

PRAYER:-

One acceptance of instant appeal, the impugned order passed by respondent No.1 may kindly be set aside and the appellant may please be reinstated in service with full back benefits.

Respectfully Sheweth!

1. That, the appellant was inducted in the service on 20-11-1995 in the establishment of Senior Civil Judge Mansehra, and letter on selected and appointed as junior clerk in the establishment of District & Session Judge Mansehra on 02-10-2001.
2. That, the appellant performed his duties in this department since last 15/16 years without any fault on the part of the appellant.
3. That in June 2010 appellant was posted as reader to the court of Mr. Mahzar Hussain learned Civil Judge XII Manshra .
4. That on 08-06-2010 a suit bearing No. 22/1 of 2010, "Kareem Ullah etc. Versus Rifat Sultana and other" was entrusted to the said court where I was posted as reader, by the learned Senior Civil Judge, Mansehra. Being a routten work I have written the first order sheet in it, but there was an application for

ATTESTED



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(3)

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(3)

issuance of temporary injunction, hence I brought the meter into the notice of my learned Presiding Officer for guidance. The 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 court to file Summon forms with the Muharrir of the Court. After getting signature of the learned Presiding Officer, I sent the case file to the Muharrir for the issuance of notice/Summon per order. The Muharrir of the court prepared notice/summon produce before the learned Preside Officer for his signature on it. The learned Presiding Officer, after his signature delivered the same direct to plaintiff present in court and the P.O also directed him to delivered the same before Naib Nazir at Balakot for its execution. Thereafter that plaintiff lifted the court.

5. That on 16-06-2010 (the date fixed in the case) non of the party present except clerk of the council of the plaintiff similarly earlier notice/summons delivered to the plaintiff were also not received back after execution.

6. I repeated the previous order sheet for

ATTESTED



(85) (4)


29-06-2010 (Next date of hearing). In the meanwhile on 22-06-2010 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 delivered the same to the Naib Nazir Balakot for its execution deliberately. (*Attested copies of the order sheet of the suit as well as notice of the S.Q application are annexed as annexure "A" & "B"*).

7. That on 23-06-2010 some of the defendants alongwith counsel appeared before the court and complained about the role of plaintiff who maneourved the notice of S.Q instead of simple notice on application.
8. 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 her attorney also submitted

ATTESTED




(86) (5)



an other application in the court of learned District & Sessions Judge, Mansehra (Respondent No.1) on 26-06-2010 Which is still pending before the court of respondent No.1 for evidence of the parties (*Attested copy of the same application is annexed as annexure "C"*)

9. That, on 25-06-2010 Mr. Mahzar Hussain, Civil Judge-XII, Mansehra issued show cause notice to the appellant as well as Muhammad Sultan Bailiff and Bilal Raza Muharrir. (*Attested copies of the show cause notice are annexed as annexure "D"*).
10. That, the appellant as well as Bilal Raza Muharrir submitted reply of the show cause notices in the court of Mazhar Hussain, Civil Judge-XII, Mansehra on 28-06-2010. (*Attested copies of the notice are annexed as annexure "E"*)
11. That, on 29-06-2010 the then District & Sessions Judge, Mr. Anwar Hussain passed an office order vide which he appointed respondent No.2 as Authorized Officer for the purpose of inquiry. (*Attested copy of the office order is annexed as annexure "F"*).
12. That, on 10-08-2010 respondent No.2 charge sheeted the appellant and he also provided statement of allegation to the

ATTESTED





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appellant. *(Attested copy of the charge sheet and statement of allegation are annexed as annexure "G").*

13. That Authorized Officer, respondent No.2 further appointed respondent No.3 as Inquiry Officer vide order dated 10-08-2010. 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. *(Attested copies of reply of charge sheet and statement of allegation are annexed as annexure "H").*
14. That, Inquiry Officer conducted the inquiry and returned the file to the Authorized Officer vide order dated 01-10-2010. *(Attested copies of the order dated 10-08-2010 and 22-10-2010 are annexed as annexure "J").*
15. That, respondent No.1 after receiving the inquiry report from Authorized Officer, again summons 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 the final show cause notice on 06-11-2010 and 22-11-2010 respectively. *(Attested copies*

ATTESTED

of the questionnaire, final show cause notice and reply are annexed as annexure "K").

16. That respondent No.1 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.1 that both the Authorized Officer respondent No.2 and Inquiry Officer Respondent No.3 have not initiated any inquiry proceeding against Mr. Bilal Raza Muharrir of the court of respondent No.4. Similarly I have also brought into the notice of respondent no.1 that cutting /overwriting made on the notice to the extent of next date of hearing was made by respondent no. 4 himself, earlier this fact was not shown in writing due to the ~~Removal~~prestige of the court as will be respondent No.4. However after personal hearing the respondent No.1 adjourned the inquiry proceedings for 09-12-2010 for consideration. On this date the respondent no. 1, fully agreed with the submission of the appellant and remanded the inquiry file back to respondent no. 2 for holding similar inquiry against Mr. Bilal Raza Muharrir also, but he did not mentioned single words about cutting of the date on the notice by respondent no.4 or in this regard necessary defence evidence. On

ATTESTED



(89) (8)

receipt of inquiry file the respondent No.2 charge sheeted the Bilal Raza Muharrir and supplied the statement of allegation and he was directed to appear before the Inquiry Officer vide order date 20-12-2010 (*Attested copy of the order sheets/charge sheets and statement of allegations are annexed as annexure "L"*).

17. That, Mr. Bilal Raza Moharrir replies of the charge sheet as well as statement of allegation. (*Attested copy of the reply submitted by Bilal Raza is annexed as annexure "M"*).

18. That after completion of Inquiry report the Inquiry Officer respondent no.3 resubmitted inquiry file before the Authorized Officer respondent No.2 on 03-01-2011, but during this proceeding he has neither given a chance to the appellant for production of defence 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 him necessary evidence despite my oral request before the Inquiry Officer respondent No.3 during the inquiry proceeding, and first personal hearing before the District & Sessions Judge, (*Authority Respondent No.1*).

