ہی کوئی اور  
 نوٹس قرہہ کے 29 میں رقم پر ہی اس میں ہی نوٹس جو سند کے 16 میں  
 رقم پر ہی ہے نوٹس میں تاریخ میں ہی اس کے ساتھ ساتھ دار ریڈر عدالت نے ہی ہے  
 جس نے زبان کی طور پر اور رقم پر ہی اس کا اعتراف رہے جو سب میں

03

11/01/2011  
 M  
 50/11

(3)

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بابت

میں کا وفاقہ پیر کے ساتھ کوئی بھی کھنڈی اور نہ ہی مائیں  
کوئی دوسرا فونشن کا ہے  
میں سے کوئی کو صاف کیا گیا

لینڈیور بی بی کفوری

اعلانہ 03/01/2011

3  
59/11  
03/1/11

میں میں رضا محمد عارف کے لئے 21/2/11 کو  
13 (مستقل بر 13 اور 13)

1223

C. No. 10-2-11

Date Freehold p13

Court Exempted

Grant From Court Fee

Name of Plaintiff

Date of Case 21-2-11

Date of Judgment 21-2-11

Cause of Action

Date of Delivery

Signature

Date 21-2-11

ATTESTED

[Signature]

From



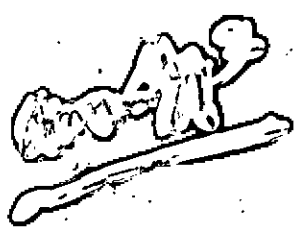
The District & Sessions Judge,  
Mansehra/ Authority.

P - 60

To

Mr. Ghulam Nabbi,  
the then Reader to the court of  
Civil Judge-XII, Mansehra  
now Copy Clerk of this court.

No. 431 / Dated Mansehra the 20 / 01 /2011.



**SUBJECT:** FINAL SHOW CAUSE NOTICE - II

Memo.

Mr. Mohsin Ali Turk, Senior Civil Judge, Mansehra/Inquiry Officer has again completed and submitted inquiry report to Mr. Ashfaque Taj, learned Additional District & Sessions Judge-III/Authorized Officer, Mansehra in which the Inquiry Officer has observed that Mr. Bilal Raza Muharrir is innocent and declared you responsible for delivery of notice to one of the plaintiff after tempering the date on it, without order of the court, on his request which clearly shows that you have shared your intention with the plaintiff. You have deviated from the settled rules regarding issuance of summons and notices and as such your this act comes within the ambit of misconduct, as such, I Muhammad Arshad, Distt: & Sessions Judge, Mansehra being Authority fully satisfied with the inquiry proceedings and agree with the recommendations of learned Authorized Officer regarding award of major penalty of "Compulsory retirement from service", to you.

In light of above noted circumstances you are hereby served with this final Show Cause Notice under the NWFP Government Servant (Efficiency & Discipline) Rules, 1973 and communicating to you about the major penalty to be imposed. In this respect copies of the Inquiry report as well as recommendation of the Authorized Officer are also enclosed herewith for your perusal, as per requirement of relevant Rules.

You are, directed to submit your reply (in person) within seven days from the receipt of this notice, otherwise it should be presumed that you have no defense to protect yourself and no excuse will be considered, later-on. You will also be heard in person.

✓ District & Sessions Judge,  
Mansehra/ Authority.

No.      Dated 20 / 01 /2011.

Copy forwarded to :-

1. The learned Registrar, Peshawar High Court, Peshawar, for favour of information, please;
2. The learned Member Inspection Team, Peshawar High Court, Peshawar, for favour of information, please;
3. The learned Additional District & Sessions Judge-III, Mansehra/Authorized Officer, with reference to his order sheet dated 07.01.2011, for information, please;
4. The Senior Civil Judge, Mansehra/ Inquiry Officer with reference to his inquiry report and order sheet No. 03 dated 03.01.2011, for information.
5. Office Copy.

**ATTESTED**

District & Sessions Judge,  
Mansehra/Authority.

DOVS  
AND  
N

بخدمت جناب ڈسٹرکٹ اینڈ سیشن جج صاحب مانسہرہ

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## جواب فائل شوکا ز نوٹس بشکل حلفیہ بیان تحریری

جناب عالی! جواب فائل شوکا ز نوٹس بشکل حلفیہ بیان تحریری ذیل پیش ہے۔

۱۔ منکہ غلام نبی سابقہ ریڈر عدالت سول جج صاحب XII مانسہرہ حال کاپی کلرک عدالت ہذا۔ حلفاً بیانی اور اقراری ہوں کہ یہ جو جواب نوٹس میں دے رہا ہوں اس کو میرا حلفیہ بیان بھی تصور کیا جا کر شامل مسل کیا جاوے اور اس جواب ا بیان میں درج کئے گئے تحریری حقائق کی روشنی میں جو کہ معزز جج صاحب نمبر XII، عدالت کی عزت و احترام، اصول رازداری کو مد نظر رکھ کر کسی کے سامنے عیاں نہیں کئے۔ لیکن مجبور ہو کر آج آپ جناب کے سامنے اوپن کر رہا ہوں کیونکہ آپ فائل اتھارٹی ہیں۔ اس لئے آپ نے بحیثیت ایک معزز ڈسٹرکٹ اینڈ سیشن جج صاحب ہی نہیں بلکہ ایک گھرانے کے سربراہ اور بحیثیت والدین اس معاملہ پر غور کرنا ہے۔

