


10.11.2022


Counsel for the appellant present.

Mr. Muhammad Adeel Butt, learned Additional Advocate General for the respondents present.

Former requested for adjournment on the ground that she has not made preparation of the case. Adjourned. To come up for arguments on 09.01.2023 before the D.B.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

09.01.2023

Counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

SCANNED
KPST
Peshawar

Learned Member Executive (Miss Fareeha Paul) left the court at 12.00 Noon in order to attend a meeting in the Law Department, Government of Khyber Pakhtunkhwa, therefore, this case is adjourned to 04.04.2023 for arguments before the D.B.


(ROZINA REHMAN)
Member (J)

06.06.2022

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 01.07.2022 before the D.B.



(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

01.07.2022

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that she has not made preparation for arguments. Adjourned. To come up for arguments on 31.08.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

31.08.2022

Bench is incomplete, therefore, case is adjourned to 10.11.2022 for the same as before.



Reader

09.11.2021

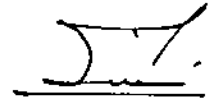
Mr. Muhammad Maaz Madni, Advocate, as proxy for learned counsel for the petitioner present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Mr. Muhammad Maaz Madni stated that he has been telephonically informed by learned counsel for the petitioner that she is not feeling well and is unable to appear before the Tribunal today, therefore, adjournment may be granted. Adjourned. To come up for arguments before the D.B on

10/02/2022



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



(Salah-Ud-Din)
Member (J)

10-2-2022

Due to retirement of the Honorable
Chairman the case is adjourned
to come up for the same as
before on 6/6/2022




Reader.

08.07.2021

Mr. Mir Zaman Safi, Advocate, as proxy for learned counsel for the appellant present. Mr. Jamshaid Ali, Patwari alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.


Mr. Mir Zaman Safi, Advocate, sought adjournment on the ground that learned counsel for the appellant has informed him that she is not feeling well and is unable to appear before the Tribunal today. Adjourned. To come up for arguments before the D.B on 02.09.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

02.09.2021

Appellant alongwith her counsel Ms. Naila Jan, Advocate, present. Mr. Riaz Ahmed Paindakheil, Assistant Advocate General for the respondents present and stated that as the brief of the instant appeal was assigned to Mr. Muhammad Adeel Butt, learned Additional Advocate General however, he has left for his home being not feeling well. Adjourned. To come up for arguments before the D.B on 09.11.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

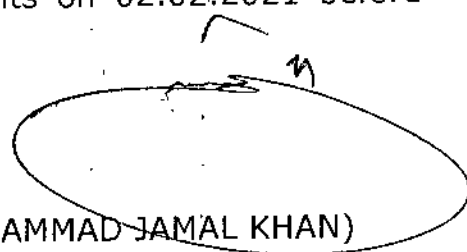
08.12.2020

Miss. Naila Jan, Advocate, for appellant is present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General, for the respondents is also present.

Learned counsel representing appellant requested for adjournment that she has not prepared the brief. Adjournment granted. File to come up for arguments on 02.02.2021 before D.B.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

02.02.2021

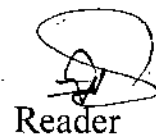
Due to COVID-19, the case is adjourned for the same on 07.04.2021 before D.B.



READER

07.04.2021

Due to demise of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 09.07.2021 for the same as before.

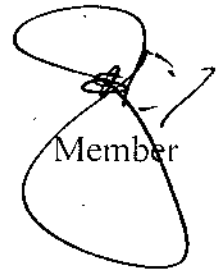


Reader

22.06.2020

Nemo for the appellant. *Notice be issued.*

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present and requested for adjournment in order to submit written reply/comments on the next date. Opportunity is granted. To come up for attendance and submission of written reply/comments on 05.08.2020 before S.B




Member

05.08.2020

Appellant Saleem Shahzad is present in person. Mr. Kabirullah Khattak, Additional AG is also present.

Neither written reply on behalf of respondents submitted nor anyone on their behalf is present, therefore, notices be issued to them for submission of written reply/comments by way of last chance. File to come up for written reply/comments on 29.09.2020 before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER

29.09.2020

Counsel for the appellant and Addl. AG alongwith Saqib, Senior Clerk for the respondents present.

Respondents have not furnished reply/comments despite last opportunity. The matter is therefore, posted to D.B for arguments on 08.12.2020 before S.B.