ATTESTED
[Signature]

(90) (9)

19. That the respondent No.2 resubmitted the Inquiry file to respondent No.1 on 07-01-2011 with the same incomplete recommendation. On 14-01-2011, Inquiry file again received by respondent No.1 and he again issued final show cause notice (2nd) to the appellant and directed to submit his reply with in 7 days. In compliance with the order of respondent No.1, I again submitted my reply, (*Attested copies of the final show cause notice 2nd, reply of notice and order sheet dated 14-01-2011 are annexed as annexure "N"*).

20. That, on 08-02-2010 I learned respondent No.1 personally heard the appellant and I also submitted written arguments before the authority and the case was fixed for 09-02-2011 for order. That respondent No.1 again neither considered the reply of final show cause notice nor during personal hearing considered the argument of the appellant.

(Attested copies of order sheet dated 09-02-2011 along with written arguments are annexed as annexure "O").

21. That, on 09-02-2011 learned Respondent No.1 passed the impugned order whereby he imposed major penalty on the appellant under NWFP Government Servant Efficiency and Discipline Rules, 1973 and

ATTESTED



passed the order regarding compulsory retirement of the appellant. (Attested copy of order dated 09-02-2011 is annexed as annexure "P").

FACTS:

22. 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.
 23. That, respondent No4. Mr. Mazhar Hussain, Civil Judge-XII, 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.1 to 3 carried out the proceedings of the inquiry on the basis of that show cause notice illegally.
 24. That, appellant has good service record and there is no misconduct, corruption charges of any kind against the appellant.
 25. 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 with the order of the Presiding Officer.
 26. That, the appellant is a poor low-grade government servant and severely affected by the earthquake of 2005.
- That, the appellant has done all the things with the order of the Presiding Officer in

ATTESTED



good faith without any malafide and without any connivance with any of the party of the suit.

28. That, the Inquiry Officer has not properly inquired 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 defence evidence although the appellant insisted on the same, in this way the order of the authority i.e. learned respondent No.1 is totally wrong, illegal and without justification.

29. 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.

30. That the authorized officer and the authority paid no attention towards the Supreme Courts 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

ATTESTED

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set aside on appeal by the August Supreme Court in relevant case titled as "Syed Mir Muhammad Shah, Senior Civil Judge, Abbottabad Vs. Govt. of NWFP".

It is, therefore, most humbly prayed that on acceptance of instant appeal, the impugned order passed by respondent No.1 may kindly be set aside and the appellant may please be reinstated in service with full back benefits.

Dated: 28-02-2011

Ghulam Nabi

..Appellant

AFFIDAVIT.

I, Ghulam Nabi son of Muhammad Mussa resident of Hungrai, Tehsil Balakot District Mansehra Ex- Copy Clerk to the court of Sessions Judge, Mansehra, Appellant, do hereby solemnly affirm and declare on oath that the contents of above departmental appeal are true and correct to the best of my knowledge and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


ATTESTED

Dated 28-02-2011



Ghulam Nabi

(DEPONENT)



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T- (94)

**BEFORE THE SERVICE TRIBUNAL,
KPK PESHAWAR**

Appeal No. 1279/2011

Ghulam Nabi son of Muhammad Moosa
resident of Hungrayee, Tehsil Balakot District
Mansehra Ex-Copy Clerk to the court of
Sessions Judge, Mansehra Appellant

VERSUS

1. The Worthy Administration Judge, Peshawar
High Court, Peshawar.
2. District & Sessions Judge, Mansehra.
3. Additional District & Sessions Judge-III,
Mansehra.
4. Senior Civil Judge/Inquiry Officer, Mansehra.
5. Mazhar Hussain, Civil Judge-XII, Mansehra
..... Respondents

SERVICE APPEAL UNDER SECTION 4
OF THE KHYBER PAKHTUN KHWA
SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 09.02.2011
PASSED BY RESPONDENT NO.2 VIDE
WHICH MAJOR PENALTY OF
COMPULSORY RETIREMENT FROM
SERVICE WAS IMPOSED ON THE
APPELLANT AGAINST WHICH
DEPARTMENT APPEAL WAS FILED
BEFORE RESPONDENT NO.1 BUT THE
SAME SOLICITED NO RESPONSE
WITHIN THE STATUTORY PERIOD OF

ATTESTED 90 DAYS.

[Signature]

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It is, therefore, most humbly prayed that on acceptance of instant appeal, the impugned order passed by respondent No.2 may kindly be set aside and the appellant may please be reinstated in service with all back benefits.

Dated 27.06.2011



Ghulam Nabi
...Appellant

Through

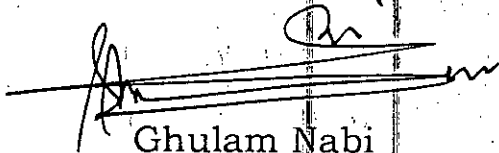


DILDAR AHMED KHAN LUGHMANI,
Advocate High Court,
Mansehra.

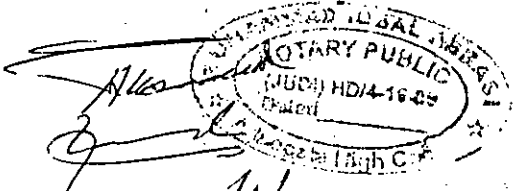
AFFIDAVIT.

I, Ghulam Nabi son of Muhammad Moosa resident of Hungrayee, Tehsil Balakot District Mansehra Ex-Copying Clerk to the court of Sessions Judge, Mansehra, Appellant, do hereby solemnly affirm and declare on oath that the contents of above departmental appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Dated 27.06.2011

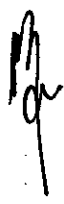


Ghulam Nabi
(DEPONENT)

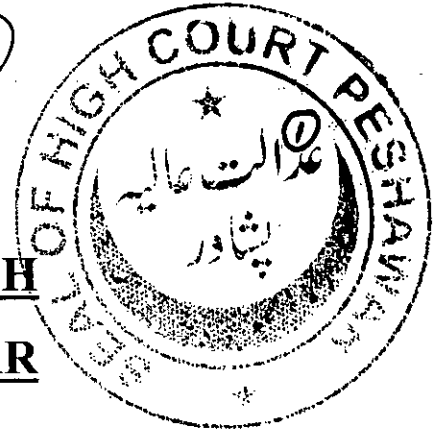

NOTARY PUBLIC
(MUD) HD/4-16-09
Mansehra High Court

27/6/2011

ATTESTED



U-96



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

D.A. No 4/2011

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

ATTESTED
EXAMINER
Peshawar High Court
26 MAR 2015

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2

PRAYER:-

One acceptance of instant appeal, the impugned order passed by respondent No.1 may kindly be set aside and the appellant may please be reinstated in service with full back benefits.

