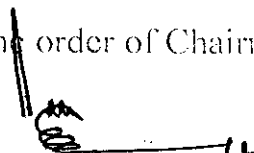


FORM OF ORDER SHEET

Court of _____

Case No.- 906 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/05/2023	<p>The appeal of Mr. Niamat Ali presented today by Mr. Khurshid Ali Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on _____</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL AT PESHAWAR

Appeal NO 906/2023

Niamt Ali **V/S** Commissioner Malakand Division and Others.

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S.No	Description of document	Annexure	Page No.
1	Appeal and affidavit	-----	1-6
2	Copy of posting order	A	7
3	Copy of charge assumption report	A1	8-9
4	Copy of application/complaint.	B	10-11
5	Copy of bogus girdawari	B1	12
6	Forwarding letter to resp: No.2	C	13
7	Forwarding letter to resp: No.3.	C1	14
8	Statement of appellant	D	15
9	Statement of Ex- patwari Halqa.	D1	16
10	Copy of Correct Girdawari	D2	17
11	Statement of complainant	D3	17-A
12	Inquiry report	E	19-20
13	Copy of impugned order of resp: No.2	F	21
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Niamat Ali
Appellant

①

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

Service appeal No. 906 /2023

Nemat Ali patwari Halqa_Hazara District Swat.

.....Appellant.

VERSUS

1. Commissioner Malakand Division at Saidu Sharif Swat.
2. Deputy Commissioner, Swat at Gulkada Swat.
3. Additional Deputy Commissioner (Finance & Planning)
District Swat at Saidu Sharif Swat.

..... Respondents.

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED 06/04/2023
OF RESPONDENT NO.1

Prayer:

On acceptance of this appeal the impugned orders dated 06/04/2023 and 5/12/2022 of the respondents No.1 & 2 may be set aside and the Annual increment may kindly be restored to the appellant.

Respectfully Shewith:

Facts:

- 1- That the appellant is performing his duties as patwari and was posted as patwari halqa Hazara Tehsil

Kabal District Swat on 09/03/2021 and is performing his duties honestly and efficiently. **(copy of the order and charge assumption are annexed at annexure A,A1)**

- 2- That one Muhammad Sherin S/O Juma Khan R/O Hazara, Tehsil Kabal district Swat submitted an application/complaint against the appellant to the respondent No.3 wherein he leveled allegation that the appellant gave him photo copy of Girdawari Khasra Nos.225,226 and 227 Moza Hazara Tehsil Kabal District Swat wherein path (Raasta) was entered/mentioned but latter on with the connivance of others, altered the said Girdawari which is different from the previous one i.e path has not been mentioned in the aforesaid Khasra numbers, he requested for stern punishment to the appellant. **(Copy of the application and bogus girdawri are annexed as annexure "B,B1")**

- 3- That respondent No.1 forwarded the complaint to respondent No. 2, who further forwarded the same to respondent No.3 to conduct inquiry and to submit report. **(Copies are annexed as annexures "C,C1")**

- 4- That the appellant appeared before respondent No.3 (Inquiry Officer), recorded his statement and categorically denied the allegations leveled against him. In this connection statement of EX-Patwari Haqa is worth perusal **(Copies of the statements of the appellant, Ex patwari Haqa, correct girdawari report and statement of the complainant are annexed as annexures "D, D1, D2,D3")**.
- 5- That respondent No.3, without any evidence/proof against the appellant, recommended minor penalty of withholding one Annual increment against the appellant. **(Copies of inquiry report is annexed as annexure "E")**.
- 6- That on the recommendation of respondent No.3, the respondent No.2 vide order dated 5/12/2022 imposed minor penalty of withholding One Annual increment for a period of one year upon the appellant. **(Copy of the order is annexed as annexure "F")**.
- 7- That being aggrieved, the appellant preferred departmental appeal before the respondent No.1 which was dismissed vide the impugned order dated 06/04/2023 **(Copy of the order is annexed as annexure("G"))**

8- That orders dated 06/04/2023 and 5/12/2022 of the respondent No.1 & 2 are un-lawful, un-islamic, against the settled Law and liable to be set aside on the following grounds:

Grounds:

- A. That the inquiry has not been conducted according to the settled Law/Rules, hence not tenable in the eyes of law and liable to be set aside.

- B. That admittedly the appellant assumed the charge of halqa Hazara on 09/03/2021 while in the bogus girdawri, path has been shown in the year 2018 i.e much before the posting of the appellant, the original record is in the same condition as was handed over to appellant i.e there is no tampering which clearly shows that the photocopy of Girdawari of Khasra Nos. 225,226,227 produced by the complainant is bogus, therefore orders of the lower fora are liable to be set aside.