Chairman

01.01.2020

Counsel for the appellant present.

Instant appeal is admitted to regular hearing, subject to all just exceptions, in order to resolve the question, whether the respondent No. 2 was competent to make addition of counting of absence period of appellant as leave without pay, into the order of appellate authority/respondent No. 1. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 11.02.2020 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

11.02.2020

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for time to file written reply/comments. Case to come up for written reply/comments on 30.03.2020 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

SCANNED
KPST,
Peshawar

30.03.2020

Due to public holiday on account of COVID-19, the case is adjourned for the same on 22.06.2020 before S.B.




Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1597/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/11/2019	<p>The appeal of Mr. Saleem Shahzad resubmitted today by Naila Jan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/01/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	28/11/19	

The appeal of Mr. Saleem Shahzad the then Patwari Halqa Daman Afghan Peshawar received today i.e. on 25.11.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- Memorandum of appeal may be got signed by the appellant
- ✓ 2- Annexures of the appeal may be attested.
- ✓ 3- Affidavit may be got attested by the Oath Commissioner.
- ✓ 4- Annexure-D of the appeal is illegible which may be replaced by legible/better one.

No. 2048 /S.T,

Dt. 26-11 /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Naial Jan Adv. Pesh.

*Remanded all the
objection to be submitted
by of Naial Jan
2019
26/11/2019*

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1597 /2019

Saleem Shahzad the then Patwari Halqa e Daman Afghan
Peshawar

.....Appellant

VERSUS

1. The Commissioner Peshawar

2. The Deputy Commissioner Peshawar

...Respondents

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6.	Copy of the explanation letter	A	12
7.	Copy of the show cause notice and reply	B & C	13-16
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Through

Appellant:


Naila Jan

Advocate, High court
Peshawar

Date: 25-Nov-19

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019

Saleem Shahzad the then Patwari Halqa e Daman Afghan
Peshawar

.....Appellant

VERSUS

1. The Commissioner Peshawar
2. The Deputy Commissioner Peshawar

.....Respondents

**Appeal U/S 4 of Khyber
Pakhtunkhwa Service Tribunal Act,
1974, against the impugned order
of respondent no. 2 dated
05/07/2019, whereby the appellant
was removal from service vide
order dated 09/10/2019 of
respondent No. 1 whereby the
major penalty of removal from
service was converted into
deduction of one increment for a
period of one year and order of
respondent No. 2 dated 18/10/2019
whereby the appellant was
reinstated into service and the
minor penalty deduction of one**

increment was awarded on the basis of the appellant order and in addition the intervening period was treated as leave without pay.

Prayer:-

On acceptance of the appeal the impugned order dated 05/04/2019, 09/10/2019 and 18/10/2019 may kindly be set aside and the appellant may graciously be reinstated into service with all back benefits.

Respectfully Sheweth:-

Appellant submits as under:

1. That the appellant was appointed as a patwari and having 9 years unblemished record on his credits.
2. That the appellant was lastly posted as a patwari Khana Daman-e-afghan Peshawar, where the appellant perform his duty with full devotion and to the entire satisfaction of the superiors officers and there was no complaint against the appellant.

3. That the appellant was issued in explanation dated 30/05/2019 whereby some fabricated allegations was leveled against the appellant. Which was replied by the appellant by negating all. **(Copy of the explanation letter is attached as annexure A)**
4. That thereafter respondents No. 1 issued a show cause notice. Containing some baseless allegations which was property replied by the appellant denying all the allegations. **(Copy of the show cause notice and reply are as annexure B & C)**
5. That thereafter without using charge sheet & statement of allegation and conducting regular or even a fact finding inquiry the appellant was removed from him services by the respondents No. 2 vide order dated 05/07/2019. **(Copy of the order dated 05/07/2019 is attached as annexure D)**
6. That thereafter the appellant filed a departmental appeal against the impugned order dated 05/07/2019 before respondent No.1 which was partially accepted and the appellant was reinstated into service and the major punishment of removal from service was converted into minor penalty of deduction of one increment for a period of one year

vide order dated 09/10/2019. **(Copy of the departmental appeal and appellate order dated 09/10/2019 are attached as annexure E & F)**

7. That on the basis of order of respondent No. 1 dated 09/10/2019 the appellant was re-instated into service by the respondent No. 2 vide order dated 18/10/2019, whereby minor punishment of deduction of one increment for a period of one year was imposed however quite illegally the intervening period in which the appellant was removed from service was treated as leave without pay which is contrary to the appellate order dated 09/10/2019. **(Copy of the order dated 18/10/2019 is attached as annexure G)**
8. That feeling aggrieved from the impugned orders dated 05/07/2019, 09/10/2019 & 18/10/2019 the appellant filing the instant appeal on the following grounds inter aila:

G R O U N D S :-


- A. That the impugned orders are against the law, rules and principle of natural justice, hence void ab-inito.