Respectfully Sheweth!

1. That, the appellant was inducted in the service on 20-11-1995 in the establishment of Senior Civil Judge Mansehra, and letter on selected and appointed as junior clerk in the establishment of District & Session Judge Mansehra on 02-10-2001.
2. That, the appellant performed his duties in this department since last 15/16 years without any fault on the part of the appellant.
3. That in June 2010 appellant was posted as reader to the court of Mr. Mahzar Hussain learned Civil Judge XII Mansehra .
4. That on 08-06-2010 a suit bearing No. 22/1 of 2010 "Kareem Ullah etc Versus Rifat Sultana and other" was entrusted to the said court where I was posted as reader, by the learned Senior Civil Judge, Mansehra. Being a routten work I have written the first order sheet in it, but there was an application for

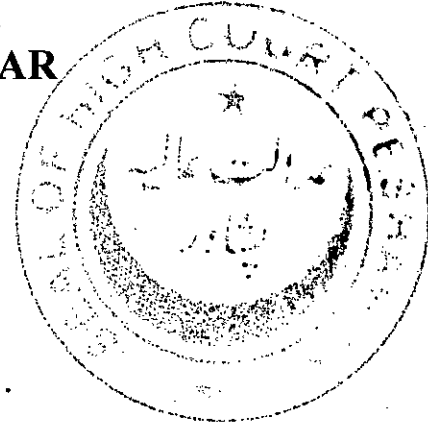
ATTESTED
EXAMINER
Peshawar High Court
26 MAR 2015

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JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Departmental Appeal No.4/2011

JUDGMENT



Date of hearing.....6-3-2015.....

Petitioner(s)....*Petitioner ex. in. person*.....

Respondent(s) *by Mr. Muhammad Asif, Assistant on behalf of District and Sessions Judge, Nowshera Judicial Assistant, Peshawar High Court, Peshawar*

YAHYA AFRIDI.- Through the instant

Departmental Appeal, Ghulam Nabi, appellant, seeks

the following prayer:

“It is, therefore, most humbly prayed that on acceptance of instant appeal, the impugned order passed by respondent No.1 may please be reinstated in service with full back benefits.”

2. Charge against the appellant was that he had intentionally tampered the notice of the Court after cutting and overwriting the date of hearing. After conducting departmental inquiry against the appellant, he was awarded major penalty of compulsory retirement from service, under the provisions of Government Servants (Efficiency & Disciplinary) Rules, 1973 (“Rules”) vide order dated 9.2.2011.

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ATTESTED
EXAMINED
Peshawar High Court
26 MAR 2015

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3. Arguments of the appellant and representative of respondent No.1, were heard and available record of the case thoroughly considered.

4. Perusal of the record would reveal that Mr. Mazhar Hussain, Civil Judge-XII, Mansehra had made a written complaint against the appellant that a civil suit titled Karimullah..Vs..Rifat Sultana, was entrusted to his Court on 8.6.2010, for disposal; that notice was issued in pursuance of application for grant of temporary injunction for 16.6.2010, but the opposite party was not served and order was made for their re-summoning for 29.6.2010; that during the proceedings, learned counsel for the defendant made a complaint to the Presiding Officer of the Court that notice of 'status quo' was distorted and misconstrued as order of 'status quo' on 22.6.2010, by Mian Sultan, Bailiff to the Court of Civil Judge, Balakot and consequently, the defendants alongwith revenue staff were restrained from conducting demarcation of the property, whereupon the learned Civil Judge called explanation of the 'Moharrir' concerned, who replied the same on 25.6.2010, by stating that in fact the date i.e. 16.6.2010 was tampered by the present accused/official, who was then posted as Reader to the Court of Civil Judge-XII, Mansehra; that Show Cause

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ATTESTED
EXAMINER
Peshawar High Court
25 MAR 2010

Notice was issued to the accused/official, who submitted his reply on 28.6.2010; that a proper departmental inquiry was conducted under the Rules, and after observing all codal formalities, the appellant was found guilty of the charge and major penalty of '*compulsory retirement*', was proposed by the Authorized Officer. The Competent Authority, while concurring with the finding of Authorized Officer, passed the impugned order of '*compulsory retirement from service*' of the appellant, vide Order dated 9.2.2011.

5. The accused/official, present in Court, submitted that after completion of Inquiry report, the Inquiry Officer, respondent No.3, resubmitted the Inquiry file to the Authorized Officer, respondent No.2 on 3.1.2011, but during these proceedings, the appellant was neither given a chance for production of his evidence in defence, nor the Reporting Officer/Presiding Officer was summoned, despite oral request of the appellant. It was further contended that Civil Judge-XII, Mansehra, respondent No.4, was not legally justified to issue Show Cause Notice to the appellant, as he was neither Authorized Officer, nor Inquiry Officer and respondents 1 to 3 carried out the proceedings of the inquiry on the basis of that Show

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ATTESTED
EXAMINER
Peshawar High Court
26 MAR 2015

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Cause Notice. The appellant further prayed that he is a poor low-grade government servant and severely affected by the Earthquake in the year, 2005, and requested for taking lenient view.

6. Admittedly, '*misconduct*' for which the appellant was charge sheeted, was grave and proved. The appellant was correctly awarded '*Major Penalty*', the only issue, which agitates and begs consideration is the quantum of punishment, on the '*principle of proportionality*'.

7. In the circumstances of this case, when the appellant has no prior adverse entry in his ACRs, the punishment awarded to the appellant seems to be harsh and does not commensurate with the misconduct. Keeping in view the peculiar circumstances and conduct of the appellant, this Court is of the view that the appellant may not be completely exonerated for his wrong doings, the present Departmental Appeal is partially allowed, the impugned order dated 9.2.2011, is set aside and the appellant is re-instated in service to lower post, without back benefits.

