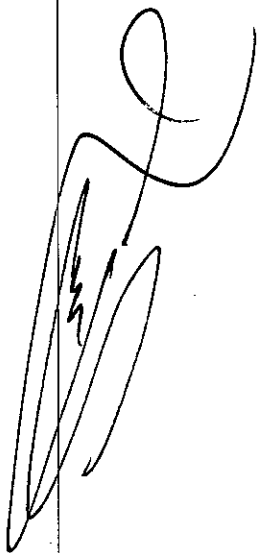


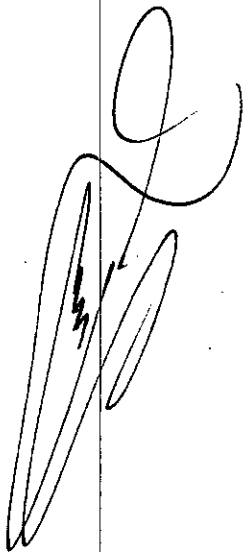
Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	03.03.2016	<p data-bbox="558 506 1398 544"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p data-bbox="784 624 1097 662">Appeal No. 1205/2014</p> <p data-bbox="570 708 1338 783">Sajid Shah Versus Government of KPK through SMBR Peshawar and others.</p> <p data-bbox="656 851 841 889"><u>JUDGMENT</u></p> <p data-bbox="656 972 1403 1010"><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with</p> <p data-bbox="558 1053 1403 1166">counsel (Mr. Ijaz Anwar, Advocate) and Government Pleader (Mr. Muhammad Jan) for the respondents present.</p> <p data-bbox="558 1275 1403 1791">2. At the relevant time, the appellant was Patwari Halqa Khurd, District Nowshera. He was dismissed from service vide impugned order dated 17.07.2014 on the charge of giving incorrect cell number of the purchaser of mutation No. 3762. His departmental appeal was also rejected vide order dated 10.09.2014, hence this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p data-bbox="558 1900 1175 1937">3. Arguments heard and record perused.</p> <p data-bbox="558 2026 1403 2378">4. The learned counsel for the appellant submitted that no charge sheet or statement of allegations was issued to the appellant nor any regular enquiry was conducted and the reason that why the enquiry is being dispensed with, has also not been given. He also argued that no right of personal</p>

hearing has been provided to the appellant and while imposing major penalty of dismissal from service, the shorter procedure was adopted which is against the law and decisions of the august superior courts. Reliance was placed on 2002-PLC (C.S)1309, 2002-PLC (C.S)1324, 2004-PLC(C.S) 312 and 2003-SCMR-1110. He submitted that show cause notice issued to the appellant is also defective, wherein the penal term used is "laid off" which term is not available in the rules. Finally, it was submitted that the appellant was appointed in the year, 2012, has been dismissed from service in the year, 2014 after a service life of only two years which penalty is too harsh in the circumstances of the case, therefore, the impugned order may be set aside and the appellant may be reinstated in service with all back benefits.



5. This appeal was resisted by the learned G.P on the ground that according to Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, the competent authority was vested with powers to dispense with codal formalities of the charge sheet and regular enquiry. As direct course of show cause notice has been adopted, therefore, the impugned order cannot be assailed on this count. He also submitted that opportunity of defence has been given to the appellant and it is evident from record that as the appellant had committed mischief, therefore, he was rightly dismissed from service.

6. We have heard pro & contra arguments and have perused the record. The record shows that the appellant had entered mutation No. 3762 dated 31.3.2014 attested in favour of one Ihsanullah and the cell number indicated by the appellant was in the name of Muhammad Zaman. According to the appellant as the purchaser himself was not available, therefore, his father Abdullah Jan Marwat had come for this mutation who had supplied cell number of his Munshi Muhammad Zaman. We have perused reply of the appellant in which he had time and again pleaded that the said Abdullah Jan Marwat be summoned and may be enquired into from him as to why he had provided cell number of his munshi namely Muhammad Zaman. As already stated, no regular enquiry has been conducted in this case and we feel that for the ends of justice, a regular enquiry should have been conducted in this case. The record further reveals that no administrative order providing for to indicate such cell number of the purchaser has been brought to show its legal parameters and its foolproof practical application. While feeling that this facet of the case is lacking on record on the part of the respondent department, it cannot be stated with certainty that the wrong cell indicated by the appellant, was deliberate and with any malafide. In view of the foregoing discussion, the Tribunal, in the interest of justice, is constrained to set aside the impugned order and to direct the respondent department for enquiry denovo to be completed in a month after receipt of



this judgment. Hence, the impugned orders are set aside and the case is accordingly remitted to the respondent department for the said purpose. Needless to mention that for such denovo proceedings, the appellant is reinstated into service. The issue of back benefits will also be decided by the respondent department after such denovo proceedings. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

03.03.2016



(ABDUL LATIF)  
MEMBER



(PIR BAKHSH SHAH)  
MEMBER

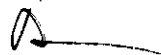
24.03.2015

Appellant with counsel, M/S Mukhtiar Ali, Supdt. for respondent No. 1 and Muhammad Ayub, Assistant for respondent No. 2 alongwith Addl: A.G for all respondents present. Comments on behalf of respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing for 13.10.2015.

  
Chairman

13.10.2015

Appellant in person and Mr. Farooq, AC, Nowshehra alongwith Mr. Ziaullah, GP for present. Appellant requested for adjournment. To come up for arguments on 3-3-16.



Member



Member

Appeal No. 1205/2014  
Mr. Sajid Shah.

3,  
Reader Note:

15.12.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 12.01.2015 for the same.

  
Reader

4,  
12.01.2015

Appellant alongwith his counsel present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 17.07.2014, vide which the major penalty of dismissal from service with immediate effect has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal on 08.08.2014 which was rejected vide order dated 10.09.2014, communicated to the appellant on 25.09.2014, hence the instant appeal on 01.10.2014.

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 25.03.2015.

Appellant Deposited  
Security & Process Fee  
Rs. 300/- Bank  
Receipt is Attached with File.



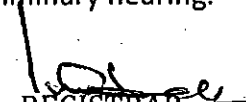
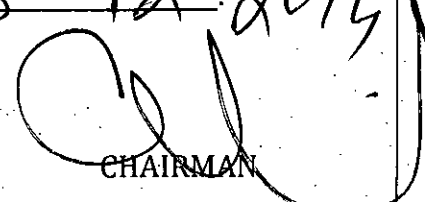
  
Member

5.

Form- A  
FORM OF ORDER SHEET

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

Case No. 1205 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01/10/2014	<p>The appeal of Mr. Sajid Shah presented today by Mr. Ijaz Anwar Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>15-12-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2	3-10-2014	

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

Appeal No. 1205/2014

Sajid Shah s/o Ex Patwari Nowshera Khord Nowshera.

(Appellant)

**VERSUS**

Govt of Khyber Pakhtunkhwa through Senior Member Board of Revenue Civil Secretariat Peshawar and others.


(Respondents)


**INDEX**

S. NO.	Description of documents	Annexure	Page No.
1	Memo of Appeal and Affidavit		1-5
2	Copy of the roznamcha	A	6
3	Copy of the Inquiry Report	B	7-8
4	Copy of the Show Cause Notice	C	9
5	Copy of the Reply to the show cause notice	D	10-11
6	Copy of the Order dated 17.07.2014	E	12
7	Copies of the departmental appeal and rejection order	F & G	13-17
8	Vakalatnama		

  
Appellant

Through

  
(IJAZ ANWAR)  
Advocate, Peshawar  
&

  
(SAJID AMIN)  
Advocate Peshawar



**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1805/2014

1237  
01-10-2014

Sajid Shah ~~Ex~~ Ex Patwari Nowshera Khord Nowshera.

(Appellant)

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Senior Member Board of Revenue Civil Secretariat Peshawar.
2. The Commissioner Peshawar Division Peshawar.
3. The Deputy Commissioner Nowshera.

(Respondents)

**Appeal under Section 4 of the Service Tribunal Act, 1974.**

Against the order No. 843-51/ DK/ DC/NSR/2014 dated 17.07.2014 whereby the appellant has been awarded the major penalty of Dismissal from Service with immediate effect, against which the departmental appeal dated 8.08.2014 was regretted vide order dated 10.09.2014 communicate to the appellant on 25<sup>th</sup> September 2014.

Prayer in Appeal: -

ON ACCEPTANCE OF THIS SERVICE APPEAL BOTH THE ORDERS DATED 17.07.2014 & 10.09.2014 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY PLEASE BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS.

01/10/14

Respectfully Submitted:

1. That appellant was initially appointed as Patwari in the year 2012. Ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding his performance.

2. That while serving in the said capacity, one Abdullah Jan Marwat came to the office of the appellant office for entry of mutation No. 3762 in the name of his son Ihsan Ullah (*Mushtari/ Purchaser*). While filing the affidavit form, he provided the Cell Phone No. 0332-9269699 which was entered as provided by Mr. Abdullah Jan Marwat (*father of Mushtari/ Purchaser*) for the land measuring 05 kanals, 17 marlas sold bearing mutation No. 3762 dated 21.03.2014. However, the number had been mistakenly communicated to the Worthy Commissioner's Office as 0332-9369669. (*Copy of the roznamcha is attached as Annexure A*)
3. That upon complaint of Ihsan Ullah (*Mushtari/ Purchaser*) a fact finding inquiry was conducted and the Inquiry Officer submitted his report dated 22.05.2014, wherein he recommended the appellant for major punishment. (*Copy of the Inquiry Report is attached as annexure B*)
4. That thereafter the competent authority without serving upon the appellant any Charge Sheet/ Statement of Allegations or making any formal order regarding dispensing with the regular inquiry, the appellant was served with show cause notice containing certain baseless and unfounded allegations. The allegations so leveled are as under:-
  - i. *"That cell number i.e 03329269669 entered in affidavits with the name of Mr. Ihsan Ullah Khan had been bogus.*
  - ii. *That you misguided the Inquiry Officer by presenting someone tout, who had got nothing to do mutation No. 3762."*(*Copy of the Show Cause Notice is attached as annexure C*)
5. The appellant duly replied the Show Cause Notice and refuted the allegations leveled against him as unfounded and baseless. (*Copy of the Reply to the show cause notice is attached as annexure D*)
6. That without considering the defense reply, appellant was awarded the major penalty of dismissal from service vide order dated 17.07.2014. (*Copy of the Order dated 17.07.2014 is attached as annexure E*)

7. That the appellant submitted his departmental appeal dated 08.08.2014, however it was regretted vide order dated 10.09.2014, communicated to the appellant on 25.09.2014. (Copies of the departmental appeal and rejection order are attached as Annexure F &G)
8. That the penalty imposed upon the appellant is illegal, unlawful, against law and facts hence liable to be set aside inter alia on the following grounds :

**Grounds of Appeal**

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding the appellant major penalty of *Dismissal from Service*, no regular inquiry has been conducted, no charge sheet or statement of allegation has been served upon the appellant, even during the preliminary inquiry the appellant has not been allowed opportunity of cross examination, thus the whole proceedings are conducted in violation of the Govt. Servants (E & D) Rules, 2011 and thus not tenable in the eye of law.
- C. That the appellant has not been given opportunity of personal hearing before awarding him major penalty hence the appellant has been condemned unheard.
- D. That the appellant has never been served with any charge sheet or statement of allegations before the initiation of inquiry thus he has not been given fair opportunity to defend himself.
- E. That the competent authority has never issued any formal order about dispensing with the regular inquiry procedure nor has any reason been given in the Show Cause Notice that necessitated the summary procedure of Show Cause and dispensing with the regular inquiry.