- B. That the appellant has been condemned unheard as no opportunity of personal hearing or defense has been provided to the appellant.
- C. That no charge sheet statement of allegation has been issued to the appellant.
- D. That no regular or even fact finding has been conducted by the respondents. Hence the whole proceedings are void ab-initio.
- E. That neither any loss has been caused to the public exchequer nor did any allegation of corruptions has been leveled on the appellant by any one.
- F. That through a show cause notice was issued under rule 5(1) (A) however no reason was recorded for dispensation of inquiry which is mandatory under rule 5(1) (A) which has not been fulfilled. Thus, the whole proceedings is liable to be declared null and void.
- G. That no opportunity of fair trial has been provided to the appellant, hence Article 10-A of the constitution of Islamic Republic of Pakistan, 1973 has been violated.
- H. That the Appellant is entitled to be treated under Article 25 of Islamic Republic of Pakistan, 1973.

- I. That the allegations has already been replied and explained in reply to the show cause notice which may be considered in integral part of this appeal.
- J. That during the period when the appellant was ousted from service the appellant was jobless.
- K. That any other ground may be raised at the time of arguments, with the kind permission of this Honourable Tribunal.

**It is, therefore, most humbly prayed that
On acceptance of the appeal the
impugned order dated 05/04/2019,
09/10/2019 and 18/10/2019 may kindly
be set aside and the appellant may
graciously be re-instated into service
with all back benefits.**

Appellant
Through


Naila Jan
Advocate, High court
Peshawar

Date: 25-Nov-19

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019

Saleem Shahzad the then Patwari Halqa e Daman Afghan
Peshawar

.....**Appellant**

VERSUS

1. The Commissioner Peshawar
2. The Deputy Commissioner Peshawar

.....**Respondents**

AFFIDAVIT

I, Saleem Shahzad the then Patwari Halqa e Daman Afghan Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2019

Saleem Shahzad the then Patwari Halqa e Daman Afghan
Peshawar

.....Appellant

VERSUS

1. The Commissioner Peshawar
2. The Deputy Commissioner Peshawar

.....Respondents

ADDRESSES OF PARTIES

APPELLANT

Saleem Shahzad the then Patwari Halqa e Daman Afghan
Peshawar

RESPONDENTS

1. The Commissioner Peshawar
2. The Deputy Commissioner Peshawar

Through Appellant



Naila Jan

Advocate, High court
Peshawar

Date: 25-Nov-19

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2019

Saleem Shahzad the then Patwari Halqa e Daman Afghan
Peshawar

.....**Appellant**

VERSUS

1. The Commissioner Peshawar
2. The Deputy Commissioner Peshawar

.....**Respondents**

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth:

1. That the above mention appeal is filing before this Hon'ble tribunal and no date is fixed yet.
2. That the appeal of the appellant is within time and if there is any delay on the part of the appellant the same may kindly be condone on the following grounds inter alia:


GROUND;

- A. That the father of the appellant was died on dated 17/10/2019, due to which the appellant was mentally shocked therefore he could not filed the appeal within time.
- B. That the impugned orders are void abintio and as per judgment of Supreme Court of Pakistan no limitation runs against void order.
- C. That as per judgment of Supreme Court cases are to be decided on merit rather than technicalities.
- D. That delay in filing the titled appeal is neither willful nor deliberate but due to reason mentioned above.

It is, therefore, most humbly prayed that on acceptance of this application, the delay, if any, in filing the above titled service appeal may kindly be condoned in the interest of justice.