8. Consequently, the punishment of '*compulsory retirement from service*' awarded to the

REGISTERED
EXAMINER
High Court
15 MAR 2015

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appellant is reduced to the one 'reduction to a lower post', with no back benefits.

This Departmental Appeal is partially allowed in the above terms.

Dt.6.3.2015.


JUDGE

Yahya Abzidi

J

M.Gul

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984

26 MAR 2015

..... 17500
 Date of Presentation of Application 26/3/15
 No of Pages 27
 Copying fee 14
 Urgent Fee
 Total 14
 Date of Preparation of Copy 26/3/15
 Date Given For Delivery 26/3/15
 Date of Delivery of Copy 26/3/15
 Received By *M.Gul*



VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar
OF 2015

Ghulam Nabi

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

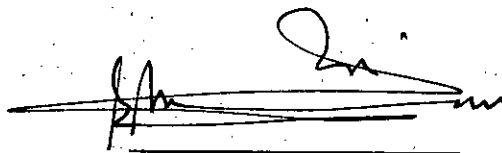
Administrative Judge

(RESPONDENT)
(DEFENDANT)

I/We Ghulam Nabi

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 2 / 4 / 2015



CLIENT



ACCEPTED
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141



Income Tax Ordinance (XXXI of 1979)---

---Ss. 53(2) & 87---Constitution of Pakistan (1973), Art.185(3)---Delay in filing of estimate---Revised estimate filed next year---Allegation against petitioner-Company was that estimate filed by it was delayed by two days, hence, it was issued notice by Department for payment of additional tax---High Court while accepting constitutional petition filed by company found that in revised estimate filed by company next year, it paid all dues/tax on the basis of revised estimate and earlier default of two days in filing estimate was of no consequence---Plea of laches raised by Department was not accepted by High Court---Validity---Revised estimate was filed by company six days before the target date---Company had paid all its liability on the basis of revised estimate---Course adopted by company was supported by S.53(2) of Income Tax Ordinance, 1979---Earlier default of one or two days became irrelevant in facts and circumstances of the case---Petition for leave to appeal filed by Department was dismissed. [p. 228, 229] A & B

M. Ilyas Khan, Senior Advocate Supreme Court and M. Aslam Chatha, Advocate-on-Record for Petitioners.

Dr. Ilyas Zafar, Advocate Supreme Court and Haji M. Rafi Siddiqui, Advocate-on-Record for Respondents.

ORDER

KARAMAT NAZIR BHANDARI, J.---Respondent-Company was issued a notice under section 87 of the Income Tax Ordinance, 1979 in respect of assessment year 1991, calling upon the Company to pay

additional tax in the sum of Rs.12,40,015. The Assessing Officer was of the view that:--

- (i) The alleged estimate filed on 17-9-1989 was out of time;
- (ii) The alleged estimate filed on 19-3-1990 for the third instalment was also out of time; and
- (iii) The Company has wilfully and deliberately withheld the funds of the Government and used the same for its business activities. Therefore, the company should pay additional tax on so much of the Government funds used by it.

2. The notice was questioned by the Company in the Lahore High Court, through Writ Petition No.2985 of 1996. The High Court allowed the petition on the ground that the respondent-Company had filed revised estimate on 9-6-1990 and paid all the dues/tax on the basis of that estimate and that earlier default of two days in the filing of the estimate

for the quarter ending 15-9-1989, was of no consequence. The plea of laches raised by the petitioner herein was also not accepted by the Lahore High Court.

3. In support of this petition for leave to appeal from the judgment of the Lahore High Court, dated 6-7-2001, Mr. Ilyas Khan, learned Advocate Supreme Court after taking us through section 53 of the Income Tax Ordinance, 1979 has emphasized that undisputedly the estimate filed on 17-9-1989 was delayed by two days and as such the impugned notice for payment was justified in law. In reply it has been argued by the learned counsel for the respondent-Company that 16th of September, 1989 was Sunday and therefore a closed day as such estimate filed on 17th September, 1989 was within time.

4. It is, established from record and it has not been disputed before us that final and revised estimate was in fact filed by the Company on 9-6-1990, six days before the target day i.e. 15-6-1990. It is also not disputed that the Company had paid all its liability on the basis of the revised estimate. The course adopted by the respondent, in the facts and circumstances of the case, has the backing of section 53(2) of the Income Tax Ordinance, 1979. The High Court, therefore, correctly allowed the constitutional Petition filed by the Company. The earlier default of one or two days becomes irrelevant in the facts and circumstances of the case.

5. No ground for leave is made out which is refused and this petition is dismissed.

S.M.B./C-14/SC

Petition dismissed.

2007 S C M R 229

[Supreme Court of Pakistan]

Present: Rana Bhagwandas and Saiyed Saeed Ashhad, JJ.

AZIZULLAH MEMON---Petitioner

versus

PROVINCE OF SINDH and another---Respondents

Civil Petition No.220-K of 2005, decided on 31st August, 2005.

(On appeal from the judgment, dated 28-12-2004 passed by Sindh Service Tribunal, Karachi in Appeal No.192 of 2002).

Removal from Service (Special Powers) Sindh Ordinance (IX of 2000)---

Ss. 3 & 11---Constitution of Pakistan (1973), Art.212(3)---Penalty of censure, imposition of---Entire proceedings, commencing from issuance

arge-sheet, departmental enquiry, order of imposition of penalty, ation of the penalty by Authorized Officer and final order impugned fore the Tribunal, were conducted under provisions of Sindh Civil servants (Efficiency and Discipline) Rules, 1973 at the time when Removal from Service (Special Powers) Sindh Ordinance, 2000 was already promulgated---Removal from Service (Special Powers) Sindh Ordinance, 2000, had over-riding effect over all other laws, but neither Departmental Authorities nor the Service Tribunal bothered to notice that after the date of promulgation of the Ordinance, all disciplinary proceedings should have been initiated under said Ordinance rather than Rules enforced in 1973---Since impugned action was initiated and taken to its logical conclusion under a misconception of law and under a wrong law, it had vitiated entire proceedings including final order, which could not be sustained under the law---Proceedings as well as final order, were liable to be set aside---Supreme Court converted petition into appeal and proceedings as well as impugned order of the Service Tribunal, were set aside accordingly. [p. 231] A

M.M. Aqil Awan, Advocate Supreme Court and Raja Sher Muhammad Khan, Advocate-on-Record for Petitioner.