- F. That the charges leveled against the appellant were never proved during the inquiry, the inquiry officer gave his recommendations on mere surmises and conjunctures.
- G. That even the appellant has not been provided the copy of the finding of the preliminary inquiry report before the imposition of major penalty.
- H. That the appellant has not committed any act or omission which could be termed as misconduct, albeit appellant has been awarded the penalty of "*Dismissal from Service.*"
- I. That the appellant has never committed any act or omission that could be termed as misconduct, he has performed his duties as assigned, the communication of cell number was not such allegation that could entail major penalty of dismissal from service, the penalty imposed is too harsh and ruined his service career.
- J. That the Cell Phone No. 0332-9269699 was entered as provided by Mr. Abdullah Jan Marwat (*father of Mushtari/ Purchaser*) for the land measuring 05 kanals, 17 marlas sold bearing mutation No. 3762 dated 21.03.2014, however the same person was not associated with the preliminary inquiry nor his statement has been taken.
- K. That the allegation of misguiding the inquiry officer by presenting someone tout, is also false and baseless, in this respect the appellant has already submitted his detailed reply to the Show Cause Notice (*attached*), the same may be read as Integral part of the instant appellant appeal, infact his statement was not recorded in toto thus it gave some other impression.
- L. That the charges leveled against the appellant were neither admitted by the appellant nor the same has been proved during the fact finding inquiry, hence adopting shorter procedure of show cause is unwarranted.
- M. That the appellant seeks the permission of this honourable Court to rely on additional grounds at the hearing of this appeal.

*It is, therefore, humbly prayed that on acceptance of this service appeal both the orders dated 17.07.2014 & 10.09.2014, may please be set aside and the appellant may be reinstated into service with all back benefits.*

*[Signature]*  
Appellant

Through

*[Signature]*

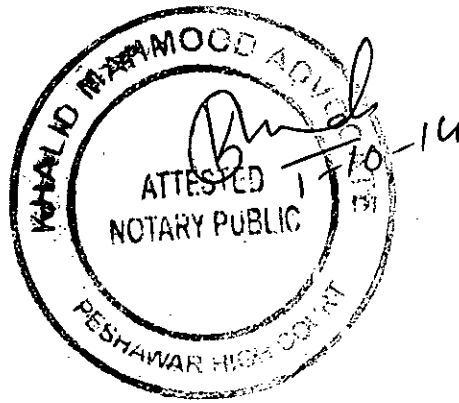
**IJAZ ANWAR**  
Advocate Peshawar

&

*[Signature]*  
**SAJID AMIN**  
Advocate Peshawar

**AFFIDAVIT**

I, Sajid Shah s/o Ex Patwari Nowshera Khord Nowshera, do hereby solemnly affirm and declare that the contents of the above appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



*[Signature]*  
Deponent

16 جنوری 2017ء  
 ایچ آر ٹو کا واقعہ روزنامہ اور افغانی میں قابل اندر لیا گیا  
 17 جنوری 2017ء

166  
 6 Annex-A

167  
~~168~~

ایچ آر ٹو صوبہ گتہ حسن عزیز پورہ حاجی عزیز الرحمن سکنی بسا در مختیار خاں  
 بنجاب سید نیاز علی شاہ - سید نیاز علی شاہ - سید نیاز علی شاہ - سید نیاز علی شاہ - سید نیاز علی شاہ  
 سید اسد علی شاہ بہر رحمان خیر النساء دفتر سید محمول بارشاہ نے بیان کیا  
 کہ میں نے سوچا ہاں کونہ غیر فرسٹ  $\frac{835}{474}$  ،  $\frac{837}{474}$  ،  $\frac{836}{476}$  میں تعداد 5-7-0-<sup>K m</sup>  
 سے بھی مبلغ 1000000 (ایک کروڑ روپے) بحق اہل اللہ خاتہ - حفیظ اللہ شاہ  
 مکیم اللہ خاتہ - شاد اللہ خاتہ - سید ان عبد اللہ خاتہ - سائیں کورٹ  
 کیتھ پور خٹا / پورہ پورہ ہے اور یہ بیان دھوکہ کھری ہے اور  
 سہی طرف سے انتقال 376 درجہ رسید کیا جائے تو مجھے کیا لڑنا  
 سبک - اور علی جاگی نامی خود رقم دار رہتا  
 بیان سے کٹا کر دستے سے لکھا گیا اور انتقال درجہ رسید کیا گیا۔

ادرس حسن عزیز پورہ حاجی عزیز الرحمن  
 17301-8939733-9  
 اد حاجی راجی ولد حفیظ اللہ  
 17201-2150276-3  
 ابو حفیظ اللہ شاہ والد اس وقت  
 11201-0315571-9

Handwritten signatures and circular stamps.

167

ایچ آر ٹو صوبہ گتہ خانزادہ ولد گلگن خاں سکنی بسا در مختیار خاں  
 کیا کہ میں نے سوچا ہاں کونہ غیر فرسٹ میں غرض  $\frac{1}{575}$  8-63 میں  
 سے اپنا  $\frac{122}{11412}$  بقدر  $\frac{81}{11412}$  بقدر 5-9-0-0 بقدر 225000 اور  
 بحق صبا زوری زور محمد تو اب سکنی قبیلے پر طعن ہے / خرافہ  
 تہری ہے اور یہ میں خود محمول کھری ہے اور انتقال 376  
 درجہ رسید کیا جائے تو مجھے کیا لڑنا ہے اس بیان سے کٹا کر دستے سے لکھا گیا۔

اد خانہ خان بانو  
 17201-2137727-7  
 اد امیر خان غزدار  
 17201-8866311-9

اد محمول شاہ ولد حفیظ اللہ  
 اد حفیظ اللہ شاہ

7 Annexar B



D/K  
put up show cause  
23/5

OFFICE OF THE  
ADDITIONAL ASSISTANT COMMISSIONER  
PABBI, NOWSHERA

No. 296 /AAC/ Pabbi  
Dated: May 22, 2014

OFFICE OF THE  
DEPUTY COMMISSIONER  
PABBI, NOWSHERA  
5/22/14  
23/5/14

To  
The Deputy Commissioner, Nowshera

Subject: INQUIRY REPORT

Dear Sir,

In compliance with Commissioner Peshawar Division Peshawar's letter No. Reforms (Affidavits) / AR 4137 dated 08-04-2014 along with its enclosures, the undersigned was appointed as Inquiry Officer vide DC office's letter No. 537-41/DK/DC/NSR/2014 dated 15<sup>th</sup> May, 2014, to probe the complaint at S. No. 42 and 44 received from the Commissioner Peshawar Division, Peshawar's office and submit a discreet report along with recommendations for onward submission to the quarter concerned.

In compliance of instruction/ reforms initiatives of Provincial Government, the Commissioner Peshawar Division, Peshawar and Assistant to Commissioner (Rev/CIA) had contacted purchasers via contact numbers provided by the Revenue staff in the Affidavits/proforma meant for the purpose, duly signed by them and recorded grievances of the purchasers from the *Patwari* concerned.

In brief, the revenue staff had entered Cell No. 0332-9269669 as provided by the *mushtari* (Purchaser/ buyer) for the land measuring 05 *kansals*, 17 *marlas* sold bearing mutation No. 3762 dated 21-03-2014. The number had mistakenly been communicated to the Commissioner's office as 0332-9369669, hence the inquiry in hand deemed inevitable.

To investigate the matter, the undersigned sought to summon the complainant, Mr. Ihsan Ullah and the complaintee namely Mr. Sajid, *patwari* Halqa:nowshera Khord, to attend the office of the undersigned to record their respective statements.

The *Patwari* concerned, Mr. Sajid, attended the office of the undersigned along with one Mr. Muhammad Zamaan S/O Qamar Zamaan Khan initially posing to be Ihsan Ullah's *Munshi* as guided by the *Patwari* concerned. On being asked about the Cell number entered in the Proforma, Muhammad Zamaan S/O Qamar Zamaan revealed and submitted in writing that the cell number was his personal number in his use, had got nothing to do with the mutation in question nor did he know any person by the name of Ihsan Ullah Khan. The statement has been enclosed in original (F/A).

*[Handwritten signature]*

*[Handwritten mark]*

(8)

On the other hand, the Patwari, Mr. Sajid, admitted in writing that the number on the affidavit proforma was that of Mr. Muhammad Zamaan S/O Qamar Zamaan who had been brought before the AAC, Pabbi (the undersigned/Inquiry Officer) and who had recorded his statement in writing in his (the Patwari) presence. The statement has been enclosed in original (F/1).

**FINDINGS:**

- i. That the cell number (0332-9269669) of *Mushtari* had mistakenly been entered in the proforma communicated to the Commissioner's Office as 0332-9369669.
- ii. That the cell number i.e. 0332-9269669 entered by the Revenue staff with the name of Mr. Ihsan Ullah Khan had been bogus as per statement appended in F/A.
- iii. That the Patwari, Mr. Sajid, tried to misguide the Inquiry Officer by presenting someone/ tout, who had got nothing to do with the mutation in question as is clear from the statements appended with the report.

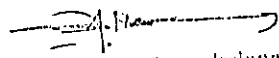
**CONCLUSIONS AND RECOMMENDATIONS:**

Above in view, the undersigned propose/ recommend as under:


- i. The *patwari*, Mr. Sajid, may be proceeded against and awarded major penalty as provided for under the Rule 4(U)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for misguiding the Inquiry Officer via misrepresentation and impersonation.
- ii. The countersigning officials may also be directed to remain vigilant in future while signing any deed/ document placed before them by the *Patwaris*.

Submitted for further requisite orders as deemed appropriate, please.

