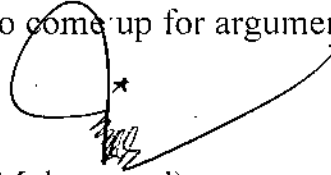


12.10.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments.

Adjourned. To come up for arguments before the D.B on 07.11.2022



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)


07.11.2022

Appellant alongwith counsel present.


Asif Masood Ali Shah learned Deputy District Attorney alongwith Shabir Ahmad Assistant Secretary for the respondents present.

SCANNED  
KPST  
Peshawar

De-novo inquiry file is not available before the bench, therefore, representative of the respondent department is strictly directed to make sure the production of the same on the date fixed. To come up for production of file as well as arguments on 27.12.2022 before D.B.



(Fareeha Paul)  
Member (E)



(Rozina Rehman)  
Member (J)

27-12-22

*Due to winter vacation,  
The case is adjourned  
to 4-4-23*



Reader

14.12.2021

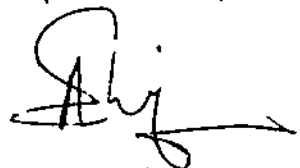
Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for respondents present.

Written reply/comments have been submitted through office which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. Adjourned. To come up for arguments on 28.03.2022 before D.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

28-3-2022


Proper. DB not available.  
the case is adjourned to come  
up for the same as before on  
4-7-2022


  
Reader

04.07.2022

Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 12.10.2022 before the D.B.

  
(Mian Muhammad) -  
Member (E)

  
(Salah-ud-Din)  
Member (J)

12.07.2021

Learned Addl. A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

  
Chairman


Stipulated period passed reply not submitted.


20.10.2021

Appellant with counsel present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Hamayoon Khan Additional Assistant Commissioner for respondents present.

Reply on behalf of respondents is still awaited. Representative of the respondents made a request for time to submit reply/comments; granted with direction to furnish the same within 10 days positively. To come up for arguments on 14.12.2021 before D.B.

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

  
(Rozina Rehman)  
Member (J)

15.06.2021

Appellant present in person. Preliminary arguments heard.

SCANNED  
KPST  
Peshawar

Appellant contends that on decision of Service Tribunal dated 28.11.2018, in his Service Appeal No. 1842/2010, the SMBR was directed for conducting denovo enquiry within a period of one month positively. The proceedings of denovo enquiry was not completed within the stipulated period of one month. Consequently, the appellant approached the Hon'ble Peshawar High Court for declaring the denovo proceedings and the impugned order dated 14.01.2020 to be without legal effect. However, Writ Petition No. 2130-P/2020 disposed of being misconceived. The appellant had also submitted Execution Petition No. 268/2019 for execution of judgment dated 28.11.2018. The appellant admits the communication of impugned order to him on 20.01.2020 during the course of execution proceedings in Execution Petition No.268/2019 and thereafter he made the departmental appeal to the Addl. Commissioner on 15.02.2020 through registered post. Accordingly, the departmental appeal is within time of thirty days. However, he instead of coming to the Tribunal with service appeal, he challenged the impugned order through Writ Petition mentioned above, which was disposed of being misconceived. Due to pursuing the remedy before the Peshawar High Court Peshawar, the appellant could not come to the Tribunal. However, an application for condonation of delay has been submitted.

alongwith Service Appeal with the prayer to condone the period of four months and thirteen days. According to grounds urged for condonation of delay, the period beyond the prescribed limitation was spent in pursuance of remedy before the Hon'ble High Court in good faith; and that the impugned order is void and accordingly no limitation runs against the void order. In view of the foregoing discussion, the appeal is admitted for regular hearing by condoning the period beyond prescribed limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 20.10.2021 before the D.B.

Appellant Deposited  
Security & Process Fee

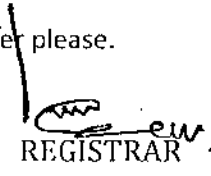



15/10/21

  
Chairman

Form-A  
FORM OF ORDER SHEET

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

Case No.- 12789 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/10/2020	<p>The appeal of Mr. Muhammad Anwar Sohail presented today by Mr. Muhammad Adam Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/12/2020</u>.</p> <p> CHAIRMAN</p>
	07.12.2020	<p>Appellant present through representative.</p> <p>Lawyers are on general strike, therefore, case is adjourned to 25.02.2021 for preliminary hearing, before S.B.</p> <p> (Rozina Rehman) Member (3)</p>
	25.02.2021	<p>The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 15.06.2021.</p> <p> Reader</p>

BEFORE THE SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 12789/2020.