- C. That the inquiry report is required to be based on concrete evidence and not on assumptions, probabilities as has been done in the instant case i.e when there is no tampering in the original record/Register Khasra Girdawari then implicating the appellant in issuing bogus girdawari, awarding punishment to him for no fault is against Law, Sharia

5

and even a cruelty to the appellant, therefore orders of the lower fora are liable to be set aside.

D. That from the above detailed reasons it is clear that the respondents without going into the merit/reality of the case have implicated the appellant in issuing bogus girdawari and imposed penalty upon him for no fault., therefore orders of the lower fora are liable to be set aside.

E.

It is therefore humbly prayed that on acceptance of the instant appeal the impugned orders dated 06/04/2023 and 05/12/2022 of the respondents may graciously be set aside and the annual increment be restored to the appellant.



(Niamat Ali)
Patwari Halqa Hazara
Tehsil Kabal District Swat.
(Appellant)

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

Niamat Ali V/S Commissioner Malakand Division and others

AFFIDAVIT.

I Niamat Ali Patwari halqa Hazara Tehsil Kabal District Swat hereby solemnly affirm and declare on oath that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court. It is further stated that such type of appeal is neither pending nor decided bby any Court in Pakistan.

Deponent



Niamat Ali
Patwari halqa Hazara



OFFICE OF THE DEPUTY COMMISSIONER, SWAT.

Tel No: 0946-9240336

Fax No: 0946-9240329

E-mail: Deputycommissionerswat1@gmail.com

No. 716 /11/4/DK

Dated: 09/03 /2021

ORDER

The following posting/transfer amongst the new recruited Patwaris of this office noted against each is hereby ordered with immediate effect in the interest of general public:-

S.No	Name of Patwari	From	To Halqa
1-	Mr. Nasar Khan	Cell (Session Court)	Sar Sardaray
2-	Mr. Fahim Khan	Waiting for Posting	Murghazar
3-	Mr. Haq Nawaz	-do-	Mangarkot
4-	Mr. Niamat Ali Khan	-do-	Hazara
5-	Mr. Zakir Hussain	-do-	Kotanai
6-	Mr. Iftikhar Ali	-do-	Maindam
7-	Mr. Mansoor Ali Khan	-do-	Chamtalai
8-	Mr. Ibar Ayub	-do-	Kedam
9-	Mr. Gohar Ali	-do-	Beshigram
10-	Mr. Muhammad Tahir	-do-	Ghalegay


DEPUTY COMMISSIONER SWAT.

No: 717-24 /11/4/DK

Copy forwarded to:-

- 1- The Hon'ble District & Session Judge Swat.
- 2- The Assistant Commissioners, Babuzai, Barikot, Kabal, Khwaza Khela, Charbagh, Bahrain for information, please.
- 3- The Officials concerned for compliance.


DEPUTY COMMISSIONER SWAT.