Most faithfully yours

  
Additional Assistant Commissioner,  
Pabbi

Copy forwarded for information to the:

- i. Additional Deputy Commissioner, Nowshera.
  - ii. Assistant Commissioner, Nowshera.
  - iii. *Tehsildar*, Pabbi.
- 





Office of the  
Deputy Commissioner  
Nowshera.

9

Annex C

(Office Phone#0923-9220099, Fax#0923-9220159, Email: dconsipk@yahoo.com)

No. \_\_\_\_\_/DK/DC/NSR/2014

June, 2014

SHOW CAUSE NOTICE

I, Zaka Ullah Khattak Deputy Commissioner Nowshera, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, received a complaint at S.No 44 (relates to Mr.Sajid Shah Patwarl Halka Nowshera Khurd) from the Commissioner office Peshawar Division Peshawar vide letter No.Reforms (Affidavits)/AR/4137 dated 8-4-2014 for necessary action which was sent for inquiry to Additional Assistant Commissioner Pabbi.

From the perusal of Inquiry report it is clear that you have committed the following acts.

- 1- That Cell number i.e 0332-9260600 entered in affidavits with the name of Mr.Ihsan Ullah Khan had been bogus.
- 2- That you misguided the Inquiry Officer by presenting some one but, who had got nothing to do mutation No.3762.

And since the Inquiry Officer has recommended major penalty dismissal of services for the above commission of offence, you are therefore directed to show cause why should not your service be laid off for the above commission of offence and also intimate whether you desire to be heard in person.

If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

A copy of the finding of Inquiry Officer is enclosed.

*[Signature]*  
Deputy Commissioner  
Nowshera

*[Handwritten notes and signatures]*  
27/6/14  
22/6/14

No-87/FK/2014  
01/07/14  
No 1088/2014  
27-6-14

DC D. D. (76/35)

E

*[Handwritten signature]*

# جناب ڈپٹی کمشنر صاحب نوشہرہ

## عنوان شوکار نوٹس

حوالہ آپی انٹرنیٹ پبلسٹیٹی نمبر 0332-9260669 برقی نمبر 77/DK/DC/NSR/2003 مورخہ 27 جون 2014ء ہات درج بالا عنوان  
سائل کا ہیرا داکس جواب حسب ذیل ہے۔

۱۔ یہ کہ ٹیلی فون نمبر 0332-9260669 برقی نمبر ہے۔ بلکہ یہ نمبر نزد مان ولد قمر زمان کا ذاتی نمبر ہے۔ اور ابھی بھی قابل استعمال ہے۔ یہاں یہ ذکر بھی  
ضروری ہے۔ کہ محمد زمان احسان اللہ (مشتری) کے والد عبداللہ جان مروت کا بھی ہے۔ انتقال نمبر 3762 کو درج کروانے کے لئے عبداللہ جان مروت کے  
پاس آیا اور کہا کہ احسان اللہ بر خرواد من کے نام پر انتقال شد کہہ بالا درج کیا جائے اور جب انہیں بیان مافی لارم پر موبائل نمبر درج کرنے کے لئے کہا گیا تو  
انہوں نے اپنے یا احسان اللہ کے نمبر کے بجائے اپنے ٹیلی فون نمبر محمد زمان کا نمبر درج کیا۔

پتواری حلقہ اس بات کا پابند ہوتا ہے۔ کہ مشتری کی طرف سے دینے گئے نمبر کا اندراج کر لے اور عام طریقہ یہی ہے کہ دینے گئے موبائل نمبر کی تصدیق پتواری  
کرتا ہے۔ اور نہ ہی ایسا کوئی طریقہ یا ضابطہ ہے۔ جس کے تحت پتواری حلقہ پر یہ بات لازم ہو کہ وہ مشتری کی جانب سے دینے گئے نمبر کی تصدیق کرتے۔  
مشتری کے والد عبداللہ جان مروت کے مطابق ان کا بیٹا احسان اللہ خان ایک مصروف کاروباری شخص ہے۔ ادارت اپنے وسیع کاروبار کے سلسلے میں اندرون  
بیرون ملک سفر کرتا پڑتا ہے۔ اس لئے وہ خود پتواری خانے آیا اور رابطہ کے لئے اپنے ٹیلی فون نمبر محمد زمان کا نمبر دیا یہاں یہ بھی قابل وضاحت ہے۔ کہ احسان اللہ کی ٹیلی  
فون نمبر سے کوئی شناسائی نہیں جس کی وجہ احسان اللہ کی نوشہرہ میں غیر موجودگی ہے۔ اس بات کا اعتراف عبداللہ جان مروت اور ٹیلی فون محمد زمان نے بھی کیا ہے۔  
عبداللہ جان مروت نے اپنے نمبر یا اپنے بیٹے احسان اللہ کے بجائے اپنے ٹیلی فون نمبر کیوں دیا اسکی وضاحت عبداللہ جان مروت پر مشتری کر سکتا ہے۔  
عبداللہ جان مروت ہی مناسب شخص ہے۔ در تمام قسم کے ابہام مثلاً اس کا ٹیلی فون احسان اللہ کیوں نہیں جانتا؟ اس نے اپنے ٹیلی فون نمبر کیوں دیا وغیرہ جیسے  
سوالات کا جواب دے سکتا ہے۔ اور اسکا مطالبہ کہنے بغیر انکو آگے بڑانے یعنی اور بغیر کسی نتیجہ ثابت دہانی ہے۔ انکو آگے بڑانے میں عبداللہ جان مروت مشتری کے  
والد کو مطالبہ نہ کیا جاتا قرین انصاف نہیں کیونکہ اس کے مطالبہ کیے جانے سے سائل کی بیگانگی ثابت ہو سکتی ہے۔

۲۔ جناب عالی اس سائل بھی ایسا سوچ بھی نہیں سکتا کہ وہ انکو آگے بڑانے کا فیصلہ کیا اور نہ ہی اسکا کوئی تعلق نہ رکھا اور نہ ہی اس کا کوئی واسطہ ہے۔  
انکو آگے بڑانے کے لئے پیش کیا۔ پوری مدت ملازمت میں بھی توتس وغیرہ کے ساتھ کوئی تعلق نہ رکھا اور نہ ہی اس کا کوئی واسطہ ہے۔

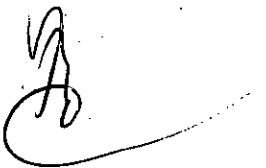
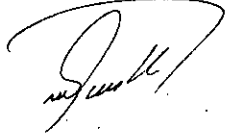
(11)

جناب عالی شوکار نوٹس کے جملہ مندرجات کی صراحت اور وضاحت پوری ایمانداری سے ذرا اب باکی شکل میں کر دی گئی ہیں۔ نیز مسائل کی قسم کی Miss Conduct یا کسی ILLEGAL ACTIVITY میں ملوث نہ ہے۔ اور حضور انور سے معروضات ہالا پر ہمدردانہ طور کرنے کی استدعا کرتا ہے۔

اسلئے آپ جناب سے مودبانہ گزارش ہے کہ مسائل کے خلاف موجودہ کیس داخل دفتر فرما کر مسائل کو معافی دی جائے اور یہ بھی کہ مسائل آئندہ مختار رہے گا۔

دور نمبر 03/07/2014

آپ کا تابعدار ملازم  
ساجد شاہ پٹواری حلقہ نوشہرہ خورد





Office of the  
Deputy Commissioner  
Nowshera.

12

ANNEX E

(Office Phone#0923-9220099, Fax#0923-9220159, Email: dconsrpk@ynhoo.com)

17<sup>th</sup> July, 2014

OFFICE ORDER

No. 843-51 /DK/DC/NSR/2014. Whereas the undersigned received a complaint from Commissioner Peshawar Division Peshawar with reference to S.No 44 of letter No. Reforms (Affidavits) /AR/4/37 dated 08-04-2014 related to Mr. Sajid Shah Patwari Halqa Nowshera Khurd who was accused of giving wrong cell number of purchaser. Subsequently Bascer Ali Rohman, Additional Assistant Commissioner Pabbi was appointed as Inquiry Officer to probe the matter.

And whereas the Inquiry Officer after probe also complained against the said patwari for presenting a tout instead of the purchaser, so as the misconduct he had committed may remain hidden. He however recommended that patwari should be dismissed from service for committing the following two offences.

- 1- Given false cell number of Purchaser Ihsanullah.
- 2- Producing a tout instead of original purchaser before the Inquiry Officer, showing complete disregard to government instructions and his superior officers.

The undersigned has gone through inquiry report, show cause notice reply and have found Mr. Sajid Shah Patwari bold enough in committing misconduct, getting involved in illegal activities and dis regarding government instructions and orders of senior officers.

Now therefore, I Zaka Ullah Khattak Deputy Commissioner Nowshera, being competent authority, in exercise of powers conferred upon me under section 4(1)(b) (iv) of Government of Khyber Pakhtunkhwa Servants (Efficiency and Discipline) Rules, 2011 agree with Inquiry Officer and dismiss Sajid Shah Patwari (BPS-09) from service with immediate effect.

  
Deputy Commissioner  
Nowshera

Even No & date:

Copy forwarded to the:-

- 1- Commissioner Peshawar Division Peshawar w/r to his office memo quoted above.
- 2- Additional Deputy Commissioner Nowshera.
- 3- Settlement Officer Nowshera
- 4- Assistant Commissioner Nowshera.
- 5- Additional Assistant Commissioner Pabbi/Inquiry Officer.
- 6- Accounts Officer, Deputy Commissioner Office Nowshera for necessary action
- 7- Tehsildar Nowshera.
- 8- Official Concerned (Sajid Shah Patwari).



(13)

ANNEX F

To

The Honorable Commissioner,  
Peshawar Division, Peshawar.

Subject: *DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 17.07.2014, WHEREBY THE APPELLANT HAS BEEN AWARDED THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE.*

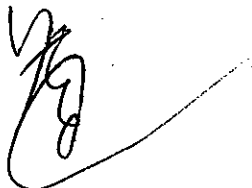
Prayer in appeal.

*ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL THE ORDER DATED 17.07.2014, MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS.*

Respectfully Submitted,

I very humbly submit the following few lines for your kind and sympathetic consideration:

1. That I was initially appointed as Patwari in the year 2012. Ever since my appointment, I had performed my duties as assigned with zeal and devotion and there was no complaint whatsoever regarding my performance.
2. That while serving in the said capacity, one Abdullah Jan Marwat came to my office for entry of mutation No. 3762 in the name of his son Ihsan Ullah (*Mushtari / Purchaser*). While filing the affidavit form, he provided the Cell Phone No. 0332-9269699 which was entered as provided by Mr. Abdullah Jan Marwat (*father of Mushtari/ Purchaser*) for the land measuring 05 kanals, 17 marlas sold bearing mutation No. 3762 dated 21.03.2014. However, the number had been mistakenly communicated to the Worthy Commissioner's Office as 0332-9369669. (*Copies attached*)



14

3. A Fact finding inquiry was conducted and the inquiry Officer Submitted his Report dated 22.05.2014, wherein he recommended the appellant for major punishment. *(Copy of the Inquiry Report is attached)*
4. That thereafter the competent authority without serving upon me any Charge Sheet/ Statement of Allegations or making any formal order regarding dispensing with the regular inquiry, the appellant was served with show cause notice containing certain baseless and unfounded allegations. The allegations so leveled are as under:-
- i. "That cell number i.e 03329269669 entered in affidavits with the name of Mr. Ihsan Ullah Khan had been bogus.
  - ii. That you misguided the Inquiry Officer by presenting someone tout, who had got nothing to do mutation No. 3762."
- (Copy of the Show Cause Notice is attached)*
5. The appellant duly replied the Show Cause Notice and refuted the allegations leveled against him as unfounded and baseless. *(Copies of the Show Cause Notice and Reply is attached)*
6. That without considering my defence reply, I was awarded the major penalty of dismissal from service vide order dated 17.07.2014. *(Copy of the Order is attached)*
7. That the penalty imposed upon me is illegal unlawful against law and facts hence liable to be set aside inter alia on the following grounds :

GROUND OF DEPARTMENTAL APPEAL.

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.



15

- B. That no proper procedure has been followed before awarding me the major penalty of *Dismissal from Service*, no regular inquiry has been conducted, no charge sheet statement of allegation has been served upon me, even during the preliminary inquiry I have not been allowed opportunity of cross examination, thus the whole proceedings are conducted in violation of the Govt. Servants ( E & D ) rules and thus not tenable in the eye of law.
- C. That I have not been given opportunity of personal hearing before awarding me penalty hence I have been condemned unheard.
- D. That I have never been served with any charge sheet or statement of allegations before the initiation of inquiry thus I have not been given fair opportunity to defend myself.
- E. That the competent authority has never issued any formal order about dispensing with the regular inquiry procedure nor has any reason been given in the Show Cause Notice that necessitated the summary procedure of Show Cause and dispensing with the regular inquiry.
- F. That the charges leveled against me were never proved during the inquiry, the inquiry officer gave his recommendations on mere surmises and conjunctures.
- G. That even I have not been provided the copy of the finding of the preliminary inquiry report before the imposition of major penalty.
- H. That I have never committed any act or omission which could be termed as misconduct, albeit I have been awarded the penalty of "*Dismissal from Service*."
- I. That I never committed any act or omission that could be termed as misconduct, I performed my duties as assigned, the communication of cell number was not such allegation that could entail major penalty of dismissal from service, the penalty imposed is too harsh and ruined all my service career.



16

J. That the Cell Phone No. 0332-9269699 was entered as provided by Mr. Abdullah Jan Marwat (*father of Mushtari/ Purchaser*) for the land measuring 05 kanals, 17 marlas sold bearing mutation No. 3762 dated 21.03.2014, however the same person was not associated with the preliminary inquiry nor his statement has been taken.

K. That the allegation of misguiding the inquiry officer by presenting someone tout, is also false and baseless. In this respect I have already submitted my detailed reply to the Show Cause Notice (*attached*), the same may be read as Integral part of the instant departmental appeal, infact his statement was not recorded in toto thus it gave some other impression. (Copy Attached )

L. That the charges leveled against me were neither admitted by the appellant nor the same has been proved during the fact finding inquiry, hence adopting shorter procedure of show cause is unwarranted.

*It is, therefore, humbly prayed that on acceptance of this departmental appeal the order dated 17.07.2014, may please be set aside and the appellant may be reinstated into service with all back benefits.*

Yours Obediently



SAJID SHAH

Ex-Patwari

P.H, Nowshera Khord

Nowshehra.

Dated: 08 / 08 / 2014







(17) ANNEX G

COURT OF  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR

APPEAL NO: 56/2014

DATE OF INSTITUTION: 08.08.2014

DATE OF DECISION: 10.09.2014

Sajid Shah Ex-Patwari, Patwar Halqa Nowshera Khord, Nowshera.....(Appellant)

VERSUS

Deputy Commissioner Nowshera.....(Respondent)

**ORDER**

This order will dispose off the instant departmental appeal filed by the above named appellant against the Deputy Commissioner Peshawar order bearing No. 843-51/DK/DC/NSR/2014 dated 17<sup>th</sup> July, 2014, whereby he was awarded major penalty of dismissal from service under section-4(1)(b)(iv) of Govt: of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.

Facts of the case leading to the filing of appeal is that in pursuance of Provincial Government's reform initiatives for eradication of corruption in revenue department, this office made telephonic contact with the purchaser namely Ihsanullah on cell number 0332-9269669 recorded on the affidavit, received from DC Nowshera who informed that he knows nothing about the mutation No. 3762. This office vide letter No. Reforms(Affidavits)/AR/4137 dated 08.04.2014 directed DC Nowshera to look into it and report to this office. The Deputy Commissioner appointed Additional Assistant Commissioner Pabbi vide order bearing No. 537-41/DK/DC/NSR/2014 dated 15<sup>th</sup> May, 2014 to probe the complaint and submit discrete report with recommendations.

The Inquiry Officer conducted enquiry who found the appellant guilty of the charges leveled against him and recommended him for awarding major penalty under section-4(1)(b)(iv) of Govt: of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.

Based on the recommendations of the Inquiry Officer, the Deputy Commissioner Nowshera/competent authority imposed a major penalty of "dismissal from service" upon him under section-4(1)(b)(iv) of Govt: of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.

Aggrieved of the order of Deputy Commissioner Nowshera the appellant filed the instant appeal.

Appellant present and heard. Comments received from Deputy Commissioner Nowshera also received and examined. Perusal of the record reveals that charges against the appellant regarding giving false/bogus cell number with the name of purchaser has been proved. Therefore, I see no reasons to interfere in the impugned order of the Deputy Commissioner Nowshera bearing No. 843-51/DK/DC/NSR/2014 dated 17<sup>th</sup> July, 2014 which is thus upheld. The appeal in hand stands rejected. File to GRR

**ANNOUNCED**  
10.09.2014

  
COMMISSIONER  
PESHAWAR DIVISION PESHAWAR



**POWER OF ATTORNEY**

In the Court of KPIE Service Tribunal Rehman  
Syed Shah

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

**VERSUS**

Govt KPIE EA

} Defendant  
} Respondent  
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

**IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN**

Syed Shah my true and lawful attorney, for me in ~~my~~ same and on my behalf to appear at Rehman to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employee any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at Rehman  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

Ijaz Anwar  
**Ijaz Anwar**

Advocate High Courts & Supreme Court of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1205/2014.

Mr. Sajid Shah Ex-Patwari District Nowshera.

VERSUS

Senior Member, Board of Revenue, Khyber Pakhtunkhwa and others.

COMMENTS ON BEHALF OF RESPONDENTS NO.1.

Preliminary objection.

1. The appeal is not competent in its present form.
2. That appellant has got no cause of action.
3. That appeal is bad due to mis-joinder/ non-joinder of necessary parties.
4. That appellant is estopped by his own conduct.
5. That appellant has not come to the Tribunal with clean hands.

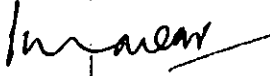
ON FACTS.

1. Pertains to record of the office of Deputy Commissioner, Nowshera.
2. Pertains to respondent No.2.
3. Incorrect. The appellant presented tout who had got nothing with the mutations as per report of Enquiry Officer, therefore he was awarded major penalty under Rule 4 of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.
4. Incorrect. The appellant was served with show cause notice on the basis of strong founded allegations.
5. Incorrect. The allegations were proved against the appellant.
6. Incorrect. The appellant was dismissed from service after affording chance of hearing.
7. The appeal of the appellant has rightly been rejected by respondent No.2
8. Incorrect. The penalty was awarded on the basis of recommendation of Enquiry Officer and was according to law.

GROUNDS.

- A. Incorrect. The appellant has been treated in accordance with law.
- B. Incorrect. All the proceedings has been carried out under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.
- C. Incorrect. The appellant has been given proper opportunity of hearing.
- D. Incorrect. The punishment awarded to the appellant was based on the recommendations mentioned in fact finding enquiry.
- E. Incorrect. The appellant was served with show cause notice after conducting fact finding enquiry.
- F. Incorrect. The charges have been proved against the appellant.
- G. Incorrect. Copy of enquiry report has been annexed by the appellant as (Annex-~~A~~).
- H. Incorrect. The appellant tried to mis-guide the Enquiry Officer which comes under the misconduct.
- I. As in 'H' above.
- J. Incorrect. The appellant has himself presented someone/tout before the Enquiry Officer who had got nothing with the impugned mutation.
- K. As in 'J' above.
- L. Incorrect. The charges leveled against the appellant have been proved.
- M. Additional grounds other than mentioned in the appeal cannot be taken during arguments.

The appeal having no legal footings may be dismissed with costs.

  
Respondent No.1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1205/2014


Mr.Sajid Shah, Ex-Patwari Nowshera.....Appellant

VERSUS

Senior Member, Board of Revenue, and others.....Respondents

AFFIDAVIT

I Mir Qasim Assistant Secretary (Lit;II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me, and noting has been deliberately concealed from this Hon'able Tribunal.

  
Assistant Secretary (lit;II)  
Board of Revenue



Dk.  
Fair copy shown cases  
12/5

7 Annexure B

OFFICE OF THE  
ADDITIONAL ASSISTANT COMMISSIONER  
PABBI NOWSHERA

No. 6/AAAC/PABBI  
Date: May 22, 2014

RECEIVED  
OFFICE OF THE  
ADDITIONAL ASSISTANT COMMISSIONER  
PABBI NOWSHERA  
5/23/14  
23/5/14

To: The Deputy Commissioner, Nowshera

Subject: INQUIRY REPORT

Dear Sir,

In compliance with Commissioner Peshawar Division Peshawar's letter No. Reforms (Affidavits) / AR 4137 dated 08-04-2014 along with its enclosures, the undersigned was appointed as Inquiry Officer vide DC office's letter No. 537-11/DY/DC/NSR/2014 dated 15<sup>th</sup> May, 2014, to probe the complaint at S. No. 42 and 44 received from the Commissioner Peshawar Division, Peshawar's office and submit a discreet report along with recommendations for onward submission to the quarter concerned.

In compliance of Instruction/ reforms initiatives of Provincial Government, the Commissioner Peshawar Division, Peshawar and Assistant to Commissioner (Rev/GIA) had contacted purchasers via contact numbers provided by the Revenue staff in the Affidavits/proforma meant for the purpose, duly signed by them and recorded grievances of the purchasers from the *Patwari* concerned.