Anwar Mansoor Khan, Advocate-General Sindh for Respondents.

ORDER

RANA BHAGWANDAS, J.--- This petition is directed against Sindh Service Tribunal's judgment, dated 2S-12-2004 filed against final appellate order, dated 3-6-2002 passed by Chief Secretary, Government of Sindh dismissing his appeal against the penalty of censure imposed by the authorized officer after altering the order of dismissal from service.

2. On perusal of the record and after hearing learned counsel for the parties we find that despite promulgation of Removal from Service (Special Powers) Ordinance (Sindh Ordinance IX of 2000) (hereinafter referred to as the "Ordinance") promulgated with effect from 20-8-2000 the entire proceedings commencing from issuance of charge-sheet, departmental enquiry, order of imposition of penalty, alteration of the penalty by the authorized officer and final order impugned before the Tribunal were conducted under the provisions of Sindh Civil Servants (Efficiency and Discipline) Rules, 1973. It is pertinent to note that section 3 of the Ordinance provides the mechanism for disciplinary proceedings against civil servant on variety of grounds and prescribes punishments, which may be imposed upon a civil servant found guilty of charge. Section 11 of the Ordinance (sic) that notwithstanding anything

to the contrary contained in the Sindh Civil Servants Act, 1973 and the rules made thereunder and any other law for the time being in force:---

"11. The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in the Sindh Civil Servants Act, 1973 and the rules made thereunder and any other law for time being in force."

3. In the presence of express and specific language employed in the Ordinance neither the departmental authorities nor the Tribunal bothered to notice that after the date of promulgation of the Ordinance all disciplinary proceedings should have been initiated under Ordinance rather than the old Rules enforced in 1973. This Court has already ruled in a number of judgments that this Ordinance has the overriding effect over all other laws on the subject except in case of proceedings, which were already pending before promulgation of the Ordinance. Since the impugned action was initiated and taken to its logical conclusion under a misconception of law and under a wrong law, it has vitiated the entire proceedings including the final order, which cannot be sustained under the law. The proceedings as well as final order is, therefore, liable to be set aside.

4. Accordingly after converting this petition into appeal, we set aside the same as well as the impugned judgment of the Tribunal. The department would be at liberty to initiate fresh proceedings against the petitioner and finalize it within three months from today. The petitioner is reinstated into service. However, the question of award of back benefits to him would certainly depend on the outcome of fresh enquiry, if any, as above.

H.B.T./A-74/SC

Appeal allowed.

2007 S C M R 231

[Supreme Court of Pakistan]

Present: Javed Iqbal and Hamid Ali Mirza, JJ

GHULAM MUHAMMAD--- Appellant

versus

MIAN MUHAMMAD and another--- Respondents

Civil Appeal No. 1894 of 2002, decided on 26th September, 2006

(On appeal from the judgment, dated 11-10-2002 in Civil Revision No. 99 of 1996 passed by the Lahore High Court, Lahore)

No. 4751, dated 04/07/2015

AUTHORITY LETTER.

Mr. Muhammad Asif, Assistant/acting Nazir of this court is hereby authorized to appear before the Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court at Abbottabad, on behalf of the undersigned, on 22-07-2015 in connection with department appeal No.324 of 2015, titled "Ghulam Nabi versus the Honourable Administrative Judge, Peshawar High Court, Peshawar through The Registrar, Peshawar High Court, Peshawar etc.

Dated. 04-07-2015.


✓ **District & Sessions Judge,
Mansehra.**

1

**BEFORE THE HONORABLE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL.**

APPEAL NO. 324 of 2015

GHULAM NABI

(APPELLANT)

Versus

1. **THE HONOURABLE ADMINISTRATIVE JUDGE, PESHAWAR HIGH COURT, PESHAWAR THROUGH REGISTRAR, PESHAWAR HIGH COURT, PESHAWAR.**
 2. **THE DISTRICT & SESSIONS JUDGE MANSEHRA.**
- (RESPONDENTS)**

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant is estopped to sue due to his own conduct.
3. That the appellant has not come to the court with clean hands, hence the appeal is liable to be dismissed.
4. That the appellant is mis-interpreting the facts deliberately. The honourable administrative judge has already taken lenient view against the appellant and has set aside the order of compulsory retirement of the appellant.
5. That the decision of the appellate authority is correct that at the time of the decision the authority has rightly decided, hence appeal is liable to be dismissed.
6. That the instant appeal is hopelessly time barred.

PARA WISE REPLIES.

1. Para No.1 relates to record. However, this Para is partially incorrect. Infact the appellant has deliberately concealed the facts from this honourable Tribunal to the extent of his first appointment as Junior Clerk, because he had joined the District Judiciary, Mansehra when he was appointed for the first time as a Sweeper and not as a Junior Clerk, in the court of Senior Civil Judge, Mansehra with effect from 20-11-1995, per his service book.
2. Para No.2 relates to record.
3. Para No.3 is correct.
4. No doubt the suit in question was instituted on 08-06-2010. On the very same date simple notice over an application of status quo was issued and next date of hearing was fixed as 16-06-2010. But perusal of the copy of the notice, which was returned to the court concerned by the counsel for defendant No.1 revealed that next date of hearing was fixed as 29-06-2010. Furthermore that said notice was supposed to be issued after 08-06-2010 according to the order sheet No.3 of the same date, however same was issued on 22-06-2010, while the court concerned had ordered for notice, for 16-06-2010 and not for 29-06-2010. Per order sheet No.4 dated 16-06-2010, the court concerned had ordered issuance of fresh summons and not any notice. It is clearly suggested that the appellant had conducted gross negligence in performing of his duty, as a result of which the presiding officer concerned vide letter No. 74 dated 24-06-2010 issued a show cause notice to the then Muharrir of the court (Mr. Bilal Raza) who in reply dated 25-06-2010 pointed out that although he prepared the said simple notice over an application of status quo but he had not mentioned the next date fixed in the case i.e 16-06-2010 because no next date of hearing was mentioned in the order sheet of the court file, hence handed over the said notice alongwith case file to Reader of the court (present appellant). Therefore, he can not say as to what date of next hearing was