۲۔ اس پوری انکوائری کی تفصیل اس طرح ہے کہ مورخہ 08-06-2010 کو ایک دعویٰ بعنوان کریم اللہ وغیرہ بنام مسماة رفعت آرا وغیرہ عدالت سول جج XII مانسہرہ میں برائے ساعت موصول ہوا جو کہ چیک کرنے اور آرڈر شیٹ لگانے کے لئے P.O صاحب نے میرے حوالے کر دیا۔ جیسا کہ ہر روز وہ ایسا ہی کیا کرتے تھے اور مجھے ہدایت کی کہ اس مقدمہ میں Status quo نہیں بلکہ Simple نوٹس بابت درخواست حکم امتناعی آرڈر شیٹ میں تحریر کر دو۔

۳۔ میں نے P.O صاحب کے حکم اہدایت کے مطابق مسل چیک کی اور آرڈر شیٹ لکھ کر برائے دستخطی P.O صاحب کے سامنے رکھ دی۔ یہاں یہ بات قابل ذکر ہے کہ مسل مذکورہ کے علاوہ بھی جملہ مقدمات میں آرڈر شیٹ P.O صاحب لکھنے کے لئے میرے حوالے کرتے۔ اس لئے اس مسل میں بھی آرڈر شیٹ میرے ہاتھ کی تحریر کردہ ہیں۔

نقل آرڈر شیٹ برائے ملاحظہ لفظ ہیں۔ دیگر مقدمات کی آرڈر شیٹ طلب کر کے صرف مسل ہی نہیں بلکہ نوٹس اور آرڈر شیٹ ریڈر سے ملاحظہ کی جاسکتی ہیں۔ صی مکمل ہو جائے گا۔ یہاں سے آرڈر شیٹ کے لئے حصر وظیفہ۔ چونکہ چھٹی کا وقت قریب تھا اور P.O صاحب دیگر عدالتی امور میں مصروف تھے۔

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مدعیان کے منشی کے اصرار پر کہ مجھے نوٹس تیار کر کے دیا جاوے۔ بلال رضاء محرر عدالت میرے پاس آیا اور مسل مقدمہ طلب کی۔ جس کو میں نے جواب دیا کہ مسل پر ابھی تک P.O صاحب کی دستخطی نہیں ہوئی۔ جس پر محرر نے منشی کی فائل دیکھ کر نوٹس محرر عدالت نے خود تحریر کر کے مجھے دیا۔ میں نے برائے دستخطی ہمراہ مسل مقدمہ P.O صاحب کے سامنے رکھ دیا۔

یہ کہ P.O صاحب دیگر عدالتی کام سے فارغ ہوئے اور انہوں نے دیگر دستخطی کے ہمراہ مسل مقدمہ کی آرڈر شیٹ تسلی سے پڑھ کر نوٹس پر خود دستخط کیا۔ اس دوران محرر عدالت کا پتہ کیا تو وہ چھٹی کر کے چلے گئے تھے اور وقت عدالت اختتام پذیر ہو چکا تھا۔ میں نے یہ بات P.O صاحب کے نوٹس میں لائی تو جج صاحب نے پارٹی مقدمہ کو عدالت میں بلایا اور مجھے حکم دیا کہ نوٹس دستی حوالہ کر دو اور پارٹی کو ہدایت کی کہ یہ نوٹس تم خود برائے تعمیل NN عدالت سول جج بالا کوٹ پہنچا دو۔ (یہاں یہ بات نہایت ہی قابل غور اور قابل تحریر ہے کہ نہ تو انکو آئری آفیسر اور نہ ہی Authorize

آفیسر صاحب نے پارٹی مدعیان مقدمہ ”محمد سلیمان اور مظفر حسین“ جو نوٹس لے کر گئے تھے کا بیان بھی قلمبند نہیں کیا۔ جو کہ ضروری تھا۔ جس کے بیان کی قلمبندی سے اصل صورت حال سامنے آجاتی اور معاملہ سمجھنے میں آسانی ہوتی کہ اس میں ریڈر عدالت نے کیا غلطی کی ہے)۔ دوسری بات جو کہ انکو آئری آفیسر صاحب نے کی ہے وہ یہ ہے کہ پارٹی مدعیان مقدمہ مذکور اور محرر بلال رضا کا بیان قلمبند کرتے اور مجھے جرح کا موقع فراہم کیا جاتا اور انکو آئری آفیسر اگر مناسب سمجھتے تو اس نسبت P.O صاحب کا بیان بھی قلمبند کر سکتے تھے۔ جو کہ نہیں کیا گیا۔

یہ کہ مسل مقدمہ میں مورخہ 08-06-2010 سے آئندہ پیشی 16-06-2010 مقرر ہوئی جو کہ 16-06-2010 کی آرڈر شیٹ ملاحظہ سے عیاں ہے کہ اس دن نہ تو مدعیان حاضر ہوئے اور نہ ہی نوٹس سابقہ واپس ہوا۔ جدید احکامات آئندہ پیشی 29-06-2010 کے لئے جاری کرنے کا آرڈر شیٹ میں حکم ہوا۔ آرڈر شیٹ میرے ہاتھ کی تحریر کردہ ہے اور مسل مقدمہ بعد از دستخطی P.O صاحب مورخہ 29-06-2010 کی پیشی میں چلی گئی۔

یہ کہ مورخہ 29-06-2010 کی پیشی سے 5/6 دن قبل یعنی مورخہ 22-06-2010 کو میں بھی حاضر عدالت تھا اور P.O صاحب بھی عدالت میں

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اپنی سیٹ پر بیٹھے ہوئے تھے۔ محمد سلیمان یکے از مدعیان حاضر عدالت ہو اور مجھ سے اپنے مقدمہ کی تاریخ کے متعلق دریافت کیا اور ساتھ ہی سابقہ جاری شدہ نوٹس بھی دکھایا اور بیانی ہوا کہ میں بوجہ بیماری اپنی تاریخ پر حاضر عدالت نہیں ہو سکا اور یہ نوٹس بھی جو کہ P.O صاحب نے مجھے دیا تھا وہ تعمیل کے لئے سول جج بالا کوٹ نہیں پہنچا سکا۔ اب میرے لئے کیا حکم ہے۔ اس نسبت 4-Order- محررہ 16-06-2010 ملاحظہ ہو۔ جو کہ لف ہے۔