حضرت صاحب کلمہ دلائل اللہ تعالیٰ صبر و شرف صلح سموات

محمد شریف ولد محمد خان ساکن پیرانہ تحصیل نبل صلح سموات سائیل

بناج

لغت علی حلقہ میواری صوبہ پیرانہ تحصیل نبل صلح سموات رسول اللہ

درخواست پر خلاف رسول اللہ صبر و شرف صلح سموات نے رجسٹرڈ حصرہ

گردواری سے سائیل کو نقل حصرات 225، 226، 227 دیا

جس میں راجستہ درجہ تھا لیکن ماہ بعد اس میں رجسٹرڈ حصرہ گردواری میں

ردعمل کرنے دو مختلف نوعیت حصرہ گردواری جاری کیے ہیں جس میں حصرہ

گردواری ایک دوسرے سے مختلف ہے حلقہ میواری نے یہ پیمانہ ساز میں

دیگر نگران جعل سازی کی ہے، معاملے کے عیاز اس سے انکو اٹری

رکے حلقہ میواری کو سمیت سے سمیت منراد لوایا جائے۔

صبا بعالی! درخواست ذیل عمر صحت ہے

یہ کہ حصرہ جات 225 تا 227 سے سال 1975 سے راجستہ قائم ہے جو

علامہ کلین یا قلمرو آئے جانے سے اس وقت تک چلی اور اس کی اندراج

حلقہ میواری یا بلائے گواہان کی موجودگی میں اندراج کی ہے اس نسبت

گواہان کے ایسے بیانات متعلقہ رجسٹریشن کے سائیل کے ساتھ رکھ رکھی گئی ہے۔

راجستہ نمبر 209، 210، 211 اور دیگر افراد صبر لالی جان و حصرہ کیساتھ متنازع

~~ADP (FAP)~~
to conduct the
and conduct of
in 14 days

Shahid Khan

یہ کہ حلقہ بیٹواری کے برعنوانی حیانت اور سرکاری ریکارڈ میں رو بہل کے وقت سے الزام جعل سازیا سائیل پر لکھا گیا اور سائیل ہمراہ دیگر اہل خانہ کی روز تک جیل میں مقید رہا۔ حالانکہ سائیل کا ریکارڈ بیٹواری تک پہنچ اور وہیں سے نقولات لینا کسی طرح میں حلقہ نہیں لکھیں اس کے باوجود حلقہ بیٹواری کے برعنوانی کے وجہ سے سائیل کو جاوا کردہ حصرہ گردوارا سے ملکر گیا اور ایک جعلی حصرہ گردوارا تیار کر کے سائیل کو بے گناہ ایک فرضا حصرہ میں پھنسا کر ظلم کیا۔

یہ حلقہ بیٹواری اشتیاقی برعنوان، دھوکہ باز، جعل ساز قسم کا فرد ہے اگر اس کے خلاف حجاز اصرہ کا برائی نہ کی گئی تو سائیل کو لڑ نقصان ہوا ہی ہے حلقہ کے لوگوں کو سزا ہر نقصان کا استبان ضروری ہے۔

لہذا استدعا ہے کہ صاحب سول الیہم کے خلاف قانونی سرورم کی سخت حجاز اصرہ سے انکو ترمیمی جائز سخت سے سخت سزا دلوایا جائے۔

عمر بھٹو

محمد شہین ولد محمد خان ساکن بزارہ قبیل ضلع صواب

Handwritten signature or mark.

Shahid Khan

OFFICE OF THE
COMMISSIONER MALAKAND DIVISION
SAIDU SHARIF SWAT

No. 1015-17 /2/28/Estt:-

Dated: 11/10/2022

To

✓ The Deputy Commissioner, Swat.

Subject:- COMPLAINT AGAINST MR. NIAMAT ALI , PATWARI HALQA HAZARA
KABAL DISTRICT SWAT.

Sir,

I am directed to enclose herewith copy of self-explanatory complaint submitted by Mr. Muhammad Shireen s/o Jumma Khan r/o Hazara Kabal, against Mr. Niamat Ali , Patwari Halqa Hazara, Tehsil Kabal, on the above noted subject.

2. I am further directed to request to look into the matter and conduct a fact finding inquiry in light of the contents of aforesaid complaint. Inquiry report may be shared with this office within 14 days positively, for perusal of the worthy Commissioner Malakand and further course of action please.

Yours faithfully,

(MUHAMMAD ILYAS)
ASSISTANT TO COMMISSIONER (REV/GEN)
MALAKAND DIVISION:-

Enclosed as above

Endst:No & Date Even.

Copy forwarded to PS to Commissioner Malakand Division, for information please.

ASSISTANT TO COMMISSIONER (REV/GEN)
MALAKAND DIVISION.

DKA
13-10-22

11423
14/10/22

Attested

Shahid May



OFFICE OF THE DEPUTY COMMISSIONER, SWAT.

Tel No: 0946-9240336
Fax No: 0946-9240329
E-mail: Deputycommissionerswat1@gmail.com

No. 3107 /1/5/DK

Dated: 18/10 /2022

To,

The Additional Deputy Commissioner (Finance & Planning),
Swat.

Subject:

**COMPLAINT AGAINST MR. NIAMAT ALL PATWARI HALQA HAZARA
KABAL DISTRICT SWAT.**

Memo:-

A copy of letter No. 1016-17/2/28/Estt: dated 11/10/2022 alongwith its enclosures received from the Assistant to Commissioner (REV/GEN) Malakand Division on the subject notes above, the contents of which are self-explanatory is enclosed.

2. It is requested to conduct discreet/factual inquiry in the matter and submit facts/finding report alongwith recommendations **within 14 days** positively for onward submission to the quarter concerned, please

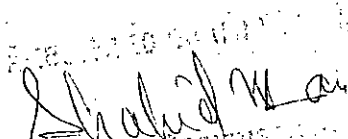
Encls: (06).

No. 3108 /1/5/DK


DEPUTY COMMISSIONER, SWAT.

Copy forwarded to the Assistant to Commissioner (REV/GEN) Malakand Division Saidu Sharif, Swat with reference to above for information, please.