Through

Appellant


Naila Jan
Advocate, High court
Peshawar

Date: 25-Nov-19

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019

Saleem Shahzad the then Patwari Halqa e Daman Afghan
Peshawar

.....**Appellant**

VERSUS

1. The Commissioner Peshawar
2. The Deputy Commissioner Peshawar

.....**Respondents**

AFFIDAVIT

I, Saleem Shahzad the then Patwari Halqa e Daman Afghan Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT



13

B

THE DEPUTY COMMISSIONER, PESHAWAR
Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No. 1307 /DK

Dated: 27-June-2019

To: Mr. Salim Shahzad,
Patwari Halqa Mahal Terai (the then Halqa Daman-i-Afghani) Peshawar.

Subject: SHOW CAUSE NOTICE

I am directed to enclose herewith two copies of show cause notice with the directions that one copy may be retained and the other copy be signed as a token of receipt and return to this office for record immediately.

Encls: As Above

Additional Assistant Commissioner (HQ)
Peshawar

Received by
on 28.6.2019
AT 2:45 PM

24
SHOW CAUSE NOTICE

I, Muhammad Ali Asghar, Deputy Commissioner, Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby serve you, Mr. Salim Shahzad, Patwari Halqa Mahal Terai (the then Halqa Daman-e-Afghani), as follows:

1. I am satisfied that you have committed the following acts /omissions specified/falls under the purview of Section 3 of the said Ordinance:

(a) That Additional Deputy Commissioner Peshawar in his inspection report vide No.894/ADC(P)/DC(P) dated 23/05/20 reported that you have some glaring discrepancies in your performance.

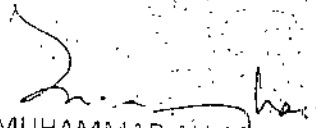
(b) That explanation was called from you on the above inspection report vide No.1081/DK dated 30/05/2019.


(c) That you submitted your reply on 31/05/2019, which was not satisfactory as you could not defend the same and accepted the fault.

2. On the basis of clear violations committed by you, as duly observed by undersigned, I am satisfied to dispense with the requirements of inquiry as provided under Rule 5(a) of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011.

3. You are, therefore, required to show cause as to why a penalty as provided under Rule-4 including major penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case an ex parte action shall be taken against you.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER
(Competent Authority)



To: -

The Deputy Commissioner,
Peshawar

Subject: -

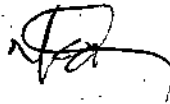
REPLY TO THE SHOW CAUSE NOTICE.

Respected Sir,

It is submitted that the undersigned received a show cause notice on 28-06-2019 duly signed by your good self. In this regard, I want to bring into your kind notice that earlier Para-wise reply to the explanation was not properly submitted as the undersigned has little know-how about the technicalities of law. It is humbly requested that his reply to the show cause notice may be read as Para-wise reply to the explanation as well which was called from the undersigned on 30-05-2019 vide letter No.1081/DK.

- i- "That crop inspection was not carried out for both crops for the year 2019". In this regard, it is stated that the undersigned was transferred from the said Halqa i.e. Daman Afghan on 29, April, 2019, that is why the said inspection of crop was not carried out and that of October was yet to come.
- ii- That Girdawris for the following Khasra Numbers have not been carried out.
 - a) During this period, the undersigned has availed 04 months earned leave w.e.f 15-02-2018 to 14-06-2018 (copy of leave certificate attached).
 - b) The undersigned was hospitalized owing to the chronic diabetic illness w.e.f 6-04-2016 to 18-05-2016 (medical leave certificate attached). Because of my acute illness, such girdawri could not be carried out.
 - c) The undersigned was posted to Halqa Daman-e-Afghan on 14-03-2016 whereas the missing girdawri falls in the year 2015. The undersigned has no part in its non-execution.
- iii- "It has been alleged that the undersigned has entered fake entries in Roznamcha Waklati from 20-03-2019 to 30-03-2019".

In this regard, the undersigned repudiates the charge as not true because the undersigned has actually carried out girdawri and recorded it in own record which was supposed to be replicated on Register Girdawri but owing to my transfer to Halqa Mahal Terai on 29-04-2019, the same was not entered in Register Girdawri.



iv- "No entry after 24, Nov 2018 in register Karguzari".

Respected Sir, the same is omitted owing to my health issues and burden of work.

v- "No date on Mutation No-6478 was mentioned".

Respected Sir, this may have been omitted mistakenly and inadvertently, please.

vi- It is alleged that Mutations No, 6481,6482,6506,6407,6508,6509,6515,6517,6519,6511,6520,6521 and 6522 have no sign of patwari".

