# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

#### Appeal No.582/2023

Majraj-ud-Din (Patwari) office of the Deputy Commissioner Lakki Marwat

(Appellant)

#### Versus

- 1. Provincial Govt. through Chief Secretary Khyber Pakhtunkhwa Peshawar
- 2. Govt. of KPK through its Secretary Revenue & Estate Department Peshawar
- 3. The Commissioner Bannu Division
- 4. The Deputy Commissioner Lakki Marwat

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 16-02-2023 OF THE RESPONDENT NO.3, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS PARTIALLY ACCEPTED AGAINST THE ORDER DATED 22-09-2022 OF THE RESPONDENT NO.4

## <u>INDEX</u>

S.N	Description	Annexure	Pages
1.	Para-wise Comments along with annexures	-	1-9
2.	Authority	-	10
3.	Affidavit	-	11

[DEPUTY COMMISSIONER]

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

#### Appeal No.582/2023

Majraj-ud-Din (Patwari) office of the Deputy Commissioner Lakki Marwat

(Appellant)

#### Versus

- 1. Provincial Govt. through Chief Secretary Khyber Pakhtunkhwa Peshawar
- 2. Govt. of KPK through its Secretary Revenue & Estate Department Peshawar
- 3. The Commissioner Bannu Division
- 4. The Deputy Commissioner Lakki Marwat

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 16-02-2023 OF THE RESPONDENT NO.3, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS PARTIALLY ACCEPTED AGAINST THE ORDER DATED 22-09-2022 OF THE RESPONDENT NO.4

#### Respectfully Sheweth:

#### PRELIMINORY OBJECTIONS:

- 1. The Appeal in hand is badly time barred.
- 2. The appellant has no locus standi to bring the present appeal.
- 3. The appeal is not maintainable in the present forum.
- 4. The appeal is bad for mis-joinder and non-joinder of necessary parties.
- 5. The appellant is estopped by his own conduct.

Joint Para-wise Reply/Comments on behalf of Respondent No.1, 2, 3 and 4 submitted as under:

#### **FACTS**

- 1. Correct to the extent that the appellant is permanent government servant in this office and working as Patwari Halqa.
- 2. Pertains to record.
- 3. Correct to the extent that proper departmental proceedings being appointment authority, services of appellant was suspended bearing No.472/DC/LM/HC(Rev)/2022 dated 05-08-2022 enabling show cause notice was also given to him. After examining record of the case, accused/appellant was awarded minor penalty of withholding of three annual increments for the year 2022, 2023 and 2024 imposed upon him vide office order bearing No.3705/Estab.F.22® dated 22-09-2022.
- 4. Para-3/above is very much explained.
- 5. Para-3/above is very much explained.

- 6. Correct to the extent that appellant had lodged departmental appeal before Respondent No.3/Worthy Commissioner Bannu against the order of Respondent No.4 in which minor penalty imposed upon him i.e. withholding thee annual increments for the year 2022, 2023 & 2024 which was reduced to withholding of only one-year annual increment without accumulative effect for the year 2022 by the appellate authority/Respondent No.3.
- 7. No comments.

#### GROUNDS:

- a. In correct to the extent that both the orders are based on fact/ law and issued after all fulfillment codal formalities.
- b. Incorrect to the extent that disciplinary action was initiated against the appellant on account of charges "Entered the name of Muhammad Nawaz etc in the Khasra Girdawari of Shamilat-e-Deh vide Khasra No.3658 and 3719 of Mouza Matora through illegal way and against the law/rules". Since the guilt was very clear and being competent authority direct Show Cause Notice was issued to appellant in terms of Rules-5 of Khyber Pakhtunkhwa Government Servants (E&D) Rules-2011 and dispense the inquiry under Rule-7 of the ibid Rules. Copy of IChasa Giral and
- c. Para-C is incorrect and misleading one, true facts are stated above. Furthermore, all sequence codel formalities adopted by the respondents.

It is therefore, most humbly prayed that this appeal may be dismissed with cost.