DEPUTY COMMISSIONER, SWAT


Shahid Ma
Reader to Comms
Malakand Division

سائل تعلق نامی خانان اولر محمد علی خان سائس دیواری حلقہ سواری نیراہ

قومی شناختی کارڈ نمبر 15602-1148874-7-6 سولہ سب سے 0346-9454809

کہ میں حلقہ نیراہ کا سواری سون اور پور 11/03/2021 سواری نیراہ سے

دھارہ 2 کٹر ناخال دیواری پر معذور ہوں۔ میں نے آج تک بنایت ایمان داری سے دیواری کی ہے جہاں تک کٹر داری وقت 35 لکل رہے حضرت داری کا لکھن سے

وہ میرے ہاتھ کا کٹر ہے نہ ہے اور نہ اس پر میرا دستخط ہے جو کہ لکھن سے

وہ لکھن سے ہے۔ اس سے میرے بھی حکم کھلے اور صاحب کس جو کٹر داری اور پور دیا ہے

اس میں میرا کوئی دستخط نہیں ہے۔ دیواری کٹر داری کٹر داری / بونکا چوٹ پر میری ہے

227 228 میں کوئی دستہ درج نہ ہے۔ سال فریٹ 2018 مارچ سے 2020 تک درج نہ ہے

حضرت حضرت جان اہل فرد حضرت داری میں دستہ درج نہیں ہے نیز اس وقت میں نے اور ساتھ سواری کیا گیا ہے کٹر داری کے ساتھ میں اور کٹر داری کٹر داری سے جن کے نقولان لف بیان فرما ہے جس میں میرا بیان ہے

(نقولان بیانات کا نقل اصل دستہ داری لف ہے)

Shahid Man
Commissioner
District Police
District Police

بیان فرمایند وہ قسم کا سگتہ میرا بابا ہزارہا کے پاس نہیں ضرورت

میرے بیان کا کہ آج صبح تک صبح - PADC ٹرانس بیٹم

درخواست ہزاروں نفی علی ہزارہا کے ہزارہ دفتر صبح حاضر ہوا ہوں۔

کیسٹنگ مذکورہ ہزاروں نفی علی ہزارہا میں نہ جتا۔ کسٹنگ جہاں ملائے

کو کہ ہے۔ ہونکہ نفی علی ہزارہا نے، ایئر فسر گروہوں سے

سٹیل گروہ کا کسٹنگ 225، 226، 227 کا نقش دیا تھا جس میں

راستہ درج تھا۔ کسٹنگ ماہ بعد اسی ایئر گروہوں میں ادوہوں کیا گیا تھا۔

ادوہوں شدہ گروہوں کا نقش میں تھا کہ کسٹنگ سے انکوائری کی گئی

ٹائٹل سے وصول کیا ہے۔ فسر گروہوں میں راستہ کا اندراج ہی

موقع پر نفی علی ہزارہا کی تھا۔ کسٹنگ آج سٹیل گروہ

کہ ایئر گروہوں میں درج شدہ ہزاروں فسر گروہوں میں راستہ کا اندراج

موجود نہ ہے۔ یہ ایک گروہ ایئر گروہوں کا نقش میں ہزارہا کے پاس

نہی وہوں کا تھا کہ ملے فسر گروہوں کے زمین ایئر گروہوں میں درج نہ ہو

زنا جاتا تھا۔ اس کے راستہ کا موجودگی کا کسٹنگ میں ہزاروں میں

کسٹنگ سٹیل گروہوں میں درج ہوا کہ ہزاروں ہزاروں ادوہوں میں

گروہوں سے ہزاروں کے پاس۔ اور سٹیل گروہوں کے نقشوں کے پاس

سے ہزاروں کے پاس ہزاروں کے پاس۔ کسٹنگ میں

Shahid Khan
Reader to Chief
of the Library

Attache



(18) (18) "E" —

OFFICE OF THE DEPUTY COMMISSIONER SWAT.
(FINANCE & PLANNING WING).

0946-9240095

FAX 0946-9240097

No. 1154 /ADC (F&P)/Inquiry/Vol-I

Dated: 18/11/2022

To,

The **Deputy Commissioner, Swat.**

Subject: - **COMPLAINT AGAINST MR. NAIMAT ALI PATWARI HALQA HAZARA KABAL DISTRICT SWAT.**

Memo:

P-7

Please refer to your office Memo No. 3107/1/5/DK, dated; 18/10/2022 on the subject cited above.