In this regard, it is stated that the said mutations were only entered and the same was yet be examined and verified by Girdawar and Revenue Officer. Sir, the said mutations were not yet accepted.

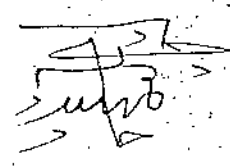
vii- Lastly, "Mutations No. 6510, 6513, 6514 and 6515 etc were not signed by girdawar and Tehsildar".

Sir, this has been corrected now and all the pending mutations have been examined and verified by Girdawar circle and Tehsildar. (Copy of all the said mutations attached). Owing to the above, your good self is earnestly requested to take into account the chronic illness of the undersigned and the corrective actions taken i.e. verification of all pending mutations etc. You are further requested to exonerate the undersigned from all the charged leveled against me. I shall always remain efficient to the best of my abilities. Besides, I also want to be heard in person, please to prove my innocence in the subject matter.

Profound regards

Dated 02-07-2019

Saleem Shehzad
(Then Patwari Halqa
Daman Afghani,
Peshawar)





17

THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9712301-02, Fax: 091-9712303, [7]DCPeshawar

No. 1307/DK

Dated: 05-July-2019

ORDER:

WHEREAS, Mr. Salim Shanzad Patwar, Halqa Mansaf Terai (the then Patwar Halqa Daman-i-Afghani) was proceeded under Khyber Pakhtunkhwa Government Servants [Efficiency and Discipline] Rules 2011 on the inspection report of Additional Deputy Commissioner Peshawar who pointed out certain glaring discrepancies in the performance of the said Patwar when the accused official was serving at Halqa Daman-i-Afghani. The accused was called upon to explain his position vide letter No 1031/DK dated 30-05-2019.

AND WHEREAS, the accused official replied the explanation on dated 31/05/2019, which was found unsatisfactory.

AND WHEREAS, the accused official was served upon a Show Cause Notice vide No.1307/DK dated 27-06-2019 which was replied on 04/07/2019 accordingly accepting his guilt.

AND WHEREAS, the accused was called for personal hearing on 05/07/2019 and was heard in person whereafter it came to the notice that the accused official had no valid justification to offer in his defence other than citing tenuous and frivolous excuses.

AND WHEREAS, considering his reply to the explanation and further reply to the Show Cause Notice, keeping in view his statement on personal hearing and other circumstances, I, Muhammad Ali Asghar, Deputy Commissioner, Peshawar in the capacity as Competent Authority is of the opinion that the charges leveled against the accused official stand proved.

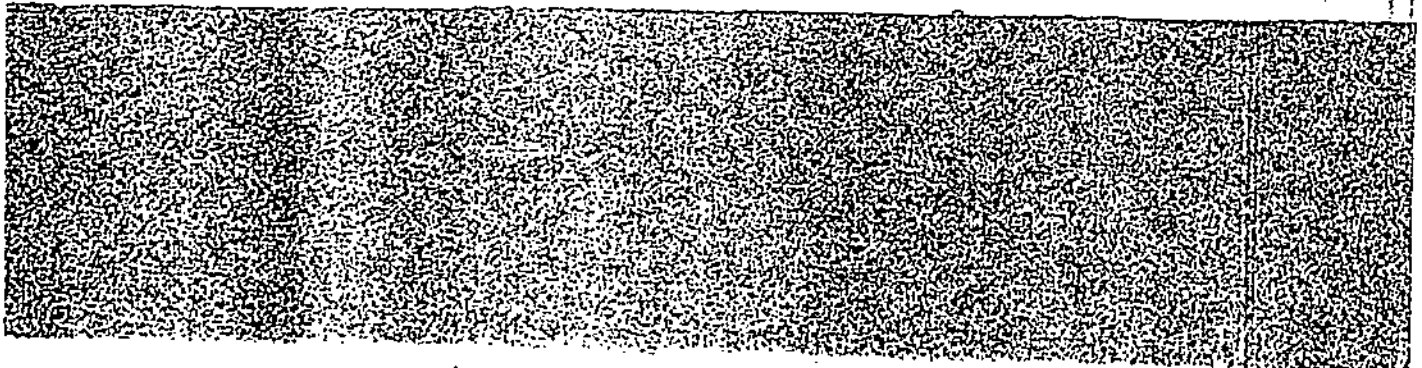
NOW THEREFORE, in exercise of the powers conferred under Rule-C1(1)(b)(iii) of Khyber Pakhtunkhwa Government Servants [Efficiency and Discipline] Rules 2011, a major penalty of *Removal from service* is hereby imposed upon Mr. Salim Shanzad, Patwar with immediate effect.