Commissioner Bann Division

Respondent No.3

akki Marwat

Respondent No.4

Sent Member Board of Revenue Govt of Khyber Pakhtunkhwa

Respondent No. 132

Veller subject t- Co-phane y lette deles 1913-23, Cerrection, Aneximo Rindam, helex p affidavit ( ) 1

Additional Advocate General Khyber Rakhtunkhwa

Service Tribunal Peshawar

eddiest devocate Caneral Khyber Pastrunkhad Samica Inbunal Eestua. 1

العراد در خان پیدواری خان پیدواری	S. E. C.	icte			3	
المديع الله	The College Co	£				2023
	$\times$	$\times$	>	$\times$	$\searrow$	امد الما الما الما الما الما الما الما ا
Ghazni K	2 m	18 38	in de	"# 5"	15. 5.	2023 7.19
Bankan - 38 Orasi Militari Bhazni Khal		$\times$	X	$\times$	× :	المئررون
Meth	. " 2	7	10 %	" 2 %.	157	100 mg
-2028 6 5-7-1 - 1-1-1		·		$\rightarrow$	/	ئي مَلِ
15 1.	77 8	w K	in fr	15 JE 7 7 7 11 11 11 11 11 11 11 11 11 11 11	200	sit the
î	12 - 3 12 - 1-2 1-1-4	286	1. 8-13	4.1	144	6 00 as 10 2
	انتيون	المدرة	1921	مروز موت ا سانوری مه مران مدانوری مه مران مدانوری می	مران دو المراد و الم	ردادری توج
	wisker sie	, so (,	ن مارز	ع در ماه مور الما المام	Cinto ( ) Szh in	الراران
	3660	6998	d 59 E	8535	3657	ص رف چ

				2-23	2.22		2-21	2-2		2-21	2.2.				
<b>%</b> .			X	ठठुँ II	<b>^</b> //	X	pife.	> N	<b>/</b>	فزوزار ال	611	10-19 2		765 g	<b>্রিস</b>
	·		X	نخور ۱۹	19	X	11/2 11		\	نودر ۱۶		19-1 20	مریماس عرک شرکا مرزونی	وصون <u>2</u> 91	3720
			X	کۆر <u>؟</u> ۔	. 3	X	19/53 .3	3		گزنو <i>لا</i> 3		3-17 2	_נענק	- <del></del>	314
	·		X	8	- 8	X	8 -	108		19/3		8-4	ز دوی و لد ند جان دمتری ولد نوزنگ یم مرام منبر دفیلمی د	ع م عاملالا	3722
			X	1,	id R	X	דיילינק מילינק מ	5 18		14		17-19 ~ 72-	Mel		3723

سميع الله حال الإلاي المالة

Tegisi - And Chazni kitel

<u>,</u> /.			×.	<del></del>				2		H9% DB	TEHSIS DE TO		E	CIM KRASE	) te
								1	m		1	٠,	تعلى عبالي	الني رطبي	Singles -
	,			<del></del>					<u> </u>		ما يون المار	٠,	£-	ضاربالا	1 ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・
35.75 J.C. 20	و دراید	29-11	157	- 184	<u> </u>	いちつ	115 %.		ニスク	1120 14		06 07	12,321	37.6	11-12-67
المناس ال	سر زار براز ر	23-17	だっ	1.28.	× .	1.50	1.22 2.	\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	ind "	1.08	×	120	12 75.	$\rightarrow$	157
15.7 Control	12 4 15 15 15 15 15 15 15 15 15 15 15 15 15	2 - 13	1. 4	١٠ ٧٠ .	$\times$	1.0	1. 6.	X	1. ल्	1.6.	×	1.2	1.6	$\times$	٠٠
2 3655	رئي نافي د ناسم و نو		ПU	115.	*	וי סן	11 2/4.	X	" م"	11 €.	火	11 6	112	×.	1/   ←~>
اللاصلال الموسلال	می طفعانی میدواتین میدواتین	81-12	וצרו "	12 7: 5	*	1.50 100/	1.2.1. 80	X	120 %	1.80. 30	X	129. 20	128 4	>	1.6.2
ن نعل ح	10/1	راوی ف		ر می کا	i fres o	\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	ں ضِر	ل خله کلی	72	; <u>(</u> ('				¥	S. C.