۸- یہ کہ P.O صاحب سیٹ پر بیٹھے ہوئے یہ بات سن بھی رہے تھے اور دیکھ بھی رہے تھے۔ پھر بھی میں نے ہو بہ ہو P.O صاحب کو یہ ساری بات کہہ دی اور ان کے نوٹس میں لایا۔ جس پر P.O صاحب نے نوٹس اپنے ہاتھ میں لے کر دیکھا اور مجھے حکم دیا کہ چونکہ نوٹس مطابق 3-Order- محررہ 08-06-2010 حسب ضابطہ جاری شدہ ہے۔ جس پر میرا دستخط اور مہر عدالت موجود ہے۔ لیکن عدم تعمیل واپس آیا ہے۔ ویسے بھی Simple نوٹس ہے۔ Status quo تو نہ ہے۔ ان کی آئندہ پیشی اسی نوٹس پر لکھ کر دے دو۔ میں نے P.O صاحب کا حکم سر آنکھوں سے تعمیل کرتے ہوئے اپنے رجسٹر پیشی کے مطابق آئندہ پیشی مورخہ 29-06-2010 نوٹس پر لکھ کر دے دی۔ جس کے بعد P.O صاحب نے پارٹی کو دوبارہ سختی سے ہدایت کی کہ یہ نوٹس آج ہی یعنی مورخہ 22-06-2010 کو برائے تعمیل دفتر نائب ناظر سول جج بالا کوٹ پہنچا دو۔

۹- مندرجہ بالا حقائق کی روشنی میں چند نقاط سامنے آتے ہیں جو کہ قابل غور ہیں جن کی طرف جناب کی توجہ مبذول کرانا چاہتا ہوں۔

i- نوٹس مطابق آرڈر شیٹ نمبر 3 محررہ 08-06-2010 حسب ضابطہ جاری شدہ ہے۔

ii- نوٹس مطابق آرڈر شیٹ تحریر ہوا ہے۔ اگر تحریر میں کوئی کمی بیشی ہے تو وہ محرر کی ڈیوٹی میں شامل ہے نہ کہ ریڈر کی اور اس پر دیکھنے، پڑھنے اور تسلی کے بعد P.O صاحب کے دستخط ثبت کئے ہیں۔

iii- بعد از تاریخ مقررہ نوٹس مذکور جو کہ Un-Served واپس ہوا تو اس کو P.O صاحب نے دیکھ کر پڑھا کر چیک کرنے کے بعد آئندہ پیشی لکھنے کے لئے مجھے حکم دیا ہے۔ جس کی میں نے تعمیل کی ہے۔ نقل نوٹس لف ہے۔

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۱۰۔ اب ان سب حقائق کو جاننے کے بعد پوری تفصیل سے آگاہ ہو کر جناب والا میری غلطی اور وہ بھی پورے خاندان کے منہ سے روزی کا نوالہ چھیننے کی سزا کا تعین کیا جائے۔

استدعا ہے کہ میرے اس تفصیلی جواب ا حلفیہ تحریری بیان کو میری انکوائری مسل کا حصہ گردانا جا کر شامل مسل کیا جائے اور مجھے معاف فرمایا جاوے اور انکوائری بلا مزید کارروائی داخل دفتر فرمائی جاوے۔

سائل جناب کے لئے تاحیات دعا گو رہے گا۔

المرقوم 26-01-2011 ماںمبره

ارض

غلام نبی سابقہ ریڈر عدالت جناب سول جج صاحب XII ماںمبره

حال متعین کاپی کلرک عدالت ہذا

### بیان حلفی

حلفاً بیانی اور اقراری ہوں کہ جملہ مراتب جواب فائل شوکا ز نوٹس / تحریری بیان حرف بحرف درست ہیں۔ اس میں کوئی امر مخفی یا متروک یا خلاف حقائق نہ ہے۔ لہذا بیان حلفی سنداً تحریر ہے۔

المرقوم 26-01-2011 ماںمبره

غلام نبی بیان دہندہ

25/2011

ATTESTED



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## عزت مآب جناب ڈسٹرکٹ اینڈ سیشن جج صاحب مانسہرہ

جناب عالی! درخواست پیش خدمت ہے۔

۱۔ یہ کہ سائل نے فائل شوکا ز نوٹس کا جواب پہلے سے دے رکھا ہے۔ جو شامل مسل ہو چکا ہے۔

۲۔ یہ کہ میرے اس جواب میں کچھ حقائق جو رہ گئے تھے، کو آپ کے علم میں لانا ضروری سمجھتا ہوں۔ لہذا مہربانی کر کے میری اس درخواست کو اس جواب / حلفیہ بیان تحریری کا لازمی جزو تصور فرمایا جاوے۔

۳۔ یہ کہ میں نے اپنے اس جواب میں جتنے بھی حقائق بیان کئے ہیں۔ وہ قبل ازیں آپ جناب کے علم میں زبانی طور پر اس وقت لایا گیا تھا۔ جب مجھے فائل شوکا ز نوٹس ملا تھا۔ آپ جناب ان حقائق سے بخوبی واقف ہیں۔

۴۔ چونکہ مجھے دوبارہ فائل شوکا ز نوٹس ملائے۔ لہذا اب ان کو تحریری طور پر لانا ضروری سمجھتا ہوں۔ کیونکہ مسل کے مسئلہ پر استدعا ہے۔

استدعا ہے کہ میری اس درخواست پر ہمدردانہ غور فرمایا جا کر اس درخواست کو جواب فائل شوکا ز نوٹس کا حصہ تصور فرمایا جاوے اور مجھے معاف فرمایا جاوے۔

المرقوم 29-01-2011 مانسہرہ

ارض

غلام نبی سابقہ ریڈر عدالت سول جج XII مانسہرہ

حال کاپی کلرک عدالت ہذا۔۔۔ سائل

ATTESTED



14.01.2011

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Inquiry file in respect of official namely Ghulam Nabi (Reader) received from the office of Mr. Ashfaqullah learned Additional District & Sessions Judge-III/Authorized Officer, Manshra. Copies of the inquiry report as well as recommendation of the Authorized Officer alongwith final show cause notice be issued to the official concerned with the direction to submit his reply within seven days from the receipt of the notice. To come up on 27-01-11.