(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

[Indi] No. and Date Even:

- 01 Commissioner, Peshawar Division, Peshawar
- 02 Addl Deputy Commissioner, Peshawar
- 03 Assistant Commissioner, Peshawar
- 04 Addl Assistant Commissioner (AC) Peshawar
- 05 Account Officer of DC office for necessary action
- 06 Tehsildar, Peshawar
- 07 Mr. Salim Shanzad, Ex-Patwar

DEPUTY COMMISSIONER



(8) E

Before the honorable Commissioner/Appellate Authority,
Peshawar.

Departmental Appeal against the impugned order dated 05th July, 2019,
whereby the Learned Deputy Commissioner was pleased to impose a major
penalty of Removal from Service.

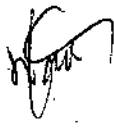
Dear Sir,

The undersigned submits as under,-

1. That on 30th of May, 2019, the learned Deputy Commissioner, being a Competent Authority, was pleased to serve upon the Explanation wherein seven (7) No.s of allegations were leveled against the undersigned with reference to his tenure being halqa Patwari, Damaan e Afghan, which was replied accordingly on 31st of May, 2019. (Copy of the Explanation and its Reply is annexed as Annexure "A" and "B").
2. That the learned Deputy Commissioner, being not satisfied with reply of the explanation, issued a Show Cause Notice to the undersigned. (Copy of the Show Cause Notice is annexed as "Annexure "C").
3. That the undersigned on 02/07/2019 gave a comprehensive reply to the Show Cause Notice, wherein, he denied all the allegations categorically (Copy of the reply to the Show Cause Notice is annexed as Annexure "D").
4. That Reply to the Show Cause Notice may please be considered as integral part of the instant Departmental Appeal.
5. That on 05/07/2019, the learned Deputy Commissioner, Peshawar was pleased to impose upon the Undersigned a major penalty of removal from Service. (Copy of the Impugned Order dated 05/07/2019 is annexed as annexure "E").
6. That the undersigned being aggrieved from the impugned Order dated 05/07/2019 files the instant Departmental Appeal on the following grounds,-

Grounds.

The undersigned denies all the allegations on the following grounds,-

- 
- A. That in view of the Reply to the Show Cause Notice been submitted by the undersigned, the Learned Deputy Commissioner was under an obligation to have conducted a formal enquiry by constituting a formal Enquiry/Committee against the undersigned. Major Punishment can not

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be given without holding a formal enquiry as per dictum of the Superior Courts. Such Orders are not tenable in the eyes of law.

B. That with reference to allegation No.1 as replied by the undersigned, in his reply to the show cause notice, that the crop inspection takes place in the month of October, 2019 and the undersigned was transferred from the said post in the Month of APRIL 2019. (Copy of the Transfer letter is annexed as Annexure F).

Indeed it was beyond the control of the undersigned to have managed the crop inspection before his transfer i.e 29th April 2019 or in the month of October when he was not performing as Halqa Patwar Daman e.Afghan.

Under the Law, it was the duty of the learned Deputy Commissioner to have appreciated and checked the transfer record of the undersigned and Crop Inspection date but unfortunately the Learned Deputy Commissioner has issued the impugned Order in arbitrary and haste manner having no sanctity in the eyes of Law.

C. That with reference to Allegation No.2, the reply of the undersigned was much convincing because the undersigned has availed more than 5.½ months leave, at different times, on the ground of his health issues But the learned Deputy Commissioner did not bother to look in to the facts. Furthermore, the missing girdwari falls in the year 2015 and the undersigned was transferred to Halqa Patwar daman Afghan on 14/03/2016 having no role in previous Girdwari execution.

As mentioned above, such matters can always be sorted out by way of formal inquiry. No one can be condemned for the acts/omissions of others, and, the health issues is a viz majure i.e act of God.

D. That with reference to Allegation No.3, no fake entries in roz namcha wakiati from 20/03/2019 to 30/03/2019 were shown to the undersigned, however, the undersigned has informed the learned Deputy Commissioner with respect to execution of Girdwari and its record keeping, but, as he got transferred, the same couldn't been entered in Register Gird wari.