The applicant namely Mr. Muhammad Sherin S/O Juma Khan R/O Hazara Tehsil Kabal Swat has submitted an application against Mr. Naimat Ali Halqa Patwari Moza Hazara to the effect that he had issued Photo copies of Khasra No. 225,226,227 from Register Khasra Girdawari wherein Pathway (Raasta) was mentioned but later on he made tempering in the said Khasra Girdawari which are different from each other. The applicant has thus requested for inquiry into the matter and awarding exemplary punishment to the said accused official.

In order to conduct inquiry in to the issue, both the applicant and Patwari concerned were called to this office and their statements were got recorded.

The applicant Mr. Muhammad Sherin has reiterated his version as narrated in the complaint. The patwari has initially entered Pathway in revenue record but later on he has made tampering and has deleted pathway from the revenue record and has thus committed gross negligence which has caused great loss to him. He request for taking stern legal action against the said Patwari. (Flag A).

Statement of Mr. Naimat Ali Halqa Patwari Moza Hazara has been recorded on 26/10/2022 (Flag B). He states that he has always performed his duty honestly as far as register Khasra Girdawari is concerned it is not his hand writing and the same did not bear his signature. So it is completely bogus. And there is no Pathway entered in the revenue record. / Register Khasra Girdawari.

I have thoroughly perused the inquiry file and my findings / recommendation are as under.

FINDINGS.

Mr. Naimat Ali Patwari has deliberately / intentionally made tempering in the revenue record and has deleted Pathway (Rassta) from record as complained by the applicant.

DK
27/11/22
fct

13042
23/11/22

Shahid

RECOMMENDATION.

(12)

(13)

(19)

(14)

It is recommended that Minor Penalty of One annual increment may be imposed upon the said delinquent official namely Mr. Naimat Ali Patwari as provide in E&D Rules 2010, U/S 4 (a)(ii) . It is further recommended that he may be banned for the period of Two years on field posting.

(Original Inquiry file is enclosed).

**ADDITIONAL DEPUTY COMMISSIONER
FINANCE & PLANNING / INQUIRY OFFICER, SWAT**

Accepted

Shahid Mas



(B) (16) (20) (F)
OFFICE OF THE DEPUTY COMMISSIONER, SWAT.

Tel No: 0946-9240336

Fax No: 0946-9240329

E-mail: Deputycommissionerswat1@gmail.com

No. 3607 /1/4/DK

Dated: 05/12 /2022

ORDER:

WHEREAS, in pursuance of the Commissioner Malakand Division letter No. 1016-17/2/28/Estt: dated 11/10/2022, an inquiry was conducted through the Additional Deputy Commissioner (F&P) Swat against Mr. Niamat Ali Khan Patwari halqa Hazara Tehsil Kabal District Swat.

AND WHEREAS, the inquiry officer vide No. 1154/ADC (F&P)/ Inquiry/Vol-I dated 18/11/2022 submitted the requisite report wherein he recommended that minor penalty of one annual increment may be imposed upon the said official as provided under Under Section-4 (a)(ii) of the E&D Rules, 2011. and secondly he may be banned for the period of two years on field posting.

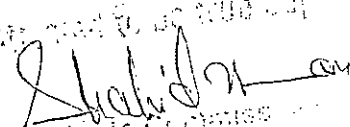
NOW THEREFORE, I, Junaid Khan Deputy Commissioner, Swat the Competent Authority in exercising the powers Under Section-4 of the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules, 2011 on acceptance of the recommendations of the inquiry officer, hereby imposed minor penalty of **"WITHHOLDING OF ONE ANNUAL INCREMENT FOR A PERIOD OF ONE YEAR"** on the accused official (Niamat Ali Khan Patwari of this office) in the larger public interest.

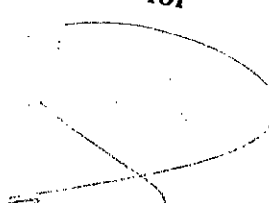

DEPUTY COMMISSIONER SWAT.

No. 3608-12 /1/4/DK

Copy forwarded to:-

- 1- The District Comptroller of Accounts, Swat.
- 2- The District Kanungo Swat for necessary action.
- 3- The Nazar-II, local office for necessary action.
- 4- The Official concerned.
- 5- Personal File.


DEPUTY COMMISSIONER SWAT.



(1) 21

**IN THE COURT OF HONORABLE COMMISSIONER
MALAKAND DIVISION AT SAIDU SHARIF SWAT.**

Appeal No. _____ of 2023

Niamat Ali patwari Halqa Hazara District Swat. **Appellant.**

VERSUS

Deputy Commissioner/ Addl: Deputy Commissioner, Swat.