**(MUHAMMAD ARSHAD)**  
DISTRICT & SESSIONS JUDGE/AUTHORITY  
MANSEHRA

*Ann-2*

27.01.2011.

Respondent Ghulam Nabi (Reader) present in person. Reply of final show cause notice is already placed on file. To come up for personal hearing on 07.02.2011.

District & Sessions Judge/  
Authority, Manshra

07.02.2011.

Respondent Ghulam Nabi Reader is on short leave as per his application placed on file. To come up for personal hearing on 08.02.2011.

Sessions Judge  
Manshra

08.02.2011.

**ORDER**

Accused official Ghulam Nabi present. Personally heard in support of his reply to the final show cause notice and over all proceedings of the inquiry qua the findings of the Inquiry Officer and recommendation of the Authorized Officer. Stated that he is innocent and has been falsely implicated. Further stated that he had done everything in good faith without malice to either of the party. Also stated that the Inquiry Officer and Authorized Officer have held to be guilty of misconduct and in a similar case of officials Muhammad Junaid etc an Inquiry Officer while holding guilty the said

**ATTESTED**

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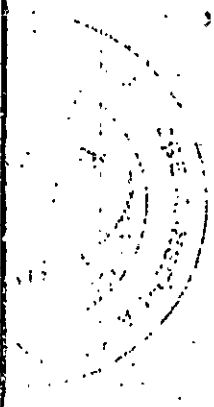
officials of misconduct have been penalized for stoppage of  
 increment. He stated that the proposed punishment is harsh  
 and the term misconduct has been misconstrued by the  
 Inquiry Officer as well as Authorized Officer. He in support of  
 his stance relied on PLD 1981 SC 175 and other relevant law.  
 The accused official was given full opportunity of personal  
 hearing. He further stated that his reply to the final show  
 cause notice may also be treated as part of personal hearing.  
 To come up for order on 09.02.2011.

*h*

DISTRICT & SESSIONS JUDGE/  
 AUTHORITY,  
 MANSEHRA.

ATTESTED

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اس لیے یہ کنوینشنی اصولی 44 کے نولز کے سب سے اول (2) کے تحت  
خلاف حقیقت اور غیر موثر ہو چکی ہے۔ 44 کے نولز کا سب سے اول (2) مد نظر ہو۔

3 (4) 1973 کے سال 7 کے تحت کنوینشنی آفیسر صاحب  
لازم تھا کہ وہ کنوینشنی کارڈ کو ڈرافٹ کر کے سیکرٹری C.P.C 1908  
کے تحت سربراہانم دیتا۔ لیکن میری کنوینشنی میں کنوینشنی آفیسر صاحب  
نے مجھے ایک بجاری ہارٹم لیسٹہ ملزم لکھوا کرتے ہوئے میری نیابت  
تعمیر کی ہے خود ہی سوال اور خود ہی انگلش لکھی ہے جو اب لکھوا گیا  
حالانکہ آفیسر کنوینشنی اصولی نولز 44 کے مطابق ایک دعویٰ لکھ کر  
کرن لگی۔ لیکن صاحب دیکھ لو کہ جلد باری سے کنوینشنی مکمل کی ہے۔  
جو کہ اول 7 اور سب سے اول (2) کے تحت خلاف قانون اور غیر  
موثر نہ ناقابل عمل ہو چکی ہے۔

4) مطابق قانون کنوینشنی فائل مکمل ہو کر جب آفیسر کنوینشنی  
Authorise Officer کے پاس پہنچی ہے تو آفیسر کنوینشنی  
آفیسر صاحب فائل کو ریفرنس کنوینشنی آفیسر صاحب کو جو نوٹز درجہ غلطی کا این  
ڈین کے مطابق لکھ کر لگایا۔ غیر نقل کنوینشنی رپورٹ کے ساتھ  
معلوم کر لیا کہ explanation ملتا ہے تو دیا جائیگا۔ اور نوٹز درجہ غلطی  
وضاحت explanation کے ذریعے جو نہ کے لیے غیر دوبارہ کنوینشنی آفیسر  
کا جو نوٹز درجہ غلطی کے متعلق لکھی جائیگی اس پر جو نوٹز لگایا۔  
اور آفیسر کنوینشنی آفیسر صاحب لکھ کر میں غلطی ملتی Minor penalty ہے

Examination  
کے لئے کیا گیا  
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کو۔ اس ضمن میں آفیسر نے خود ہی مقبول آرڈر لکھ کر اتھارٹی کے پاس بھجوا دیا۔ اور اگر آفیسر نے کسی نظر میں جاری عملیاتی نتیجے یعنی Major Penalty تو غیر مکمل ریکارڈوں کا، منظم طریقے سے داخل شدہ وضاحت (Explanation) اور مکتوبی رہنمی سفارشات (Recommendations) داخل اتھارٹی کے پاس بھجوا دیا۔ یہاں سیدی ریکارڈوں میں آفیسر نے بکلی ہی ایسا نہیں کیا۔ لہذا آفیسر نے اس کی تجویز کردہ سزا Edd ملنے 1973 کے رول 16 کے تحت سزا اور فلور قانون اور ناقابل عمل ہو چکی ہے۔