It is hereby pertinent to mention that no complaint whatsoever has been received from any corner or complainants with respect to the fake entries, against the undersigned. The learned Deputy Commissioner has relied upon the report been submitted by the Additional Deputy Commissioner without allowing a right to cross-examine to undersigned.

E. That with respect to allegation No.4 & 5 it is submitted that no malafide has been taken place on part of the undersigned however, indeed his serious health issues was the reason that has obviously affected his work. Furthermore it is submitted that concerned Girdawar and Tehsil Dar has attested the same. The date on mutation No.6478 has been omitted inadvertently. No complaint whatsoever has been made by any complainant and there involved no bad intention of undersigned.

M. K. S.

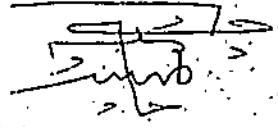
F. That with respect to allegation No.6, it is submitted that the mentioned Mutations No.s, are still pending adjudication. As the said mutations are subject to verification by Girdawar and Revenue Officer. The undersigned is condemned without any legal and lawful justification.

G. That with reference to allegation No.7, it is submitted that mentioned mutations are accordingly examined and verified by Girdawar and Tehsildar, as the thumb impressions were taken with prior permission of girdawar circle and Tehsil dar

It is, therefore, most humbly requested that for past so many years the undersigned, is suffering from diabetes and related health issues that may have caused some minute omissions but with no malafide intention, may please be exonerated on the grounds mentioned above and kindly reinstatement order may please be passed in favor of undersigned.

Your very Obediently

Saleem Shehzad
(The then Patwari Halqa e
Daman Afghan, Peshawar).





IN THE COURT OF
COMMISSIONER PESHAWAR DIVISION
PESHAWAR

DATE OF INSTITUTION 15.07.2019.
DATE OF DISPOSAL 09.10.2019.
APPEAL NO. 03/2019.

SALEEM SHEHZAD, PATWARI HALQA MAHAL TERAI (THE THEN PATWARI HALQA DAMAN AFGHANI).

DEPUTY COMMISSIONER PESHAWAR. VS

(Appellant)

(Respondent)

ORDER

This order will dispose of the departmental appeal filed by the above named appellant against the order of the Deputy Commissioner Peshawar bearing No.1437/DK dated 05.07.2019, whereby a major penalty of removal from service was awarded to the appellant under section 4 (1)(b)(iii) of Govt. of Khyber Pakhtunkhwa, Efficiency & Disciplinary Rules, 2011.

Brief facts leading to institution of the instant departmental appeal are that during an inspection of Patwar Khana Daman Afghani, the Additional Deputy Commissioner Peshawar noticed glaring discrepancies in record on part of the appellant. The description are as below:

- i. No crops inspection for both crops October 2019.
- ii. Girdawari of some Khasra nos have not been carried out.
- iii. No entry of some Khasra nos in Roznamcha Karguzari after 24.11.2018.
- iv. Some mutations had no signature of the appellant, partial of Girdawari and order of Tehsildar, yet part-e-sarkar have been chalked out.
- v. No date on mutation no.5478 was mentioned.

Ali Akbar
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Ali Akbar

Asst: to Commissioner (Rev/GA)
Peshawar Division Peshawar

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- vi. On some mutation nos thumb impression of seller have not been affixed, beside partial of Girdawari and order of Tehsildar were also missing.

Deputy Commissioner Peshawar called an explanation from the appellant and also served him with a show cause notice. After considering reply of explanation, show cause notice and personal hearing of the appellant, the Deputy Commissioner Peshawar / competent authority awarded major penalty of removal from service to the appellant under section 4 (1)(b)(iii) of Govt. of Khyber Pakhtunkhwa, Efficiency & Disciplinary Rules, 2011. Aggrieved of the same, the appellant filed the instant appeal praying therein for setting aside the impugned order dated 05.07.2019 of the Deputy Commissioner on the grounds explained in reply to show cause notice.