In brief, the revenue staff had entered Cell No. 0332-9369669 as provided by the *munshari* (Purchaser/ buyer) for the land measuring 05 *kandls*, 17 *marlas* sold bearing mutation No. 3762 dated 21-03-2014. The number had mistakenly been communicated to the Commissioner's office as 0332-9369669, hence the inquiry in land deemed inevitable.

To investigate the matter, the undersigned sought to summon the complainant, Mr. Ihsan Ullah and the complainee namely Mr. Sajid, *patwari* Halqa Nowshera Khord, to attend the office of the undersigned to record their respective statements.

The *Patwari* concerned, Mr. Sajid, attended the office of the undersigned along with one Mr. Muhammad Zamaan S/O Qamar Zamaan Khan initially posing to be Ihsan Ullah's Munshi as guided by the *Patwari* concerned. On being asked about the Cell number entered in the proforma, Muhammad Zamaan S/O Qamar Zamaan revealed and submitted in writing that the cell number was his personal number in his use, had got nothing to do with the mutation in question nor did he know any person by the name of Ihsan Ullah Khan. The statement has been enclosed in original (P/A).

D

(8)

On the other hand, the Patwari, Mr. Sajid, admitted in writing that the number on the affidavit proforma was that of Mr. Muhammad Zamman S/O Qamar Zamman who had been brought before the A.Z.C. Pabbi (the undersigned/Inquiry Officer) and who had recorded his statement having him in his (the Patwari) presence. The statement has been enclosed in original (FD).

FINDINGS:

- i. That the cell number (0332-9269669) of *Mushtari* had mistakenly been entered in the proforma communicated to the Commissioner's Office as 0332-9369669.
- ii. That the cell number i.e. 0332-9269669 entered by the Revenue staff with the name of Mr. Iqbal Ullah Khan had been bogus as per statement appended in F/A.
- iii. That the Patwari, Mr. Sajid, tried to misguide the Inquiry Officer by presenting someone/sout, who had got nothing to do with the mutation in question as is clear from the statements appended with the report.

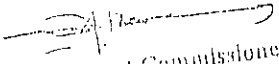
CONCLUSIONS AND RECOMMENDATIONS:

Above in view, the undersigned propose/recommend as under:

- i. The *patwari*, Mr. Sajid, may be proceeded against and awarded minor penalty as provided for under the Rule 4(U)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for misguiding the Inquiry Officer via misrepresentation and false admission.
- ii. The countersigning officials may also be directed to remain vigilant in future while signing any deed/document placed before them by the *Patwaris*.

Submitted for further requisite orders as deemed appropriate, please.

Most faithfully yours

  
Additional Assistant Commissioner,  
Pabbi

Copy forwarded for information to the:

- i. Additional Deputy Commissioner, Nowshera.
- ii. Assistant Commissioner, Nowshera.
- iii. Tehsildar, Pabbi.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1205/2014.

Mr. Sajid Shah Ex-Patwari District Nowshera.

VERSUS

Senior Member, Board of Revenue, Khyber Pakhtunkhwa and others.

COMMENTS ON BEHALF OF RESPONDENTS NO.1.

Preliminary objection.

1. The appeal is not competent in its present form.
2. That appellant has got no cause of action.
3. That appeal is bad due to mis-joinder/ non-joinder of necessary parties.
4. That appellant is estopped by his own conduct.
5. That appellant has not come to the Tribunal with clean hands.

ON FACTS.

1. Pertains to record of the office of Deputy Commissioner, Nowshera.
2. Pertains to respondent No.2.
3. Incorrect. The appellant presented tout who had got nothing with the mutations as per report of Enquiry Officer, therefore he was awarded major penalty under Rule 4 of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.
4. Incorrect. The appellant was served with show cause notice on the basis of strong founded allegations.
5. Incorrect. The allegations were proved against the appellant.
6. Incorrect. The appellant was dismissed from service after affording chance of hearing.
7. The appeal of the appellant has rightly been rejected by respondent No.2.
8. Incorrect. The penalty was awarded on the basis of recommendation of Enquiry Officer and was according to law.

of  
2/3/03.11



GROUNDS.

- A. Incorrect. The appellant has been treated in accordance with law.
- B. Incorrect. All the proceedings has been carried out under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.
- C. Incorrect. The appellant has been given proper opportunity of hearing.
- D. Incorrect. The punishment awarded to the appellant was based on the recommendations mentioned in fact finding enquiry.
- E. Incorrect. The appellant was served with show cause notice after conducting fact finding enquiry.
- F. Incorrect. The charges have been proved against the appellant.
- G. Incorrect. Copy of enquiry report has been annexed by the appellant as (Annex-~~A~~).
- H. Incorrect. The appellant tried to mis-guide the Enquiry Officer which comes under the misconduct.
- I. As in 'H' above.
- J. Incorrect. The appellant has himself presented someone/tout before the Enquiry Officer who had got nothing with the impugned mutation.
- K. As in **J** above.
- L. Incorrect. The charges leveled against the appellant have been proved.
- M. Additional grounds other than mentioned in the appeal cannot be taken during arguments.

The appeal having no legal footings may be dismissed with costs.

  
Respondent No.1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1205/2014

Mr.Sajid Shah, Ex-Patwari Nowshera.....Appellant

VERSUS

Senior Member, Board of Revenue, and others.....Respondents

AFFIDAVIT

I Mir Qasim Assistant Secretary (Lit;II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me, and noting has been deliberately concealed from this Hon'able Tribunal.



Assistant Secretary (lit;II)  
Board of Revenue

7 Arunachal B

Σ



D/K  
put up show cause  
12/5

OFFICE OF THE  
ADDITIONAL ASSISTANT COMMISSIONER  
PABBI, NOWSHERA

No. 16/AAAC/Pabbi  
Date: May 22, 2014

To  
The Deputy Commissioner, Nowshera

Subject: INQUIRY REPORT

RECEIVED  
DEPUTY S/O DEPARTMENT  
5-8-2014  
3/5/2014

Dear Sir,

In compliance with Commissioner Peshawar Division Peshawar's letter No. Reforms (Affidavits) / AR 4137 dated 08-04-2014 along with its enclosures, the undersigned was appointed as Inquiry Officer vide DC office's letter No. 537-41/DE/DC/NSR/2014 dated 15<sup>th</sup> May, 2014, to probe the complaint at S. No. 42 and 44 received from the Commissioner Peshawar Division, Peshawar's office and submit a discreet report along with recommendations for onward submission to the quarter concerned.

In compliance of instruction/ reforms initiatives of Provincial Government, the Commissioner Peshawar Division, Peshawar and Assistant to Commissioner (Rev/OA) had contacted purchasers via contact numbers provided by the Revenue staff in the Affidavits/proforma meant for the purpose, duly signed by them and recorded grievances of the purchasers from the *Patwari* concerned.

In brief, the revenue staff had entered Cell No. 0332-936669 as provided by the *mushtari* (Purchaser/ buyer) for the land measuring 05 *kandls*, 17 *mas* sold bearing mutation No. 3762 dated 21-03-2014. The number had mistakenly been communicated to the Commissioner's office as 0332-9369669, hence the inquiry in hand deemed inevitable.

To investigate the matter, the undersigned sought to summon the complainant, Mr. Ihsan Ullah and the complainee namely Mr. Sajid, *patwari* Halqa Nowshera Khord, to attend the office of the undersigned to record their respective statements.

The *Patwari* concerned, Mr. Sajid, attended the office of the undersigned along with one Mr. Muhammad Zamaan S/O Qamar Zamaan Khan initially posing to be Ihsan Ullah's Munshi as guided by the *Patwari* concerned. On being asked about the Cell number entered in the Proforma, Muhammad Zamaan S/o Qamar Zamaan revealed and submitted in writing that the cell number was his personal number in his use, had got nothing to do with the mutation in question nor did he know any person by the name of Ihsan Ullah Khan. The statement has been enclosed in original (F/A).

D

(8)

On the other hand, the Patwari, Mr. Sajid, admitted in writing that the number on the affidavit proforma was that of Mr. Muhammad Zamaan S/O Qamar Zamaan who had been brought before the AAC, Pabbi (the undersigned/Inquiry Officer) and who had recorded his statement involving in his (the Patwari) presence. The statement has been enclosed in original (B/B).

FINDINGS:

- i. That the cell number (0332-9269669) of *Mushtari* had mistakenly been entered in the proforma communicated to the Commissioner's Office as 0332-9369669.
- ii. That the cell number i.e. 0332-9269669 entered by the Revenue staff with the name of Mr. Iqbal Ullah Khan had been bogus as per statement appended in F/A.
- iii. That the Patwari, Mr. Sajid, tried to misguide the Inquiry Officer by presenting someone/ tout, who had got nothing to do with the mutation in question as is clear from the statements appended with the report.

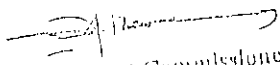
CONCLUSIONS AND RECOMMENDATIONS:

Above in view, the undersigned propose/ recommend as under:

- i. The *patwari*, Mr. Sajid, may be proceeded against and awarded major penalty as provided for under the Rule (1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for misguiding the Inquiry Officer via misrepresentation and impersonation.
- ii. The countersigning officials may also be directed to remain vigilant in future while signing any deed/ document placed before them by the *Patwaris*.

Submitted for further requisite orders as deemed appropriate, please.

Most faithfully yours:

  
Additional Assistant Commissioner,  
Pabbi

Copy forwarded for information to the:

- i. Additional Deputy Commissioner, Nowshera.
- ii. Assistant Commissioner, Nowshera.
- iii. Tehsilidar, Pabbi.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 420 /ST

Dated 14 / 3 / 2016

To


The Deputy Commissioner,  
Nowshehra.

Subject: -

**JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 3.3.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 1205/2014**

Sajid Shah Ex-Patwari Nowshera Khurd Nowshera.

.....Appellant.


**VERSUS**

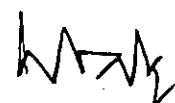
1. Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue Civil Secretariat Peshawar.
2. Commissioner, Peshawar Division Peshawar.
3. Deputy Commissioner, Nowshera.