عالیجاہ! میں اپنے اس پوائنٹ کو قانونی شکل سے تقویت دینے کیلئے (Page: 176 - S.C. - 1981 - PLD) کی نقل پیش کرتا ہوں۔ جس میں "سیدی سید محمد شاہ سنگھ" کی ایک آباد خیم حکومت سرسبز کو دو غلطیوں یعنی Misconduct اور Corrupt کی بنا پر معطل کیا گیا تھا۔ جس کو سپریم کورٹ آف پاکستان نے اس فیصلہ کے ذریعہ صرف اور صرف ان ذریعہ بالدرہ حقائق یعنی آفیسر نے خود ہی سزا تجویز کرنے سے پہلے وضاحت (Explanation) نہ لینے کی بنا پر ہیال کہا گیا۔ اور سزا، ریکارڈوں کو کالعدم قرار دیا گیا۔ اب اس فیصلہ کو ہی 1973 کے رول 16 میں شامل کیا گیا ہے۔

ATTESTED

P.T.O

(70)

(61)

5) انٹرویو کا عمل پورے طور پر آفس میں ہوا۔ بعد کے اذکار جیسے کہ ہے۔

ضابطہ کی خدمت میں پیش کر دی۔ اب آپ صاحب نے مطالبہ قانون  
کی حیثیت رکھتا ہے کوئی بھی مائنٹل آرڈر پاس کرنے سے پہلے مائنٹل سٹولز

لٹرنل جیک کے لئے ہرگز نہیں سمجھتا (Personal Hearing)  
کا حق دیکھتا قانون روٹین کو لوگوں کو دے گا۔ لیکن انٹرویو آفس میں

انٹرویو آفس میں (Inquiry officer as well as Authentic officer)  
کی طرف سے انٹرویو اور ان کے خلاف قانون کے خلاف حقیقت پر نہ

نہایت اور تمام تعلق تھری، زبانی طور پر جاننے اور اس پر  
موجود ریکارڈ کی روشنی میں 1973 کے

رول نمبر (7-A) کے تحت کوئی بھی مناسب حکم صادر فرما سکتا  
ہے جس سے معافی کا حکم سب سے اہمیت حاصل ہے۔ کیونکہ معافی

دنیا بھر میں عام ہے۔ یہ حیثیت مائنٹل تھری آپ کی معافی  
فرماتا ہے۔

6) اب میں مائنٹل سٹولز لٹرنل میں دن کی عین غلطی میں کنڈکٹ misconduct  
کا تشدد کی طرف آتا ہوں۔ 1973 کے رول نمبر 1973 میں کنڈکٹ

کا تشدد کی تفصیل سے کہتا ہے۔ کہنی اس کا تشدد میں دن  
جو تصور غلطی ثابت ہوگی تو وہ قانون کے رول میں کنڈکٹ

misconduct کے زمرہ میں آتا ہے۔ اب میں کنڈکٹ  
D.T.D

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کہتے تو نیکو کردہ سزا بھی تو اس پر ہی ہو سکتی ہے جو کہ قانون کے مطابق سزا کے لئے مساوی ہے۔ یہاں پر میں ضابطہ کی توجیہ ایک اہم گواہی کی طرف مبذول کرنا چاہتا ہوں۔ وہ یہ ہے کہ ایک دوسری گواہی ہم اختیار اور دوسرے جوہر کے ساتھ ہی کی جا رہی ہے۔ میں پیشہ خاتل حکم عدالت سے تمنا ہے۔ اس میں گواہی آفسر صاحب نے ملنے کی وجہ سے Misconduct منظمی تعین کیا۔ اور آفیسر آفسر (اصول عدالت) صاحب نے ان ملنے کو Misconduct کی بنا پر Minor penalty جو نیکو کردہ ایک دفعہ سزا کرنے کی سفارش کی ہے۔ مالک نے وہیں پر 16 سال کے طویل عرصہ تک سزائیں سرائیں اور فیصلہ شدہ دفعہ دلائل فقہ میں پورے سہ گواہوں کے حقوق کی قیادت ہوئی ہے۔ جبکہ سب سے گواہی میں ہی گواہی آفسر صاحب نے میں نے (Misconduct) کی منظمی تعین کیا ہے۔ اور آفیسر آفسر (اشفاق خان) صاحب نے قانون کے مطابق قیام و وفات (Explanation) کے لئے لکھنے کی قیادت کی ہے۔ سفارش کی Major Penalty کی سفارش کی ہے۔

ATTESTED جو کہ Natural Justice ، CD اور 1973 اور سپریم کورٹ آف پاکستان مذکورہ فیصلہ کے خلاف ہے۔ میں یہ غیر موثر، خلاف قانون اور غیر موثر اور ناقابل عمل اور ہے۔

⑦ مطابق جواب فائنل سٹوڈنٹس جو کہ میری طرف سے تحریری اور  
 حلفیہ طریقہ کے شکل میں اور سوال نامہ کے جواب نمبر 9 سے 10 کا  
 مجموعہ میں کے مطابق میں اپنے متعلقہ پرنسپل ڈیپارٹمنٹ آفیسر صاحب  
 کی حورایت کے مطابق ان کے حکم کی تعمیل کی ہے۔ اگر طالبوں کے  
 مطابق اور تقویر ڈیپارٹمنٹ آفیسر (Authorise officer) صاحب کی نظر میں  
 کسی بھی رنگبند کا اپنے متعلقہ پرنسپل ڈیپارٹمنٹ آفیسر (P.O) کے حکم کی  
 من و عنین تعمیل کرنا مجرم ہے اور اس کی سزا بھی ناقابل برداشت  
 ہے تو سٹوڈنٹس فیسر سے غلطی کے معافی طلب کر رہے۔