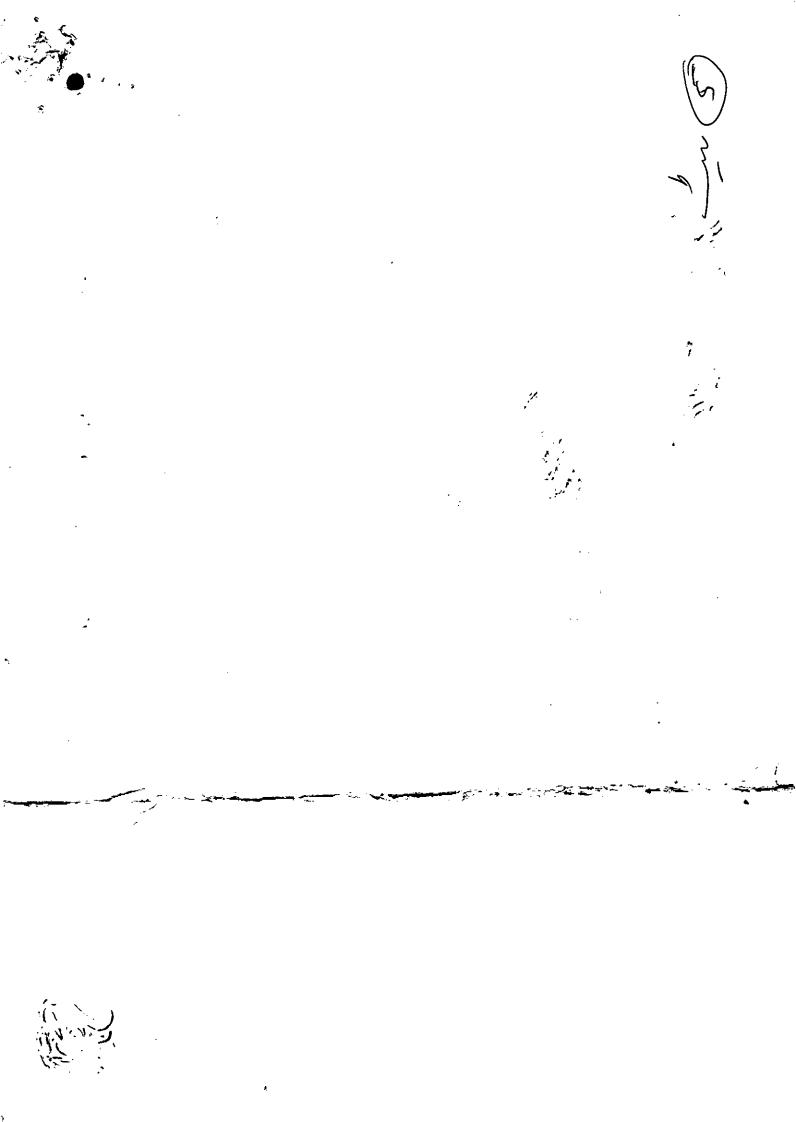
	•	_	-4.9		<b>.</b>		_		•	•	•	•					
,	· l	X	10 2	2-1	$\times$	2019 تحود <u>ئ</u>	2.17	· /	2-18	2.17	メ	2-17	2.16	-	ور زرد در	رد ده نیزد در مان د در مان در میزود در میزود	371
/	\\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\	X	12-25	0 5=	X	ن ئۇد كى	= 2 9	×,,	رسن دست <u>د</u>	12-5-	×	13.6	استا	4-8	ترکی	مارى مارى دارى مارى مارى دارى مارى مارى دارى دارى دارى دارى دارى دارى دارى د	318
/	11	X	ممد 11	By 3	ولف الرس و سال مرس و المساح ا	نخور 11	511	دېرى لاغاسى / لېنى خنو مېر 1658	۶ <i>څځ</i> ۱۱	ا ا لا	X	Oil 1	دی	10-19	ملب نا مکوراند دن درسنگرش مدربه درسامن مندربه رسان مدربه درسان	ش مدی ت <sub>غر</sub> فی ر منو <sup>ی</sup>	2779
/	19	X	1P	19	3-15 / 3-15 / (20)	ئۆر 19	19	· ×	منت 19	To 19	X	3 F 18	٩٥	19-12	میری می دفرند ترم مع دکند . نیز و می ،	المنيضة	3>2, `
/		X	3 -	13.	>	تحوز 3 ش	/ سر)	×	شرے <u>3</u>	1 2 2.1	X	ا سرا الم	ال ۱۰	3-17	1100	الن	3>5 <sup>1</sup>
<del>====</del>		~	!				<del>L</del>		<u></u>	<u> </u>	<del></del>	}					