..... Respondents

**INDEX**

S.No	Description of documents	Annexure	Pages
1	Joint para wise comments		1-2
2	Affidavit		3
3	Letter No. Reforms(Affidavits)/AR/4137 dated 08-04-2014 along-with its enclosures.	A	4-8
4	Inquiry Order vide No. 537-41/DK/DC/ NSR/ 2014 dated 15-05-2014	B	9
5	Inquiry report + Show cause notice	C	10-12
6	Order dated 10-09-2014 of Respondent No. 2 regarding rejection of departmental appeal	D	13
7	Statement of appellant + Muhammad Zaman presented by appellant before inquiry Officer	E	14-15
8	Reply of appellant to show cause notice.	F	16-17

  
Commissioner  
Peshawar Division Peshawar  
( Respondent No.2 )

  
Deputy Commissioner  
Nowshera,  
( Respondent No.3 )

0-5  
25.03.15

Service Appeal No. 1205/2014

Sajid Shah Ex-Patwari Nowshera Khurd Nowshera.

.....Appellant.

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue Civil Secretariat Peshawar.
2. Commissioner, Peshawar Division Peshawar.
3. Deputy Commissioner, Nowshera.

..... Respondents

PARA WISE COMMENTS OF RESPONDENT NO. 2 TO 3 ARE AS UNDER.

Respectfully Sheweth:-

Preliminary Objection

- 1) That the appellant has got no cause of action and locus standi.
- 2) That the instant appeal is not maintainable in its form.
- 3) That the instant appeal is barred by law and limitation.
- 4) That the appellant has not come to this honorable tribunal with clean hands.

- 
1. **Correct** to the extent that he was appointed as patwari in the year 2012. But a complaint at S.No.44 of the fortnightly statement has been received from the Commissioner Office Peshawar division (Respondent No.2) vide letter No. Reforms (Affidavits)/AR/4137 dated 08-04-2014 for necessary action regarding wrong Cell No. (**Annex-A**).
  2. **Correct** to the extent that the appellants entered mutation No. 3762 in the name of Ihsan Ullah but he entered wrong cell No.
  3. **Incorrect:** In pursuance of Commissioner Office memo No. Reforms (Affidavits) /AR/4137 dated 08-04-2014 Additional Assistant Commissioner Pabbi was appointed as Inquiry Officer to probe the complaint at S. No 42, 44 and submit discreet report along with recommendation (**Annex- B**).
  4. **Incorrect:** According to Inquiry Report appellant was found guilty and thus served upon a show cause notice by providing opportunity to defend himself with written reply as well as personal hearing if desired (**Annex-C**).
  5. **Correct** to the extent that he replied to show cause notice 03-07-2014 but was found unsatisfactory.
  6. **Incorrect:** As explained in para 5 above.
  7. **Incorrect:** The appellant has got no cause of action to file appeal. (**Annex- D**)
  8. **Incorrect:** Appellant was treated according to Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.


1


(2)

GROUNDS

- A- **Incorrect:** Appellant was treated correctly according to law and rules on the subject.
- B- **Incorrect:** Proper procedure of Inquiry was followed. appellant recorded his statement and also presented one Muhammad Zaman s/o Qamar Zaman R/o Rehman Baba Colony Nowshera whose cell number was entered in affidavit for mutation No 3762 dated 21-03-2014 before Inquiry Officer. Muhammad Zaman stated that Patwari halqa entered deceitfully my personal / under use Cell Number on affidavit of mutation No. 3762 dated 21-3-2014, he also stated that he has nothing with the said mutation and don't know Mr. Ihsn Ullah. (Annex- E). Copy of inquiry report was provided to appellant with show cause notice, on the basis of which he replied.
- C- **Incorrect:** Opportunity of personal hearing was provided to appellant through show cause notice which he did not avail as per annexure C.
- D- **Incorrect:** Appellant was directed to appear before the inquiry officer vide this office order No. 537-41/DK/DC /NSR/2014 dated 15-5-2014 wherein the Additional Assistant Commissioner Pabbi was appointed as inquiry officer to probe the complaint.
- E- **Incorrect:** As explained in Para No.3 above, regular inquiry was conducted in the matter.
- F- **Incorrect:** As evident that appellant presented a tout before the Inquiry Officer instead of purchaser so as the act he had committed may remain hidden.
- G- **Incorrect:** Copy of Inquiry report / finding was provided to appellant with show case notice, on the basis of which he replied.(Annex- F).
- H- **Incorrect:** By presenting a tout before the Inquiry Officer he committed the misconduct.
- I- **Incorrect:** It is a step toward reform and eradication of corruption in the Revenue & Estate department, Government of Khyber Pakhtunkhwa.
- J- **Incorrect:** Appellants presented a tout instead of purchaser who recorded his statement before the Inquiry Officer that he has nothing with mutation No.3762.
- K- **Incorrect:** As explained in para "J"above.
- L- **Incorrect:** Proper procedure of Inquiry, show cause notice and imposition of penalty upon appellants was followed under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.
- M- **Incorrect:** The appellant has got no cause of action to file instant appeal

In view of the above, it is requested that the instant appeal No. 1205/2014 is without substance. Therefore, may kindly be dismissed

  
Commissioner  
Peshawar Division Peshawar  
(Respondent No.2)

  
Deputy Commissioner  
Nowshera  
(Respondent No.3)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1205/2014

Sajid Shah Ex-Patwari Nowshera Khurd Nowshera.

.....Appellant.

**VERSUS**

- 1. Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue.  
Civil Secretariat Peshawar.
- 2. Commissioner, Peshawar Division Peshawar.
- 3. Deputy Commissioner, Nowshera.

..... Respondents

AFFIDAVIT

I, \_\_\_\_\_, do hereby solemnly affirm and declare that contents of para wise comments on the behalf of respondent No 1 to 3 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble tribunal.

Deponent

Identified by

4

OFFICE OF THE  
DEPUTY COMMISSIONER  
NOWSHERA  
Diary No 4343  
Date 16/11/14

OFFICE OF THE  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR

No. Reforms(Affidavits)/AR 4137  
Dated 08.04.2014



To  
The Senior Member, Board of Revenue,  
Khyber Pakhtunkhwa.

Subject COMPLIANCE OF INSTRUCTION/REFORMS INITIATIVES OF PROVINCIAL GOVERNMENT.

Dear Sir,

In compliance with para-(i) & (ii) of your office letters No. Estt:VII /Instruction/11973 dated 11.06.2013 (received vide letter No. Estt:VII/Eradication/ 12216-48 dated 28.06.2013), No. Estt:VII/Instruction/13470-13514 dated 16.07.2013 respectively & No. Estt:VII/Instruction/11683-713 dated 07.06.2013 on the above noted subject.

The Commissioner Peshawar Division & Assistant to Commissioner (Rev/GA), contacted the purchasers from the affidavits, received from District Peshawar, Charsadda and Nowshera, details of which is enclosed as per attached fortnightly statement for the period 15.03.2014 to 31.03.2014.

*[Signature]*  
Assistant to Commissioner (R/GA)  
Peshawar Division Peshawar

No: Reforms(Affidavits)/AR 1138-41

Copy along with copy of the fortnightly statement is forwarded to the:

1. Deputy Commissioners, Peshawar, Charsadda & Nowshera for necessary action and report.
2. Section Officer-V, Chief Minister's Secretariat, Khyber Pakhtunkhwa.
3. PS to Chief Secretary, Khyber Pakhtunkhwa.
4. PS to Commissioner Peshawar Division.

*[Signature]*  
Assistant to Commissioner (R/GA)  
Peshawar Division Peshawar

Steno  
h  
14/4

FORTNIGHTLY STATEMENT (15.03.2014. to 31.03.2014) REGARDING TELEPHONIC CONTACTS OF COMMISSIONER PESHAWAR DIVISION/ASST TO COMMISSIONER (REV/GA) WITH THE PURCHASERS.

*Signature*  
GA

S#	District	Name of person	Cell No.	Sr.No./ Mutation No.	Affidavits at Page No.	Remarks
1	Peshawar	Muhammad Yousaf	0315-9840160	3177	3	No extra charges involved
2		Fayaz Ahmad Barki	Nil	5129	4	Cell Number does not exist with name of the purchaser. DC Peshawar to look into it as to why cell number of purchaser has not been given in such a huge transaction amount.
3		Muhammad Shafi	0301-8858903	4072	5	No extra charges involved.
4		Mir Badshah	0301-5900393	4396	7	No extra charges
5		Asif Khan	0345-5222293	2968	38	No extra charges
6		Muhammad Ishaq	0311-3116117	2971	39	No extra charges involved.
7		Muhammad Iqbal etc	0321-9088776	1192	45	No extra charges involved.
8		Bashir Khan etc	0301-8886113	6614	47	No extra charges involved.
9		Nadia Rehman	0308-8888440	6488	50	No extra charges involved
10		Mumtaz Khan c/o Fazal Subhan	0300-5879560	5743	51	Fazal Subhan is a property Dealer who name has been given with the name of purchaser as his care of which contradicts with the reforms initiative of Provincial Government. DC Peshawar to look into it and report to this office.
11		Naik Mat Khan	0333-9049164	5753	51	No extra charges involved.
12		Noorul Haq etc	0300-5882671	5754	52	No extra charges involved.
13		Abdullah Mast	0300-8582222	4922	57	Abdul Qahar relative of the purchaser informed that no extra charges involved in the transaction.
14		Gul Zaman	0346-9040371	10928	65	No extra charges involved
15		Aurangzeb, Asal Khan, M. Zubair, M. Irshad, Inamullah Jan, Abdul Baqi, Lalmar Khan, Tahirullah, Fazal Hussain, Fazal Khan, Fazal Mabood, Inamullah, Gul Ahmad, Zulfiqar Khan, Wazir etc, Zia Muhammad through their Representatives /Agents.	0323-9577735	10992 11009 11036 11037 11049 11066 11067 11074 11089 11091 11093 11103 11107 11108 11118 11119	65	The affidavits in respect of mauza Mera Hyderabad for the period 12.02.2014 furnished vide your office No.2074/DC()/DK/Affidavit/Mutations dated 10.03.2014, most of the agents/representatives of the purchasers were noted as property dealers. DC Peshawar to cope up with the issue of giving cell numbers of property dealers instead of purchaser and report to this office for onward submission to Chief Minister's Sectt:/BOR.