لینڈا مندرجہ بالا حقائق کی روشنی میں میری دستخط  
 میں کو اس سٹوڈنٹس سے مستثنیٰ فرمایا جا کر میری فرمایا جاوے۔

جواب کی تحریر کی گئی۔  
 08/2/2011

میں = غصہ کی کالی مدد عدالت حذرا۔

*[Signature]*

**ATTESTED**

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1223  
 10-2-11  
 Exempted  
 Exempted  
 Exempted  
 21-2-11



FROM A  
FORM OF ORDER SHEET  
COURT OF MUHAMMAD ARSHAD, DISTRICT & SESSIONS JUDGE, MANSEHRA.

CASE NO. OF ENQUIRY AGAIN GHULAM NABBI READER

No. of order proceedings.	Date of order or proceedings	Order or other proceedings with signature of Judge or Magistrate that of parties or counsel when necessary.
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09.02.2011.

ORDER.

1. Accused/official Ghulam Nabbi Reader present. Record gone through.
2. Briefly stated the facts responsible for initiation of the instant inquiry are as such that Mr. Mazhar Hussain, Civil Judge-XII, Mansehra vide his letter No.79 dated 29.06.2010 informed the Authority that a civil suit titling "Kamim Ullah vs. Rifat Sultana" was entrusted to his court on 08.06.2010 for disposal. That notice was issued in pursuance of application for grant of temporary injunction for 16.06.2010 but the opposite party was not served and it was ordered that they be resummoned for 29.06.2010. Pending the proceedings, learned counsel for the defendant complained to the Presiding Officer that notice of Status-quo was distorted and misconstrued as order of Status-quo on 22.06.2010 by Mian Sultan Bhatti to the court of Civil Judge, Balakot and resultantly, the defendants alongwith revenue staff were restrained from conducting demarcation of the property. Mr. Mazhar Hussain, learned Civil Judge called explanation of the Moharrir concerned namely Bilal Raza who submitted his report on 25.06.2010 and stated that in fact date on the notice dated 16.06.2010 was tampered by the present accused/

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09/12/11

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*[Signature]*

CONT'D  
09.02.2011

official who was then posted as Reader to the court. The learned Presiding Officer then issued show-cause notice to the accused/official vide notice No.77 dated 25.06.2010. The present accused/official Ghulam Nabbi submitted his reply on 28.06.2010. The reply was not found satisfactory and the matter was brought by the learned Presiding Officer to the notice of my learned predecessor-in-office vide letter No.79 dated 29.06.2010. My learned predecessor-in-office being Authority deemed it appropriate to conduct proper inquiry and as such appointed Mr.Ashfaq Taj, learned Additional District Judge-III, Mansehra as an Authorized Officer. The learned Authorized Officer served the accused/official with statement of allegation and charge-sheet in terms of Efficiency & Discipline Rules, 1973 and at the same time appointed learned Senior Civil Judge, Mansehra as an Inquiry Officer.

3. On receipt of inquiry file, the learned Senior Civil Judge, Mansehra initiated inquiry proceedings and summoned the accused/official. The accused/official submitted his reply to the charge-sheet and statement of allegation which was not found satisfactory and he proceeded to record evidence regarding allegation against the accused/official. The learned Senior Civil Judge, Mansehra being an Inquiry Officer, after recording statements of Bilal Raza Moharrir to the court of Civil Judge-XII, Mansehra and, Muhammad Hanif Naib Nazir Balakot and Mubarak Ahmed Lughmani Advocate Mansehra and also recorded statement of the accused/official and

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CONT'D  
09.02.2011

came to the conclusion that the accused/official intentionally tampered the notice of the court after cutting and overwriting the date of hearing. The learned Inquiry Officer has further held that the accused/official in his reply to the charge-sheet and statement of allegation has admitted the cutting and overwriting but has claimed that there was no malafide. The learned Inquiry Officer found the accused/official guilty of official misconduct and submitted his report to the learned Authorized Officer. The learned Authorized Officer vide his findings dated 22.10.2010 recommended major penalty in terms of section 4(1)(b)(ii) of N.W.F.P Government Servants (Efficiency & Discipline) Rules, 1973 and recommended him for compulsory retirement from service.

4. On receipt of inquiry file from the Authorized Officer, accused/official was summoned. He was given the questionnaire regarding his conduct in the court. He submitted the same after replying the questions and was thereafter served with a final show-cause notice. He submitted reply to the show-cause notice on 22.11.2010 and the proceedings were adjourned for personal hearing of the accused/official to 02.12.2010. The accused/official stated that one Bilal Raza Moharrir attached to the court of Civil Judge-XII, Mansehra be also proceeded against because neither the Authorized Officer nor the Inquiry Officer has mentioned his role in their reports. Since Mr. Mazhar Hussain, learned Civil Judge-XII, Mansehra has forwarded the case for action against

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CONT'D  
09.02.2011

both the Moharrir and Reader and my learned predecessor-in-office vide his office order dated 30.06.2010 had also directed the Authorized Officer to proceed against the officials, therefore the inquiry file was returned to the learned Authorized Officer with the direction to proceed against Moharrir Bilal Raza vide this office order dated 09.12.2010. On receipt of file by the learned Authorized Officer on 20.12.2010, the Authorized Officer summoned Bilal Raza Moharrir attached to the court of Civil Judge-XII, Mansehra and served him with statement of allegation and charge-sheet and referred the matter to the Senior Civil Judge, Mansehra as an Inquiry Officer. The learned Senior Civil Judge vide his findings dated 03.02.2011 held that Bilal Raza Moharrir had no connection with the issue because accused/official Ghulam Nabbi had admitted the cutting and overwriting over the notice without sending it to the Moharrir and as such exonerated Bilal Raza Moharrir. The learned Authorized Officer once again forwarded his findings/recommendations on 07.01.2011 and endorsed the same penalty of compulsory retirement of the accused/official in term of section 4(1)(b)(ii) of N.W.F.P Government Servants (Efficiency & Discipline) Rules, 1973.