mentioned by the Reader of the court on it and when this notice was issued. On the same date vide letter No.75 dated 24-06-2010 the Judicial officer concerned had issued a show cause notice to Mr. Sultan Bailiff to Senior Civil Judge, Mansehra about the misrepresentation regarding simple notice over which he had stopped demarcation proceedings on the spot which showed gross misconduct. He was also directed to submit his reply with in three days. On the receipt of reply of show cause notice submitted by Mr. Bilal Raza the then Muharrir the Judicial Officer concerned (Mr. Mazhar Hussain the then Civil Judge-XII Mansehra) vide No.77 dated 25-06-2010, issued show cause notice to the present appellant, who was posted as Reader in his court, in which it was clearly mentioned that the present appellant admitted about the over-writing of date fixed from 16-06-2010 to 29-06-2010 and admitted that it was a part of clerical-mistake. It was also mentioned in the said show cause notice that no order was passed by the court concerned about the issuance of simple notice over an application of status-quo, but even then he intentionally made cutting and mentioned the next date of hearing as 29-06-2010 which also comes within the ambit of misconduct. The appellant was directed to submit his reply on 28-06-2010. In reply dated 28-06-2010 the appellant admitted all these facts in Para No.07 & 08 of his reply which was also supported by an affidavit duly attested by the Notary Public.

5. Para No.5 is relates to record.
6. Para No.6 relates to record.
7. Para No.7 already discussed above.
8. The reply of Para No.8 is that the application was instituted on 24.06.2010 and not on 26.06.2010 as mentioned by the appellant in his instant appeal. However the said application was later on withdrawn on 10.12.2012.
9. The reply of Para No.9 is that in fact the Judicial Officer concerned issued show cause notice to Mr. Bilal Raza the then Muharrir vide No. 74 dated 24-06-2010 and to Mr. Sultan Bailiff vide No.75 of even date, whereas the present appellant was issued same notice vide No.77 dated 25-06-2010.
10. The Muharrir of the court submitted his reply on 25-06-2010 whereas the present appellant submitted his reply on 28-06-2010.
11. Mr. Mazhar Hussain, the then Civil Judge-XII, Mansehra reported the matter to this court vide letter No.79 dated 29-06-2010 and recommended the case for proper departmental inquiry. Later on Mr. Anwar Hussain the than learned District & Sessions Judge, Mansehra vide his office order bearing endorsement No.3887-93 dated 30-06-2010 appointed Mr. Ashfaqe Taj, the then learned Additional District and Sessions Judge-III, Mansehra as Authorized Officer and directed him to probe into the matter, hold a departmental inquiry, fix responsibility on the shoulders of the delinquent official(s) and to submit his recommendations alongwith inquiry report back to this office, within shortest possible time.
12. Para No.12 is relates to record.
13. The learned Authorized Officer (Mr. Ashfaqe Taj, the then Additional District and Sessions Judge-III Mansehra) re-submitted the inquiry file alongwith his recommendation back to this office. The relevant portion of his recommendation is re-produced, as below:-
 "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".
14. This Para needs no reply.

15. Para No.15 is partially incorrect. Actually the Authority and not Authorized Officer had issued questionnaire as well as final show cause notice to the appellant.
16. In reply to this Para, it is stated that the appellant has himself admitted his guilt and is now raising lame excuses. The stance taken by the appellant in this Para is incorrect.
17. This Para relates to record.
18. This Para to the extent of re-submission of inquiry file back to the court of learned Authorized Officer is correct.
19. This Para relates to record.
20. This Para relates to record.
21. In reply to this Para, the relevant portion of the inquiry report submitted by the inquiry officer (Mr. Mohsin Ali Turk, the then Senior Civil Judge, Mansehra), is reproduced as follows:-
- “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 observation that in my opinion Bilal Raza Muharrir is innocent.”
- The relevant portion of recommendation of learned Authorized Officer (Mr. Ashfaq Taj the then Additional District & Sessions Judge-III Mansehra) is also reproduced as below:-
- “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.”
- In light of above noted circumstances the learned District & Sessions Judge, Mansehra being Authority imposed major penalty of compulsory retirement upon the appellant.
22. Para No.22 needs no reply.

GROUND.

- i. Relates to record.
- ii. Relates to record.
- iii. Legally speaking, any immediate officer can issue show cause notice to his any staff member regarding any misconduct.
- iv. Need no comments.
- v. No proof is found available on the record, hence need no comments.
- vi. Need no comments.
- vii. Need no comments.
- viii. Need no comments.
- ix. Need no comments.
- x. The inquiry was conducted by complying the relevant law and rules.
- xi. Need no comments.
- xii. Relates to record, hence need no comments.
- xiii. Relates to record, hence need no comments.
- xiv. Relates to record, hence need no comments.
- xv. Relates to record, hence need no comments.
- xvi. Relates to record, hence need no comments.
- xvii. Relates to record, hence need no comments.
- xviii. Need no comments.

It is, therefore, requested that the appeal may please be dismissed with costs.

Dated 17.02.2016.

District & Sessions Judge,
Mansehra through representative

Muhammad Asif,
Assistant/acting Nazir
District & Sessions Judge,
Mansehra. Respondent No.2.

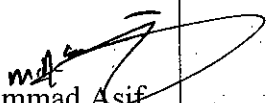
Honourable Administration Judge,
through representative of the august
Peshawar High Court, Peshawar

Muhammad Ashraf,
Superintendent to,
District & Sessions Judge,
Mansehra. Respondent No.1.

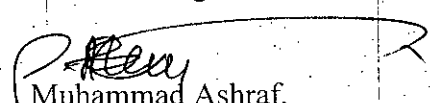
Verification

That all the contents of the comments/reply are correct as per record and nothing has been suppressed from this Honorable Tribunal.

District & Sessions Judge,
Mansehra through representative


Muhammad Asif,
Assistant/acting Nazir
District & Sessions Judge,
Mansehra. Respondent No.2.

Honourable Administration Judge,
through representative of the august
Peshawar High Court, Peshawar


Muhammad Ashraf,
Superintendent to,
District & Sessions Judge,
Mansehra. Respondent No.1.