Appellant present and heard. Comments furnished by Deputy Commissioner Peshawar was examined. The appellant in his verbal request submitted that he is a diabetic patient and due to his unstable health condition he frequently proceeded on medical leave which resulted in non-completion of crops inspection and entries in Roznamcha Karguzari during his posting at Daman Afghani. He further submitted he did not chalk out the unsigned mutation part e sarkar with malafide intention nor any complaint was made by the relevant parties against him in this regard. The same was also later on signed by the Revenue Officer-Girdawar. The appellant further prayed that he has unblemished and clear service record of 8/9 years at his credit and imposition of major penalty of removal from service has not only rendered him jobless but also affected his family / dependent life.

From perusal of the case file / proceedings of the case, it is clear that negligence has been done on part of the appellant for mis-handling of important official matters, however, keeping in view, the explanation offered by the appellant during his personal hearing, his length of service and health issues the undersigned reached at the conclusion that very harsh

attested
Sy
Asst. to Commissioner (R&CA)
Peshawar

[Signature]

action has been taken against the appellant. Therefore, keeping in view the above facts, the appeal is partially accepted, the appellant is re-instated in service and the punishment awarded by the Deputy Commissioner Peshawar / competent authority is reduced to deduction of one increment for a period of one year under section 4(1)(a)(ii) of Govt. of Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011.

Announced
09.10.2019

[Signature]
COMMISSIONER
PESHAWAR DIVISION PESHAWAR

[Handwritten signature]
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Astt. to Commissioner (Rev/GA)
Peshawar Division Peshawar

[Handwritten signature]



THE DEPUTY COMMISSIONER, PESHAWAR


Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No.3019/DK

Dated:18-October-2019

ORDER:

In pursuance to the Order of worthy Commissioner, Peshawar Division Peshawar dated 09-10-2019 in appeal No.03/2019, Mr. Saleem Shahzad, Patwari of this office, who was removed from service vide order No.1437/DK dated 05-07-2019 due to some glaring discrepancies in his performance, is hereby re-instated into the service with immediate with deduction of one increment for a period of one year under section 4(1)(a)(ii) of Govt. of Khyber Pakhtunkhwa Efficiency & Discipline Rules 2011. His period of absence will be treated as leave without pay. He is directed to submit his arrival report to the District Kanungo Peshawar immediately.


(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

- (i) Commissioner, Peshawar Division, Peshawar for information w/r to his order referred above.
- (ii) Addl. Deputy Commissioner, Peshawar.
- (iii) Assistant Commissioner, Peshawar.
- (iv) Addl. Assistant Commissioner (HQ), Peshawar.
- (v) Addl. Assistant Commissioner (Rev), Peshawar.
- (vi) Accounts Officer of DC office for necessary action.
- (vii) Tehsildar, Peshawar.
- ✓(viii) Official concerned for strict compliance.




DEPUTY COMMISSIONER

(25)

وکالت نامہ

عدالت خرابہ کپرس ٹریڈنگ کمپنی
سلیم سبزواری نام S.M.B.R حکومت
مخاتب: ایسٹریٹس تاریخ: 25/11/2019


باعث تحریر آنکہ

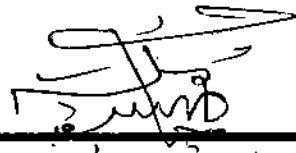
مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی
بہ مقام لفظی و رسمی کے لیے ہے۔

نانکہ جان ایڈوکیٹ ہائی کورٹ

کو بدیں شرط و کیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو بروئے عدالت حاضر ہوتا رہوں گا اور ہونگی اور بوقت پکارے
جانے مقدمہ و کیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کرونگا اگر پیشی پر من مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری
کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف
صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے
اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختیار
نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور
قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست
پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور
داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور
بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا قرقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو
بشرط ادا ایلی علیحدہ مختیار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے
کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں نیز
ایسے مشیر قانون کو ہر امر میں وہی اور ایسے ہی اختیارات حاصل ہونگے جیسے کہ صاحب موصوف کو حاصل ہیں اور پہلے ادا نہ کروں گا تو
صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے
برخلاف نہیں ہوگا۔ لہذا یہ مختیار نامہ لکھ دیتا کہ سندر ہے۔ مورخہ: 25/11/2019۔ مضمون مختیار نامہ سن لیا ہے اور اچھی
طرح سمجھ لیا اور منظور ہے۔

ATTESTED & ACCEPTED


نانکہ جان ایڈوکیٹ پشاور ہائی کورٹ پشاور


سلیم سبزواری (ایسٹریٹس)