(6)  
REGISTRY DEEDS IN PESHAWAR

15	Arif Gul	0346-9159991	284 dated 3.2.14	402	No extra charges involved.
17	Ahmadullah through relative Zar Khan	0346-9159991	284 dated 6.2.14		No extra charges involved.
18	Shahid Khan through Rep/agent Arab Gul	0333-9677150	293 dated 6.2.14	406	No extra charges involved.
19	Arab Gul	0333-9677150	294 dated 6.2.14	406	No extra charges involved.
20	Marhaba Sultan through husband Bashir	0346-9115547	168/1	407	No extra charges involved.
21	Abdul Latif Shah	0345-9415320	298 dated 7.2.14	408	No extra charges involved.
22	Mst. Habiba Raza through husband	0301-5929209	304 dated 7.2.14	409	No extra charges involved.
23	Mst Shifat Bibi	0321-9057291	188/1	413	No extra charges involved.
24	Sajjad Khan	0333-9335149	208/1	429	No extra charges involved.
25	Mst Samin Saqib	0321-9173201	228/1	434	No extra charges involved.
26	Daulat Khan	0300-591758	482/1	450	No extra charges involved.
27	Sheikh Ahmad Saeed	0300-5902967	464, 465 dated 25.2.14	451	No extra charges involved.
28	Malik Sajjad Khan	0333-9250558	474 dated 25.2.14	453	No extra charges involved.
29	Muhammad Abid	0333-9128538	507,508 dated 28.2.14	460	No extra charges involved.
30	Muhammad Ayub	0305-9265790	2765	327	No extra charges involved.
31	Zewar Shah	0321-9864330	4084	331	No extra charges involved.
32	Charsadda Khan Bahadir	0346-9014680	4085	331	No extra charges involved.
33	Sherzada c/o Noor Zada	0300-9391093	4109	331	No extra charges involved.
34	Tawas Khan, Khan Wali, Ali Sarward.	0313-8120168	2381, 2382, 2383	328	Call attended by Ali Sarwar who informed that no extra charged involved in the transaction.

35		Naeemullah	0301-3035064	4296	348	No extra
36		Safdar Ali	0333-9208415	772	350	Not responded
37		Ijaz	0312-3947469	2135	357	Not responded
38		Insanullah	0334-5903808	8163	364	The purchaser informed that Haroon Jamal patwari has taken Rs.60,000 extra illegally in the transaction. DC Charsadda to take strict action against the patwari & recover the said amount from him and return to the purchaser and report in this regard furnished to this office for onward submission to Chief Minister's Sectt:/BOR.
39	Nowshera	Mian Zulfiqar Ali	0333-9208522	9658	376	No extra charges involved.
40		Muhammad Amir	0312-1910815	15841	377	No extra charges involved.
41		Raj Bahadir	0333-9091271	1760	378	No extra charges involved.
42		Aslam etc, Mukaram etc	0302-8887966	4416,4417,4 418	379	Mukaram Khan attended the call who informed that Azmat Patwari has illegally taken Rs.5000/- for inheritance mutation without entering mutation. However, now the incumbent Patwari Nasrullah has sanctioned inheritance mutation in favour of legal heirs without taking any money but he is reluctant to give fard to them. DC Nowshera to take action against Azmat Patwari for illegal gratification and recover Rs. 5000/ and return to legal heirs as well as the incumbent Patwari be asked to explain that why he is reluctant to give fard to the legal heirs.
43		Namdar Khan	0333-9302487	14025	380	No extra charges.
44		Insanullah Khan	0332-9369669	3762	381	Wrong number given. DC Nowshera to confirm the same and report to this office.
45		Hayatullah	0300-5774144	9072	383	No extra charges involved.
46		Sher Zaman etc	0324-9893231	6330	384	No extra charges involved.
47		Amjad Khan etc	0313-9410086	6338,6339, 6340	385	No extra charges involved.
48		Fazal Rabi etc	0312-9896597	6344	386	No extra charges involved.
49		Jan Ali etc	0313-7664124	6352	387	No extra charges involved.
50		Abdullah	0300-5772430	6967	394	Not responded
51		Naeem Khan	0300-5986153	9066	395	No extra charges involved.
52		Khaista Khan	0313-9262255	3108	397	No extra charges involved.
53		Hamid Khan	0313-9595959	3126,3127	398	No extra charges involved.
REGISTRY DEEDS NOWSHERA						
54		Abdul Shafi Shah	0332-9007175	Registry Deed	390	No extra charges involved.

8

بہان طاعی

آج مورخہ 15/01/2015ء کو صبح 10 بجے ہمارے دفتر میں ایک شخص نے ہمارے دفتر میں داخل ہو کر کہا کہ وہ ایک شخص کے پاس سے ایک کپڑا لے گیا ہے جس کی قیمت تقریباً 500 روپے ہے۔ اس شخص کے نام سے ایک نوٹس جاری کیا گیا ہے۔

نمبر	تاریخ	موضوع	مقام	مبلغ	ملاحظات
1	15/01/2015	بہان طاعی	دفتر	500	کپڑا لے گیا
2	17/01/2015	بہان طاعی	دفتر	500	کپڑا لے گیا
3	19/01/2015	بہان طاعی	دفتر	500	کپڑا لے گیا
4	21/01/2015	بہان طاعی	دفتر	500	کپڑا لے گیا
5	23/01/2015	بہان طاعی	دفتر	500	کپڑا لے گیا
6	25/01/2015	بہان طاعی	دفتر	500	کپڑا لے گیا
7	27/01/2015	بہان طاعی	دفتر	500	کپڑا لے گیا
8	29/01/2015	بہان طاعی	دفتر	500	کپڑا لے گیا
9	31/01/2015	بہان طاعی	دفتر	500	کپڑا لے گیا

بہان طاعی کے خلاف نوٹس جاری کیا گیا ہے۔

Handwritten signature and stamp.

Handwritten text at the bottom left.



Office of the  
Deputy Commissioner  
Nowshera.

(Office Phone#0923-9220099, Fax#0923-9220159, Email: dconsrpk@yahoo.com)

9

May 2014

OFFICE ORDER

No. 376/LII /DK/DC/NSR/2014. In pursuance to letter No. Reforms (Affidavits) IAR/4137 dated 08-04-2014 alongwith its enclosure received from the Commissioner Office Peshawar Division Peshawar, Mr. Baseer Ali Rehman, Additional Assistant Commissioner Pabbi is hereby appointed as Inquiry Officer to probe the complaint at S.No. 42 and 44 and submit a discreet report along-with recommendation within 7 days positively for onward submission to the quarter concerned.


Encls( pages)

  
Deputy Commissioner  
Nowshera

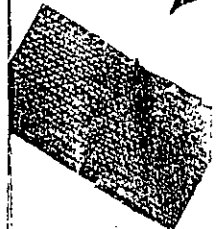
Even No & Date.

Copy forwarded to the:-

- 1- Commissioner Peshawar Division Peshawar w/r to his office memo quoted above.
- 2- Additional Assistant Commissioner Pabbi/ Inquiry Officer..
- 3- Tehsildar Pabbi/ Nowshera
- 4- Official concerned to appear before the inquiry Officer.

  
Deputy Commissioner  
Nowshera

one  
inshi  
the  
t the  
on in  
been





Dk  
put up show cause  
23/5

OFFICE OF THE  
ADDITIONAL ASSISTANT COMMISSIONER  
PABBI, NOWSHERA

No. 296 /AAC/ Pabbi  
Dated: May 22, 2014

OFFICE OF THE  
DEPUTY COMMISSIONER  
NOWSHERA  
Diary No. 5884  
Date 23/5/14

To  
The Deputy Commissioner, Nowshera

Subject: INQUIRY REPORT

Dear Sir,

In compliance with Commissioner Peshawar Division Peshawar's letter No. Reforms (Affidavits) / AR 4137 dated 08-04-2014 along with its enclosures, the undersigned was appointed as Inquiry Officer vide DC office's letter No. 537-41/DK/DC/NSR/2014 dated 15<sup>th</sup> May, 2014, to probe the complaint at S. No. 42 and 44 received from the Commissioner Peshawar Division, Peshawar's office and submit a discreet report along with recommendations for onward submission to the quarter concerned.

In compliance of instruction/ reforms initiatives of Provincial Government, the Commissioner Peshawar Division, Peshawar and Assistant to Commissioner (Rev/GA) had contacted purchasers via contact numbers provided by the Revenue staff in the Affidavits/proformae meant for the purpose, duly signed by them and recorded grievances of the purchasers from the *Patwari* concerned.

In brief, the revenue staff had entered Cell No. 0332-9269669 as provided by the *mushtari* (Purchaser/ buyer) for the land measuring 05 *kanals*, 17 *marlas* sold bearing mutation No. 3762 dated 21-03-2014. The number had mistakenly been communicated to the Commissioner's office as 0332-9369669, hence the inquiry in hand deemed inevitable.

To investigate the matter, the undersigned sought to summon the complainant, Mr. Ihsan Ullah and the complaintee namely Mr. Sajid, *patwari* Halqa nowshera Khord, to attend the office of the undersigned to record their respective statements.

The *Patwari* concerned, Mr. Sajid, attended the office of the undersigned along with one Mr. Muhammad Zamaan S/O Qamar Zamaan Khan initially posing to be Ihsan Ullah's Munshi as guided by the *Patwari* concerned. On being asked about the Cell number entered in the Proforma, Muhammad Zamaan S/o Qamar Zamaan revealed and submitted in writing that the cell number was his personal number in his use, had got nothing to do with the mutation in question nor did he know any person by the name of Ihsan Ullah Khan. The statement has been enclosed in original (F/A).



On the other hand, the Patwari, Mr. Sajid, admitted in writing that the number on the Affidavit proforma was that of Mr. Muhammad Zamaan S/O Qamar Zamaan who had been brought before the AAC, Pabbi (the undersigned/Inquiry Officer) and who had recorded his statement in writing in his (the *Patwari*) presence. The statement has been enclosed in original (F/B).

**FINDINGS:**

- i. That the cell number (0332-9269669) of *Mushtari* had mistakenly been entered in the proforma communicated to the Commissioner's Office as 0332-9369669.
- ii. That the cell number i.e, 0332-9269669 entered by the Revenue staff with the name of Mr. Ihsan Ullah Khan had been bogus as per statement appended as F/A.
- iii. That the Patwari, Mr. Sajid, tried to misguide the Inquiry Officer by presenting someone/ tout, who had got nothing to do with the mutation in question as is clear from the statements appended with the report.

**CONCLUSIONS AND RECOMMENDATIONS:**

Above in view, the undersigned propose/ recommend as under:

- i. The *patwari*, Mr. Sajid, may be proceeded against and awarded major penalty as provided for under the **Rule 4(1)(b)(iv)** of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for misguiding the Inquiry Officer via misrepresentation and impersonation.
- ii. The countersigning officials may also be directed to remain vigilant in future while signing any deed/ document placed before them by the *Patwaris*.

Submitted for further requisite orders as deemed appropriate, please.

Most faithfully yours

Additional Assistant Commissioner,  
Pabbi

Copy forwarded for information to the:

- i. Additional Deputy Commissioner, Nowshera.
- ii. Assistant Commissioner, Nowshera.
- iii. *Tehsildar*, Pabbi.

Office of the  
Deputy Commissioner  
Nowshera.