راله الله عن بنواري منوره منو

TEHE MAR

• ارسار) په 18/WL3 1.01 1/3. Ø つよい ( C 41 7, TEHSILDAR Ghazni Khel , 33 © 127 10 12" 1.50 E 2-14-2-13 P 2" 1 4.5 6 573 Cry 1 (234/ الادبير تامات مفتوله الدمل وال 340 ćg g 130

طقه عرزد 17 E 12.25 107 LOB-Y. 145. 7 (m 2 (0) -50 20 24. 505 () - 1975 2016 2016 120 25 376 76  $\infty$ 



#### ORDER.

No.Estt:VII/SA/582/2023/ 12998-1300/ Sanction is hereby accorded to the defense of Service Appeal No. 582/2023, filed by Miraj-ud-Din Versus Government of Khyber Pakhtunkhwa through Secretary Revenue & Estate Department Peshawar and others pending in the Service Tribunal, Peshawar at public expense.

> Secretary to Government of Khyber Pakhtunkhwa Revenue& Estate Department

No.& Date Even.

Copy forwarded to the:-

- 1. Secretary to Government of Khyber Pakhtunkhwa Law Department with the request to issue necessary instructions to the Additional Advocate General Service Tribunal Peshawar for the defense of Government.
- Commissioner Bannu Division Bannu.
- 3. The Deputy Commissioner Lakki Marwat with the request to prepare Joint Parawise Comments duly vetted by the Additional Advocate General Service Tribunal Khyber Pakhtunkhwa and submit the same for signature of Senior Member Board of Revenue being Respondent No.2.
- 4. The Assistant Secretary (Lit-II), Board of Revenue, Khyber Pakhtunkhwa for necessary action.

Additional Secretary to Government of Khyber Pakhtunkhwa Revenue & Estate Department

Lakki Marwat

Supe.intendent Deputy Commissioner Office, Lakki Marwat

**CS** CamScanner

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

#### Appeal No.582/2023

Majraj-ud-Din (Patwari) office of the Deputy Commissioner Lakki Marwat

(Appellant)

Versus

- 1. Provincial Govt. through Chief Secretary Khyber Pakhtunkhwa Peshawar
- 2. Govt. of KPK through its Secretary Revenue & Estate Department Peshawar
- 3. The Commissioner Bannu Division
- 4. The Deputy Commissioner Lakki Marwat

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 16-02-2023 OF THE RESPONDENT NO.3, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS PARTIALLY ACCEPTED AGAINST THE ORDER DATED 22-09-2022 OF THE RESPONDENT NO.4

#### **AUTHORITY**

of this office is hereby authorized to attend the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of Respondent No.4 to defend the case titled above.

[DEPUTY COMMISSIONER

### 1

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

#### Appeal No.582/2023

Majraj-ud-Din (Patwari) office of the Deputy Commissioner Lakki Marwat

(Appellant)

#### Versus

- 1. Provincial Govt. through Chief Secretary Khyber Pakhtunkhwa Peshawar
- 2. Govt. of KPK through its Secretary Revenue & Estate Department Peshawar
- 3. The Commissioner Bannu Division
- 4. The Deputy Commissioner Lakki Marwat

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 16-02-2023 OF THE RESPONDENT NO.3, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS PARTIALLY ACCEPTED AGAINST THE ORDER DATED 22-09-2022 OF THE RESPONDENT NO.4

#### <u>AFFIDAVIT</u>

Mr. Farmon WW Khen Sunta: of this office do hereby solemnly affirm and declare that all the contents of these parawise comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Deponents