..... **Respondent.**

**APPEAL AGAINST ORDER BEARING No.3607/1/4/DK, DATED
05/12/2022 PASSED BY RESPONDENT WHEREBY MINOR PENALTY
OF WITHHOLDING ONE ANNUAL INCREMENT HAS BEEN IMPOSED
UPON THE APPELLANT.**

Prayer :

On acceptance of the instant appeal the impugned order bearing No. 3607/1/4/DK dated 05/12/2022 of respondent may be set aside and the annual increment may kindly be restored to the appellant.

The appellant submits as under:

Facts:

- 1- That the appellant is serving as patwari halqa Hazara Tehsil Kabal District Swat to the best of his capability, honestly and never gave any cause of complaint to his superior Officers and during his service his conduct has been above board.
- 2- That Muhammad Sherin S/O Juma Khan R/O Hazara, Kabal Swat submitted an application to the Honorable Commissioner Malakand Division, wherein he leveled allegation that the

Approved to be filed COPY
Shahid Manan
Deputy Commissioner
Malakand Division
Saidu Sharif Swat

Reader

*Commissioner
18/01/2023*

appellant gave him photo copy of Register Khasra Girdawari of Khasra No.225,226 and 227 wherein path (Raasta) was mentioned but latter on with the connivance of others altered the said Girdawari which is different from the previous one i.e path has not been mentioned in the aforesaid Khasra numbers, he requested for stern punishment to the appellant.

(Copy of the application is annexed as annexure "A")

3- That the Honorable Commissioner Malakand Division vide Memo:No.1016-17/2/28/Estt: dated 11/10/2022 forwarded the application to the respondent *"to conduct inquiry and inquiry report be shared with this office for perusal of the worthy Commissioner Malakand Division and further course of action"*. **(Copy is annexed as annexure "B")**

4- That the respondent vide Memo:No.3107/1/5/DK dated 18/10/2022 forwarded the letter along with the application to the Addl: Deputy Commissioner (Finance) Swat *"to conduct inquiry and submit report for onward submission to the quarter concerned"*. **(Copy of the letter is annexed as annexure "C")**.

5- That the appellant appeared before the inquiry Officer produced original Register Khasra Girdawari which is correct and no tampering has been done. The photocopy of Khasra Girdawari produced by the applicant/complainant is bogus. It is neither in handwriting of the appellant nor bears his signature; therefore, the appellant flatly denied the allegation leveled against him. **(Copies of correct and bogus Khasra Girdawari are annexed as annexure "D,E")**

Shahid Khan
Swat

6- That the inquiry Officer recorded statements of the applicant/complainant and of the appellant and submitted inquiry report to the respondent wherein he recommended minor penalty of withholding one Annual increment against the appellant. **(Copies of inquiry report and statements are annexed as annexure "F to G").**

7- That upon the recommendation of the inquiry Officer the respondent vide impugned order bearing No. 3607/1/4/DK, dated 05/12/2022 imposed minor penalty of withholding One Annual increment upon the appellant. **(Copy of the order is annexed as annexure "H").**

8- That the inquiry report and Order bearing No. 3607/1/4/DK, dated 05/12/2022 passed by respondent is arbitrary, un-lawful, un-islamic and liable to be set aside interalia on the following grounds:

Grounds:

- A: That the inquiry has not been conducted according to the settled Law/Rules. Hence liable to be set aside.
- B. That according to original Register Khasra Girdawari there is no path in Khasra numbers 225,226 and 227, and there is no tampering in the original record, therefore findings/recommendations of inquiry Officer and order dated 05/12/2022 of the respondent are liable to be set aside.

Shahid Khan
Commissioner
District
Swat

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- C. That the photocopy of Khasra Girdawari of Khasra Numbers 225,226,227 produced by the applicant/complainant bogus i.e it is neither in handwriting of the appellant nor bears his signature.
- D. That the inquiry report is required to be based on concrete evidence and not on assumptions, probabilities as has been done in the instant case i.e when there is no tampering in the original record/Register Khasra Girdawari then implicating the appellant and awarding punishment to him for no fault is against Law, Sharia and even a cruelty to the appellant, therefore the inquiry report and order dated 05/12/2022 are liable to be set aside.
- E. That from the above detailed reasons/arguments it is clear that the respondent without going into the merit/reality of the case has implicated the appellant and imposed penalty upon him for no fault.

It is therefore humbly prayed that on acceptance of the instant appeal the impugned order bearing No. 3607/1/4/DK, dated 05/12/2022 of the respondent may graciously be set aside and the annual increment be restored to the appellant.