12

(Office Phone#0923-9220099, Fax#0923-9220159, Email: dconsrpk@yahoo.com)

No. 777 /DK/DC/NSR/2014

27 June, 2014

**SHOW CAUSE NOTICE**

I, Zaka Ullah Khattak Deputy Commissioner Nowshera, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, received a complaint at S.No 44 (relates to Mr.Sajid Shah Patwari Halqa Nowshera Khurd) from the Commissioner office Peshawar Division Pesahwar vide letter No.Reforms (Affidavts)/AR/4137 dated 8-4-2014 for necessary action which was sent for inquiry to Additional Assistant Commisisoner Pabbi.


From the perusal of Inquiry report it is clear that you have committed the following acts.

- 1- That Cell number i.e 0332-9269669 entered in affidivats with the name of Mr.Ihsan Ullah Khan had been bogus.
- 2- That you misguided the Inquiry Officer by presenting some one tout, who had got nothing to do mutation No.3762.

And since the Inquiry Officer has recommended major pently dismissal of services for the above commission of offence, you are therefore directed to show cause why should not your service be laid off for the above commission of offence and also intimate whether you desire to be herad in person.

If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

A copy of the finding of Inquiry Officer is enclosed.

  
Deputy Commissioner  
Nowshera

15

12

Amir B



COURT OF  
COMMISSIONER PESHAWAR DIVISION  
PESHAWAR

APPEAL NO: 56/2014

DATE OF INSTITUTION: 02.09.2014

DATE OF DECISION: 10.09.2014

Sajid Shah Ex-Fatwari, Patwar Halqa Nowshera Khord, Nowshera.....(Appellant)

Deputy Commissioner Nowshera.....(Respondent)

ORDER

This order will dispose off the instant departmental appeal filed by the above named appellant against the Deputy Commissioner Peshawar order, bearing No. 843-51/DK/DC/NSR/2014 dated 17<sup>th</sup> July, 2014, whereby he was awarded major penalty of dismissal from service under section-4(1)(b)(iv) of Govt: of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.


Facts of the case leading to the filing of appeal is that in pursuance of Provincial Government's reform initiatives for eradication of corruption in revenue department, this office made telephonic contact with the purchaser namely Ihsanullah on cell number 9932-9269669 recorded on the affidavit, received from DC Nowshera who informed that he knows nothing about the mutation No. 3762. This office vide letter No. Reforms(Affidavits)/AR/4137 dated 08/04/2014 directed DC Nowshera to look into it and report to this office. The Deputy Commissioner appointed Additional Assistant Commissioner Pabbi vide order bearing No. 537-41/DK/DC/NSR/2014 dated 15<sup>th</sup> May, 2014 to probe the complaint and submit discrete report with recommendations.

The inquiry Officer conducted enquiry who found the appellant guilty of the charges leveled against him and recommended him for awarding major penalty under section-4(1)(b)(iv) of Govt: of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.

Based on the recommendations of the Inquiry Officer, the Deputy Commissioner Nowshera/competent authority imposed a major penalty of "dismissal from service" upon him under section-4(1)(b)(iv) of Govt: of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.

Aggrieved of the order of Deputy Commissioner Nowshera the appellant filed the instant appeal.

Appellant present and heard. Comments received from Deputy Commissioner Nowshera also received and examined. Perusal of the record reveals that charges against the appellant regarding giving false/bogus cell number with the name of purchaser has been proved. Therefore, I see no reasons to interfere in the impugned order of the Deputy Commissioner Nowshera bearing No. 843-51/DK/DC/NSR/2014 dated 17<sup>th</sup> July, 2014 which is thus upheld. The appeal in hand stands rejected. File to GRR

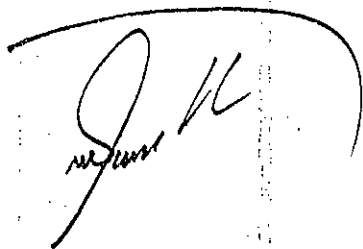
  
COMMISSIONER  
PESHAWAR DIVISION PESHAWAR

10.09.2014

بیان سا جو ستاہ سواری خلوہ نو سترہ خورد اوصیل نو شہرہ 6

بیان کیا کہ میں نے سلسلہ انگلوانگری بابت انشغال نمبر 3762  
صدر قہ 2014-3-21 مسمی محمد زمان ولد محمد زمان سکنہ رحمان بابا کالونی  
نوسترہ ہسکا ہوائی ٹرل نمبر انشغال مذکورہ بیان حلفی پر درج بقا  
رو برو AA C صاحب پرے پیش کیا۔ جنہو مانے صدر  
موجودگی میں آنا بیان قلم بند کیا

سن کر درست تسلیم کیا



میں حلقہ بیان کرتا ہوں کہ پیواری حلقہ نو سیرہ خورد نے بیان حلقہ مورخہ 3/12  
انشال ممبر 3762 مقدمہ 4/امد 3/12 پر جو موٹائل ممبر درج کیا ہے۔ 03329269669  
یہ ممبر ذاتی ممبر ہے ادرہ ممبرے زیر اسمال ہے جہاں تک انشال کا تعلق  
ہے۔ میں کسی احسان احمد خان نامی شخص کو نہیں جانتا۔ ادرہ میں  
مذکورہ انشال سے میرا کوئی تعلق ہے پیواری حلقہ نے میرا موٹائل ممبر  
نمٹل طور پر درج کیا ہے

بیان سن کر درست تسلیم کیا



محمد زمان

17201-7100822-1  
محمد زمان ولد محمد زمان خان

# جناب ڈپٹی کمشنر صاحب نوشہرہ

عنوان شوکانوٹس

OFFICE OF THE  
DEPUTY COMMISSIONER  
NOWSHERA  
Diary No 7876  
Date 04/7

حوالہ آئی انگریزی چھٹی نمبری 77/DK/DC/NSR/200G مورخہ 27 جون 2014 بابت درج بالا عنوان

سائل کا پیراؤ اس جواب حسب ذیل ہے۔

۱۔ یہ کہ ٹیلی فون نمبری 0332-9269669 بگس نہیں ہے۔ بلکہ یہ نمبر محمد زمان ولد قمر زمان کا ذاتی نمبر ہے۔ اور ابھی بھی قابل استعمال ہے۔ یہاں یہ ذکر بھی ضروری ہے۔ کہ محمد زمان احسان اللہ (مشرقی) کے والد عبداللہ جان مروت کا منشی ہے۔ انتقال نمبری 3762 کو درج کروانے کے لئے عبداللہ جان مروت کے پاس آیا اور کہا کہ احسان اللہ بر خود ارمن کے نام پر انتقال متذکرہ بالا درج کیا جائے اور جب انہیں بیان حلفی فارم پر موبائل نمبر درج کرنے کے لئے کہا گیا تو انہوں نے اپنے یا احسان اللہ کے نمبر کے بجائے اپنے منشی محمد زمان کا نمبر درج کیا۔

پٹواری حلقہ اس بات کا پابند ہوتا ہے۔ کہ مشتری کی طرف سے دیئے گئے نمبر کا اندراج کر لے اور عام طریقہ یہی ہے کہ دیئے گئے موبائل نمبر کی تصدیق پٹواری کرتا ہے۔ اور نہ ہی ایسا کوئی طریقہ یا ضابطہ ہے۔ جس کے تحت پٹواری حلقہ پر یہ بات لازم ہو کہ وہ مشتری کی جانب سے دیئے گئے نمبر کی تصدیق کرے۔ مشتری کے والد عبداللہ جان مروت کے مطابق ان کا بیٹا احسان اللہ خان ایک مصروف کاروباری شخص ہے۔ اور اسے اپنے وسیع کاروبار کے سلسلے میں اندرون و بیرون ملک سفر کرنا پڑتا ہے۔ اس لئے وہ خود پٹواری خانے آیا اور رابطہ کے لئے اپنے منشی محمد زمان کا نمبر دیا یہاں یہ بھی قابل وضاحت ہے۔ کہ احسان اللہ کی منشی محمد زمان سے کوئی شناسائی نہیں جس کی وجہ احسان اللہ کی نوشہرہ میں غیر موجودگی ہے۔ اس بات کا اعتراف عبداللہ جان مروت اور منشی محمد زمان نے بھی کیا ہے۔ عبداللہ جان مروت نے اپنے نمبر یا اپنے بیٹے احسان اللہ کے بجائے اپنے منشی کا نمبر کیوں دیا اسکی وضاحت عبداللہ جان مروت پدر مشتری کر سکتا ہے۔ عبداللہ جان مروت ہی مناسب شخص ہے۔ جو تمام قسم کے ابہام مثلاً اس کا منشی احسان اللہ کو کیوں نہیں جانتا؟ اس نے اپنے منشی کا نمبر کیوں دیا وغیرہ وغیرہ جیسے سوالات کا جواب دے سکتا ہے۔ اور اسکے طلب کئے بغیر انکو آئری نڈا بے معنی اور بغیر کسی نتیجہ ثابت ہو سکتی ہے۔ انکو آئری نڈا کو رہ میں عبداللہ جان مروت مشتری کے والد کو طلب نہ کیا جانا قرین انصاف نہیں کیونکہ اس کے طلب کیے جانے سے سائل کی بیگنائی ثابت ہو سکتی ہے۔

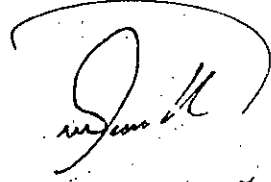
۲۔ جناب عالی! سائل کبھی ایسا سوچ بھی نہیں سکتا کہ وہ انکو آئری آفیسر صاحب کو MIS GUIDE کرے اور نہ ہی سائل نے کسی Tout کو انکو آئری کے لئے پیش کیا۔ پوری مدت ملازمت میں کبھی بھی Touts وغیرہ کے ساتھ کوئی تعلق نہ رکھا اور نہ ہی اس کا کوئی واسطہ ہے۔

Dk  
examine & sign  
4/7

جناب عالی! شوکا زونٹس کے جملہ مندرجات کی صراحت اور وضاحت پوری ایمانداری سے جواب ہذا کی شکل میں کر دی گئی ہیں۔ نیز سائل کسی قسم کی Miss Conduct یا کسی ILLEGAL ACTIVITY میں ملوث نہ رہے۔ اور حضور انور سے معروضات بالا پر ہمدردانہ غور کرنے کی استدعا کرتا ہے۔

اسلئے آپ جناب سے مودبانہ گزارش ہے کہ سائل کے خلاف موجودہ کیس داخل دفتر فرما کر سائل کو معافی دی جائے اور یہ بھی کہ سائل آئندہ محتاط رہے گا۔

مورخہ 03/07/2014



آپ کا تابع دار ملازم

ساجد شاہ پٹواری حلقہ نوشہرہ خورد

Deputy Commissioner  
NOSHHERA