5. On receipt of file from the Authorized Officer on 14.01.2011, a final show-cause notice was issued to the accused/official and he was directed to submit his reply. He submitted reply to show-cause notice. The inquiry was adjourned to 07.02.2011 for personal hearing. On 07.02.2011, the accused/official

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**ATTESTED**

*[Signature]*

**BETTER COPY OF PAGE-78**

09.2.2011	<p>Was on leave and the proceedings were adjourned to 08.02.2011. On 08.02.2011, the accused official was given opportunity of personal hearing and was heard in detail.</p> <p>6. Perusal of record reveals that when show cause notice was issued to the present accused/official by Mr. Mazhar Hussain, Civil Judge on 25.6.2010. He submitted his reply consisting of five pages and admitted that he had tampered the notice. However, the accused/official while justifying his action stated that due to paucity of time and none availability of stationary and for the convenience of the parties and in light of letter of District Judge, Mansehra bearing No.2731-79/B&amp;A dated 24.4.2010 had overwritten the date.</p> <p>7. The nature of duties of allied staff of each court is prescribed in the rules and orders. The duties of the Reader of the court is to maintain the diary and to issue date slips to the parties, to prepare the cause list and also to receive files from the Moharrir of the court one day before the date fixed and to return the same to the said Moharrir at the end of the day. Similarly the duties of civil and criminal Moharrir are to maintain the register of cases, issue processes to the parties and witnesses and all other directions issued by the Presiding officer for the further progress of the case. The Moharrir is also required to send the files to the court one day before the date hearing and hand over the same to the reader and to receive it from him at the end of the day. His further duties are to consign the record in time to the Record Room. There is no provision in the High</p>
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**ATTESTED**



CONT'D  
09.02.2011

was on leave and the proceedings were adjourned to 08.02.2011. On 08.02.2011, the accused official was given opportunity of personal hearing and was heard in detail.

6. Perusal of record reveals that when show-cause notice was issued to the present accused/official by Mr. Mazhar Hussain, Civil Judge on 25.06.2010. He submitted his reply consisting of five pages and admitted that he had tampered the notice. However, the accused/official while justifying his action stated that due to paucity of time and none availability of stationery and for the convenience of the parties and in light of letter of District Judge, Mansehra bearing No.2731-79/B&A dated 24.04.2010 had overwritten the date.

7. The nature of duties of allied staff of each court is prescribed in the rules and orders. The duties of the Reader of the court is to maintain the diary and to issue date slips to the parties, to prepare the cause list and also to receive files from the Moharrir of the court one day before the date fixed and to return the same to the said Moharrir at the end of the day. Similarly the duties of civil and criminal Moharrir are to maintain the register of cases, issue processes to the parties and witnesses and all other directions issued by the Presiding Officer for the further progress of the case. The Moharrir is also required to send the files to the court one day before the date of hearing and hand over the same to the reader and to receive it from him at the end of the day. His further duties are to consign the record in time to the Record Keeper. There is no provision in the High

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**ATTESTED**

**BETTER COPY OF PAGE-79 TO 81**

09.2.2011 Court Rules and Orders that processes to the parties and witnesses is to be issued by the Reader unless specifically directed by the Presiding Officer in writing. In the instant case when a summon/notice was issued for the first time on 08.06.2010 and the next date was fixed as 16.06.2010. The notice was not received in the concerned court as is evident from order-sheet dated 16.6.2010. Order sheet verbatim is reproduced.

The next date was fixed as 29.6.2010 and fresh summons were to be issued. Instead of a fresh notice being issued by the concerned Moharrir, the present accused/official tampered the old notice and recorded next date of hearing. The notice was not only tampered but it was also given by hand to the party without adopting proper procedure. At least he should have returned the notice along with file to the Moharrir. The accused/official has not denied these allegations but has stated that he did all this in good faith in order to facilitate the parties.

8. The stance of the accused/official that he had done everything in good faith and that he was not given right of defence not the concerned parties were examined is without substance because he had the opportunity to produce evidence in defence when the file was again sent to the Inquiry Officer. He did not request for production of evidence in defence to this court verbally or in writing. Moreover, after admission of his guilt in reply to show cause notice, little was left to be proved. The accused/official has relied on a judgment of the august Supreme Court reported in PLD 1981 S.C. p.176. Perusal of record reveals that the inquiry officer has recorded evidence and also the statement of the accused in his defence. The accused official has not requested the inquiry officer to allow him to produce evidence in defence. No such application was submitted to the Authorized officer or to tills office. The allegation against the accused official regarding tampering of notice and overwriting the date of hearing is not denied by him and therefore, no further proof was required. His only stance as contained in his reply to the show cause notice is that he did all this in good faith

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and the burden of proof in good faith was on the accused/official. Since the accused/official has deviated from the normal practice of the court and has tampered the court record without any plausible reason and has failed to prove his good faith, therefore, he was rightly adjudged guilty by the inquiry officer of misconduct. Normally when a case is adjourned, the file is sent by the Reader to the Moharrir for doing the needful in accordance with the orders of the court. In the instant case, no new notice was prepared and date of hearing was tampered and overwritten which shows that the same was done for extraneous consideration because the bailiff took it to the opposite party and revenue staff and resultantly the demarcation proceedings were stopped despite the fact that there was no stay order.