(Niamat Ali)
Patwari Halqa Hazara
Tehsil Kabal District Swat. **(Appellant)**

Shahid Khan

(5) (5)

**IN THE COURT OF HONORABLE COMMISSIONER
MALAKAND DIVISION AT SAIDU SHARIF SWAT.**

Niamat Ali patwari Halqa Hazara District Swat. **..... Appellant.**

VERSUS

Deputy Commissioner/Adtl: Deputy Commissioner, Swat.
..... Respondent.

Service Appeal.

AFFIDAVIT.

I Niamat Ali Patwari halqa Hazara Tehsil Kabal District Swat hereby solemnly affirm and declare on oath that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



Deponent
Niamat Ali Patwari halqa Hazara

Shahid Ali

خدمت جناب ڈپٹی کمشنر صاحب ضلع سوات

درخواست براد عصائی خدمت نقولات آنواری فائل

بجنوائی محمد شہین بنام لغت علی پوری

جناب عالی!

جودیاہ گزارش تعلیم من سائل خلاف آب صاحبان آنواری بجنوائی بالا

کی ہے۔ من سائل کو مذکورہ بالا آنواری فائل کی خدمت نقولات

کی شد ضروری ہے۔

لکھد اعزہ بنی گزارش من سائل کو مذکورہ

بالا آنواری فائل کی خدمت نقولات

دیجے اچھ صلاحیت ہے یا نہ

09/12/2022 الحزب

میں

لغت علی پوری

DK.

Law for my at per Law PK

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BEFORE THE HONORABLE COMMISSIONER MALAKAND DIVISION SAIDU
SHARIF SWAT.

Mr. Niamat Ali Patwari Halqa Hazara District Swat.....**APPELLANT**

VERSUS

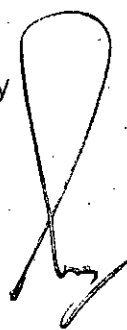
Deputy Commissioner, District Swat**RESPONDENT**

PARA WISE REPLY ON BEHALF OF THE RESPONDENT IS AS UNDER.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS

1. That the appeal is time barred, hence not maintainable.
2. That the appellant has not come to this honorable court with clean hands.
3. That the appellant has got no cause of action and Locus Standai to file the instant service appeal.
4. That the appellant is estopped by his own conduct to file the present service appeal.
5. That the appeal in hand is bad due to miss-joinder and non-joinder of necessary parties.
6. That the appeal is barred by law.
7. That the appeal is liable to be rejected in its present form.



ON FACTS

- 1- Para-1 is correct to the extent that the appellant was posted as patwari halqa Hazara Tehsil Kabal during the period from 09/03/2021 to 17/11/2022.
- 2- Para-2 is correct.
- 3- Para-3 is correct.
- 4- Para-4 is correct.
- 5- Para-5 is incorrect. The Additional Deputy Commissioner (F&P) Swat conducted proper inquiry by providing opportunity of hearing and producing of record to the appellant and after examining all the record and recording of the statement of the appellant. The inquiry officer proposed imposition of minor penalty of withholding of one annual increment and ban for field posting for a period of two years.
- 6- Para-6 is correct.

Shahid Man
Deputy Commissioner
Malakand Division
Swat

- 7- As against Para-6 above.
- 8- Incorrect. The penalty has been imposed upon the applicant under provision of Section- 4 (a)(ii) of the E&D rules, 2011.

ON GROUNDS

- A- Incorrect. The inquiry has been conducted in accordance with law/rules.
- B- Incorrect. The Inquiry Officer explained the position in detail in his report (Annex-A).
- C- Incorrect. In register Khasra Girdawari, there is no need of signature of patwari on each page. The patwari concerned affix his signature on first and last page of the register including Girdawar and Tehsildar.
- D- No comments.
- E- Incorrect. The penalty has been imposed upon the appellant after conducting proper inquiry in light of rules.

PRAYER

In view of the above, it is humbly prayed that the instant appeal being baseless, against law, fact and circumstances and also time barred may be dismissed with heavy cost, please.

[Handwritten Signature]
 Deputy Commissioner, Swat
RESPONDENT
[Handwritten Signature]

[Faint Stamp]
[Handwritten Signature]

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BEFORE THE COMMISSIONER, MALAKAND DIVISION
AT SAIDU SHARIF SWAT.