**BEFORE THE HONORABLE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL.**

APPEAL NO. 324 of 2015

GHULAM NABI

(APPELLANT)

Versus

1. **The Honourable Administrative Judge, Peshawar High Court, Peshawar through Registrar, Peshawar High Court, Peshawar.**
2. **The District & Sessions Judge Mansehra.**


(RESPONDENTS)

AFFIDAVIT

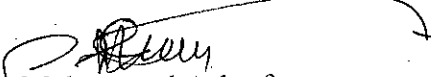
We, solemnly affirm and declare on oath that the contents of the foregoing reply are true and correct as per record and nothing has been concealed from this Honorable Tribunal.

Dated: 17.02.2016.

District & Sessions Judge,
Mansehra through representative


Muhammad Asif,
Assistant/acting Nazir
District & Sessions Judge,
Mansehra. Respondent No.2.

Honourable Administration Judge,
through representative of the august
Peshawar High Court, Peshawar


Muhammad Ashraf,
Superintendent to,
District & Sessions Judge,
Mansehra. Respondent No.1.

(iii) Both the learned Courts below had not applied their minds to important aspect of the case that the provision of section 54 of the Transfer of Property Act are applicable to this part of the country and hence, a share in the Khata acquired by the respondent by means of sale otherwise than by registered deed did not confer any right or title to pre-empt the suit land. It was ruled by this Court in Muhammad Bakhsh v. Ziaullah and others (PLD 1971 Baghdad-ul-Jadid 42) that in absence of registration of sale, the pre-emptor acquired no valid right or title to be deemed a co-sharer and exercise a right of pre-emption under section 15 of the Punjab Pre-emption Act, 1913. This view was confirmed by the Supreme Court, in the said case cited in 1987 SCMR 988."

4. The learned counsel appearing for the appellant argued that there is convincing evidence on record to prove that the respondent/vendee had never remained a tenant of the disputed land and that the reliance on "Khasra Girdawari" by the High Court was not legally justified because of its doubtful nature and also on the ground that no presumption of correctness is attached to this document. It was also submitted that onus to prove superior right on the ground of tenancy was on the vendee which he had not completely discharged. It was further argued that the learned High Court legally erred in disturbing the finding of fact arrived at by the first Appellate and the Trial Court holding that the defendant had not been able to prove his tenancy over the suit land particularly when no misreading or non-reading of any evidence could be pointed out. We agree with the submission of the learned counsel as the Trial Court and the first Appellate Courts after discussing the evidence on record had held that the vendee could not prove his tenancy over any portion of the suit land. It is to be noted in this context that out of an area of 200 Kanals consisting of twenty-five number Khasra, 12/25th share equal to 96 Kanals is subject-matter of pre-emption suit. The defendant could not prove as to which one of the co-sharer was in occupation of the area sold and under whom he was tenant. The entries in the Khasra Girdawari are also not consistent and on perusal appears to be of doubtful nature. None of the co-sharer could be produced to depose that the defendant was a tenant. Therefore, there was no justification for the High Court for disturbing the agreed decisions of the two Courts on this count. It was also argued by the appellant that the co-sharership of the plaintiff over the suit land was established from the Revenue Record brought on case file and from the fact that the defendant had not denied it and, as such, the High Court has erred in law in reversing this finding. It is correct that the Revenue Record support the co-sharership of the plaintiff and this is also a fact that the defendant did not deny this co-sharership of the plaintiff in his statement in Court. The contrary finding of the High Court in reversing this finding is, therefore, not correct and is up set.

5. However, the learned counsel for the appellant was unable to successfully challenge the legal point as reproduced above in item No.3 and as

enunciated in PLD 1971 Baghdad-ul-Jadid 42 to the effect that in the area where section 54 of the Transfer of Property Act is enforced, a superior pre-emptive right as co-sharer cannot be acquired unless the sale on the basis of which co-sharership is claimed, has been made by registered sale-deed. This could not be controverted that section 54 of the Transfer of Property Act applies in the area in which the disputed sale took place and it could also not be denied that the right of co-sharership for superior right of pre-emption of the plaintiff was claimed on the strength of sale mutation in his favour and not registered deed. The learned High Court was, therefore, correct in view of the law laid down in PLD 1971 Baghdad-ul-Jadid 42, that by such co-sharership superior right of pre-emption could not be asserted. This rule in the said judgment is to the effect. "In a suit for pre-emption the pre-emptor claimed a superior right of pre-emption on the basis of being a co-sharer in the Khata. This share in Khata was acquired by means of a sale evidenced by mutation. Section 54 of the Transfer of Property Act was applicable to the said sale but no registered instrument was executed. It was held that in absence of registration, the pre-emptor did not acquire any valid right or title so as to be deemed a co-sharer entitled to exercise the right of pre-emption under section 15 of the Punjab Pre-emption Act, 1913". This rule was subsequently approved by this Court in Muhammad Bakhsh v. Zia Ullah and others (1983 SCMR 988) as it was laid down therein "As the transactions did not satisfy the requirements of section 54 of the Transfer of Property Act they did not confer any right or interest on the plaintiffs/pre-emptors such as could be made the basis for claiming either ownership or co-sharership".

6. We, therefore, while agreeing only with the reasons as contained Item No.3 above, dismiss this appeal and leave the parties to bear their own costs of litigation.

H.B.T./M-234/S

Appeal dismissed.

1999 S C M R 1873

[Supreme Court of Pakistan]

Present: Irshad Hasan Khan and
Ch. Muhammad Arif, JJ

ALI NAWAZ---Petitioner

versus

PAKISTAN RAILWAY through Chairman/Secretary
and others---Respondents

Civil Petition No. 1740-L of 1996, decided on 10th July, 1998.

(On appeal from the judgment dated 21-5-1996 passed by the Federal Service Tribunal, Lahore in Appeal No. 370(L) of 1995).

Civil service---

---Reinstatement---Entitlement to back benefits---Civil servant was removed from service on charge of misconduct---Service Tribunal, on appeal, found that charge had not been proved and ordered his reinstatement---Back benefits from date of removal from service up to date of reinstatement were, however, denied to civil servant---Validity---No appeal against order of Service Tribunal reinstating civil servant had been filed by Authority and it was conceded that civil servant was not gainfully employed elsewhere during period of his removal from service---Service Tribunal, in circumstances, was not right in denying back benefits. [p. 1875] A

Petitioner in person.