9. In view the above observations, I am of the firm opinion that the accused/official had done the exercise of cutting and overwriting of date on the notice with calculated shrewdness and while agreeing with the findings of the inquiry officer and recommendations of the Authorized Officer, being Ghulam Nabi then Reader (now copy clerk) accused/official under the provisions of Government servants (Efficiency & Discipline) Rules, 1973. Copy of this order be submitted to the learned Registrar and Member inspection Team, Peshawar High Court, Peshawar for favour of information, whereas copy be also sent to District Account Officer, Mansehra for information and necessary action. Office is directed to make necessary entries in the service record of the official concerned and prepare his pension papers according to the relevant rules. File be sent to English Office for safe custody.

**ANNOUNCED**  
**09.02.2011**

**ATTESTED**

**(MUHAMMAD ARSHAD)**  
**District & Session Judge/  
Authority,  
Mansehra**





CONT'D  
09.02.2011

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Court Rules and Orders that processes to the parties and witnesses is to be issued by the Reader unless specifically directed by the Presiding Officer in writing. In the instant case when a summon/notice was issued for the first time on 08.06.2010 and the next date was fixed as 16.06.2010. The notice was not received in the concerned court as is evident from order-sheet dated 16.06.2010. Order-sheet verbatim is reproduced:

کلرک وکیل مدعیان حاضر۔ سن داخل نہیں ہوئے۔ نوٹس نہیں  
نہیں ہوا۔ جدید سن آج ہی داخل ہو کر تمام مدعا طیم ہو رہی  
29.06.10 کیلئے جاری ہوں۔

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16.6.10.

The next date was fixed as 29.06.2010 and fresh summons were to be issued. Instead of a fresh notice being issued by the concerned Moharrir, the present accused/official tampered the old notice and recorded next date of hearing. The notice was not only tampered but it was also given by hand to the party without adopting proper procedure. At least he should have returned the notice alongwith file to the Moharrir. The accused/official has not denied these allegations but has stated that he did all this in good faith in order to facilitate the parties.

8. The stance of the accused/official that he had done everything in good faith and that he was not given right of defence nor the concerned parties were examined is without substance because he had the opportunity to produce evidence in defence when the file was again sent to the Inquiry Officer. He did not request for production of evidence in defence to this court verbally or in writing. Moreover, after admission of his guilt in reply to show-cause notice,

D.S.J (P.S.)  
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CONT'D  
09.02.2011

Para 11

liberal  
Para 10  
no over  
writing  
Para 8

little was left to be proved. The accused/official has relied on a judgment of the august Supreme Court reported in PLD 1981 S.C. p.176. Perusal of record reveals that the Inquiry Officer has recorded evidence and also the statement of the accused in his defence. The accused official has not requested the Inquiry Officer to allow him to produce evidence in defence. No such application was submitted to the Authorized Officer or to his office. The allegation against the accused/official regarding tampering of notice and overwriting the date of hearing is not denied by him and therefore, no further proof was required. His only stance as contained in his reply to the show-cause notice is that he did all this in good faith and the burden of proof of good faith was on the accused/official. Since the accused/official has deviated from the normal practice of the court and has tampered the court records without any plausible reason and has failed to prove his good faith, therefore, he was rightly adjudged guilty by the Inquiry Officer of misconduct. Normally when a case is adjourned, the file is sent by the Reader to the Moharrir for doing the needful in accordance with the orders of the court. In the instant case, no new notice was prepared and date of hearing was tampered and rewritten which shows that the same was done for extraneous consideration because the bailiff took it to the opposite party and revenue staff and resultant the demarcation proceedings were stopped despite the fact that there was no stay order.

Para 13

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2. In view of the above observations, I am of the firm opinion that the accused/official had done the exercise of cutting and overwriting of date on the


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09.02.2011

notice with calculated shrewdness and while agreeing with the findings of the Inquiry Officer and recommendations of the Authorized Officer, I being Authority hereby order the compulsory retirement of Ghulam Nabbi then Reader (now copy clerk) accused/official under the provisions of Government Servants (Efficiency & Discipline) Rules, 1973. Copy of this order be submitted to the learned Registrar and Member Inspection Team, Peshawar High Court, Peshawar for favour of information, whereas copy be also sent to District Accounts Officer, Mansehra for information and necessary action. Office is directed to make necessary entries in the service record of the official concerned and prepare his pension papers according to the relevant rules. File be sent to English Office for safe custody.

ANNOUNCED  
09.02.2011

(MUHAMMAD ARSHAD)  
DISTRICT & SESSIONS JUDGE/  
AUTHORITY,  
MANSEHRA.

ATTESTED

  
**BEFORE THE PESHAWAR HIGH**  
**COURT/TRIBUNAL, PESHAWAR.**

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Ghulam Nabi son of Muhammad Mussa resident of  
Hungrai, Tehsil Balakot District Mansehra Ex-Copy  
Clerk to the court of District & Sessions Judge,  
Mansehra.....Appellant.

**VERSUS**

1. District & Sessions Judge, Mansehra.
2. Additional District & Sessions Judge-III/  
Authorize Officer Mansehra
3. Senior Civil Judge/Inquiry Officer,  
Mansehra.
4. Mazhar Hussain, Civil Judge-XII, Mansehra  
.....Respondents.

**DEPARTMENTAL APPEAL AGAINST THE**  
**ORDER DATED 09-02-2011 PASSED BY**  
**DISTRICT & SESSIONS JUDGE,**  
**MANSEHRA/RESPONDENT NO.1 WHEREBY**  
**APPELLANT HAS BEEN AWARDED MAJOR**  
**PUNISHMENT OF COMPULSORY**  
**RETIREMENT FROM SERVICE.**

**ATTESTED**  