Case No.187/CMD

Date of Institution: 18/01/2023

Niamat Ali Patwari Halqa Hazara District Swat..... Appellant

VERSUS

The Deputy Commissioner, Swat Respondent

DEPARTMENT APPEAL AGAINST THE ORDER NO. 3607/1/4/DK, DATED 05.12.2022 PASSED BY THE RESPONDENT WHEREBY MINOR PENALTY OF WITHHOLDING ONE ANNUAL INCREMENT HAS BEEN IMPOSED UPON THE APPELLANT.

ORDER

06.04.2023

This order shall dispose of the appeal filed by the appellant Niamat Ali Patwari Halqa Hazara District Swat against the order dated 05.12.2022 passed by the Deputy Commissioner, Swat whereby penalty of withholding one annual increment has been imposed upon the appellant.

I have gone through the case file and heard the appellant as well. Briefly stated the appellant Niamat Ali (Patwari) was serving as Halqa Patwari, Hazara Tehsil Kabal. That a civilian Muhammad Sherin s/o Juma Khan r/o Hazara Tehsil Kabal, submitted an application/complaint to the Deputy Commissioner, Swat and requested that he has issued photo copies of Khasra No. 225,226,227 from Register Khasra Girdawari wherein pathway was-mentioned but later on he made tempering in the said Khasra Girdawari which are different from each other. The Deputy Commissioner, Swat conducted inquiry through Additional Deputy Commissioner (F&P) Swat. The inquiry officer called both the applicants and Patwari Halqa and their statement were got record. The enquiry officer after conduction of inquiry submitted his report with the recommendations that minor penalty of withholding one annual increment and ban for field posting for a period of two years may be imposed upon the said official.

The competent authority i.e Deputy Commissioner, Swat in light of the report of the inquiry officer and by exercising his powers under Rule-14 and 4a(ii) of Khyber Pakhtunkhwa Government servant (efficiency and disciplinary), Rules 2011 and imposed "Minor penalty of withholding of one increment for a period of one year" on Mr. Niamat Ali Patwari.

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Swat

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Aggrieved from the order of Deputy Commissioner, Swat, the appellant filed the instant appeal in this court, praying for dismissal of the impugned order.




In light of the opportunity of personal hearing given to the appellant, perusal of the comments received from the respondent i.e Deputy Commissioner, Swat this court reached to the conclusion that the proceedings have been conducted well in line with the provision of the rules ibid and no irregularity, whatsoever, has been committed by the Lower Court. Record reveals that the appellant Mr. Niamat Ali Patwari has deliberately/intentionally made tempering in the revenue record and has deleted pathway from record as complained by the applicant. The appellant has also not been able to convene this court regarding his false involvement in his personal hearing.

For the reasons stated above the appeal carries no weight, therefore I see no reason to interfere in the impugned order passed by the lower court i.e Deputy Commissioner, Swat which is hereby maintained and the appeal stands dismissed.


Announced
06.04.2023


Commissioner Malakand Division

Shahid Man

<p>بار کونسل نمبر: 2364-20-2020-5C</p> <p>بار ایسوسی ایشن نمبر: 2021</p> <p>رابطہ نمبر: 0342-9726477</p> <p>ای میل ایڈریس</p>	<p>110210</p> <p>ڈسٹرکٹ بار ایسوسی ایشن سوات</p>   
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بعدالت جناب: چیرمین صاحب سروس ٹریبونل منبام کیسٹاور

<p>منجانب: ایمپلائز</p> <p>لغت علی</p> 	<p>دعویٰ اور خواست: سروس</p> <p>علت نمبر:</p> <p>مورخہ:</p> <p>جرم:</p> <p>تھانہ:</p>
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بابت تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ

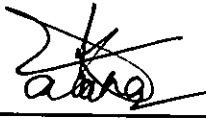
آن مقام کیسٹاور کیلئے خورشید علی ایڈووکیٹ کو مقرر کر کے

اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کارروائی کو مکمل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث کرنے، دعویٰ، جواب دعویٰ، اقبال دعویٰ اور درخواست برائے سرسبزی مقدمہ، منسوخی ڈگری یکطرفہ، اجراء و پیروی کرنے کا اختیار ہوگا نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کارروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہمزارہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ و پرداختہ منظور قبول ہوگا، بدوران مقدمہ جو خرچہ و ہرجانہ کسی بھی سبب سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے کے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بعدم پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے،

لہذا وکالت نامہ لکھ دیا کہ سندر ہے

مقام کیسٹاور / کیسٹاور منبام سوات کے لئے منظور ہے۔

لغت علی صاحب اولہ محمد علی خان
سابق دیوبند

ایڈوکیٹ دستخط: 

خورشید علی ایڈووکیٹ

المقوم: 02/05/2023