Nemo for Respondents Nos. 1 and 2.

Aslam Sindhu, Advocate Supreme Court with Ch. Mehdi Khan Mehtab, Advocate-on-Record for Respondents Nos. 3, 4 and 5/Caveators.

Date of hearing: 10th July, 1998.

JUDGMENT

IRSHAD HASAN KHAN, J.---This petition for leave to appeal is directed against the judgment dated 21-5-1996 passed by the Federal Service Tribunal, Lahore (hereinafter referred to as the Tribunal), in Appeal No.370-L of 1995.

2. The petitioner is a Railways employee. He was removed from service with effect from 13-7-1995 on the charges of misconduct. On appeal, the charges levelled against him were found not proved and consequently he was reinstated in service without payment of arrears for the period from the date he was removed to the date of his joining the department vide impugned judgment, dated 21st May, 1996. Admittedly, the petitioner was exonerated of the charges against him and not for technical reasons or by granting him benefit of insufficiency of evidence. It would be advantageous to reproduce paragraph 8 of the impugned judgment, which reads thus:--

"We have looked into all the aspects of the case and clumsy reaction of the department by removing him from service with effect from 13-7-1995 when he had asked for reply to be given by 14-7-1995. The action taken i.e. the removal of the appellant from service is not justified when he is not given even time to explain his case by the ruthless action by the department."

3. After hearing the petitioner in person and Mr. Aslam Sindhu, Advocate Supreme Court, learned Legal Advisor to the Railways, we find that in the facts and circumstances of the case, the Tribunal was not right in denying back benefits to the petitioners, particularly when it is an admitted fact that no appeal has been filed by the respondent-Railways against the impugned order dated 21-5-1996, whereby the petitioner has been reinstated in service, moreso when the learned Legal Advisor has frankly conceded that during the period of his removal and reinstatement the petitioner was not gainfully employed anywhere.

4. We, therefore, convert this petition into appeal and allowing the same set aside the impugned order of the Tribunal dated 21-5-1996 to the extent of denying the appellant back benefits.

5. The result is that the appellant shall be paid back benefits from the date of his removal to the date of his reinstatement. No costs.

H.B.T./A-126/S

Petition allowed.

1999 S C M R 1875

[Supreme Court of Pakistan]

*Present: Saiduzzaman Siddiqui, Muhammad Bashir Jehangiri
and Wajihuddin Ahmed, JJ*

SHAHID MEHMOOD---Petitioner

versus

MUHAMMAD ARSHAD and 2 others---Respondents

Criminal Petition No.560-L of 1998, decided on 23rd April, 1999.

(On appeal from the judgment of Lahore High Court, Lahore, dated 2-11-1998, passed in Criminal Miscellaneous No.189 of 1998).

(a) Criminal Procedure Code (V of 1898)---

---S. 526(3)---Constitution of Pakistan (1973), Art. 185(3)---Application for transfer of case---Transfer application had been made without disclosing the fact that an earlier similar transfer application had been rejected by another Bench of the same Court---High Court dismissed the application for transfer on ground of suppression of fact alone---Validity---No exception could be taken to such an outcome, transfer of case being a discretionary matter, it was incumbent on the applicant to approach the Court with clean hands. [pp. 1876, 1877] A & B

BEFORE THE HONOURABLE CHAIRMAN KPK
SERVICE TRIBUNAL, CAMP COURT
ABBOTTABAD

Appeal No. 324 of 2015

Ghulam Nabi V/S Hon'ble Administrative Judge etc

REJOINDER ON BEHALF OF APPELLANT
IN RESPECT OF WRITTEN REPLY OF
RESPONDENTS NO. 1 & 2

Respectfully Sheweth:-

REPLY OF PRELIMINARY OBJECTIONS:-

1. Para No.1 is incorrect.
2. Para No.2 is incorrect.
3. Para No.3 is incorrect.
4. Para No.4 is incorrect.
5. Para No.5 is incorrect.
6. Para No.6 is incorrect.

16. Para 16 admitted as correct.
17. Para 17 needs no reply.
18. Para 18 admitted as correct.
19. Para 19 admitted as correct.
20. Para 20 admitted as correct.
21. Para 21 admitted as correct the concern inquiry officer as well as the concern authority committed great injustice with the appellant.
22. Para 22 admitted as correct.

REPLY ON THE GROUNDS:

- i. Para (i) needs no reply.
- ii. Para (ii) needs no reply.
- iii. Para (iii) is incorrect.
- iv. Para (iv) admitted and need no reply.
- v. Para (v) admitted and need no reply.
- vi. Para (vi) needs no reply.

vii. Para (vii) needs no reply.

viii. Para (viii) admitted as correct.

ix. Para (ix) admitted as correct.

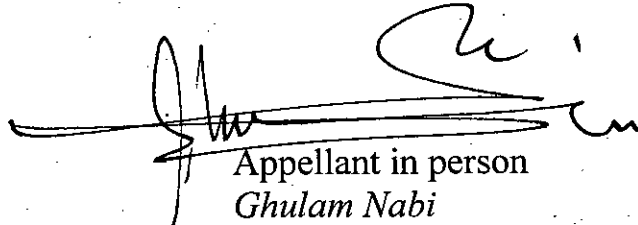
x. Para (xj) admitted as correct.

xi. Para (xi) admitted as correct.

xii. Para (xii) admitted as correct.

xiii. Para (xiii) admitted as correct.

It is, therefore requested that the reply of the respondents No.1 & 2 may kindly be not considered and the appeal of the appellant may kindly be accepted and he be restored in service with all back benefits.

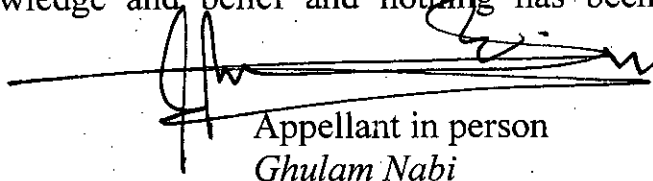


Appellant in person
Ghulam Nabi

Dated: 19/09/2016

VERIFICATION:

It is verified that the contents of rejoinder is true and correct to the best of my knowledge and belief and nothing has been concealed therein.



Appellant in person
Ghulam Nabi

Dated: 19/09/2016