Muhammad Anwar Sohail V/S The Deputy Commissioner  
etc;

**INDEX**

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE NO.	PAGE NO.S
1.	Petition with affidavit.	---	1 -- 3
2.	Application condonation of delay with affidavit.	---	4 -- 5
3.	First Removal from service order.	"A"	6 -- 9
4.	Judgment in Service Appeal No.1842/2020 dated 28.11.2018.	"B"	10 -- 13
5.	Memo; of Execution Petition No.268/2019 in Service Appeal No.1842/2020 <i>4-9/dated 01.9.2020.</i>	"C" & "E/1" <i>4/1</i>	14 -- 16(B)
6.	Order Sheet dated 04.11.2019 in EP-268/2019 Departmental Appeal etc;	"D" & "E"	17 -- 18
7.	Representation dated 17.03.2020 with Postal receipt & A.D Card.	"F" & "G/1"	19 -- 22
8.	Memo of WP No.2130/2020.	"H"	23 -- 25
9.	Judgement in WP No. 2130/2020 dated 22.09.2020.	"I"	26 -- 27
10.	Arrival report dated 29.01.2019.	"J"	28
11.	Misc; Correspondance.	"K" to "S"	29 -- 41
12.	Vakalat Nama	---	42
Total:-			42

Dated:- 26 / 10 /2020.

(Monday).

Petitioner.

*Muhammad Anwar Sohail*  
(Muhammad Anwar Sohail)

Through:-

*Muhammad Adam Khan*  
Muhammad Adam Khan  
Advocate Mardan.

**Before The Service Tribunal, Peshawar.**

Service Appeal No. /2020.

**Muhammad Anwer Sohail** S/o Nawab Din (Ex-Patwari/AOK  
Lahor District Swabi) residence near Post office Swabi.  
Petitioner.

**VERSES**

1. The Deputy Commissioner / The District Collector,  
Swabi.
2. The Additional Commissioner, Mardan Division,  
Mardan.
3. The Secretary, The Board of, Revenue, K.P,  
Peshawar.

Respondents.

-----

Appeal under Section-4 of the Service Tribunal  
Act, 1974 against the order of the Deputy  
Commissioner/Respondent No.1 vide Endorsement  
No.30/Des/Dk/inquiry dated 14.01.2020, whereby the  
Appellant is awarded the punishment of removal from  
service.

-----

1. That while posted as Patwari/Aok Lahor District  
Swabi, under the Respondent No.1, the Appellant  
was awarded the punishment of removal from  
service on 18-05-2010, on the grounds of  
alleged absence from duty.

(Copy Annexure- "A").

2. That the Appellant, after compliance with the  
requisite formalities approached this  
Honourable Tribunal in Appeal No.1842 of 2010,  
which was accepted on 28-11-2018, setting-aside  
the impugned order and remanded the case to the  
S.M.B.R for "Conducting De Novo Enquiry within  
a period of one month and further held that the  
issue of re-instatement into service and that  
service benefits, will depend on the outcome of  
the denovo inquiry".

(Copy Annexure-"B").



3. That the Deputy Commissioner/Respondent No.1 vide Endorsement No.30/Dcs/Dk/inquiry dated 14-01-2020 upheld the previous punishment.

(Copy Annexure-"C" & "E")

4. That the impugned order was not conveyed to Appellant till copy thereof was provided to this Honourable Tribunal during the Execution proceedings (E.P No.268/2020) on 20-01-2020.

(Copy Annexure-"D" & "E")

5. That grieved there-from the Appellant preferred representation dated 09-02-2020 to the Addl, Commissioner through registered post on 15-02-2020, which is yet pending adjudication.

(Copy Annexure-"F" & "G/1")

6. That since the denov proceedings were not completed within the stipulated period of one month, the Appellant approached the worthy High Court for declaring the denov proceedings & the impugned order, to be without legal effect.

(Copy Annexure-"H")

7. That said W.P No.2130-P/2020 was disposed-off on 22-09-2020, holding that the jurisdiction lies with the Service Tribunal.

(Copy Annexure-"I")

8. That the impugned order dated 14-01-2020 is illegal, void, untenable under the law and thus, the same is liable to be set-aside, on the following amongst many other grounds.

i. That no fresh enquiry was carried-out after remand. Thus, the Appellant is condemn unheard.

ii. That after remand of the case, the Appellant submitted arrival report on 19-01-2019, to Respondent No.1; submitting himself for the purpose of enquiry proceedings. But, with no response.

(Copy Annexure-"J")

iii. That the allegation of absence against the Appellant are in-correct and false,

which is evident from the documents attached here-with.

(Copy Annexure-"K" to "S")

iv. That the Appellant is jobless there-out. Since 18-05-2010, the date of the first punishment order.

v. That the Appellant seeks leave of this Honourable Tribunal to urge further grounds also.

It is prayed that on acceptance of this Appeal, the impugned order may be set-aside and the Appellant to be re-instated into service with back service and financial benefits.

The costs of this Appeal may also be awarded in favour of Appellant against the Respondents.

Dated: 26 . 10 .2020.

(Monday)

Appellant

*M. A. Sohail*

(Muhammad Anwar Sohail)

Through:-

*Adam*

Muhammad Adam Khan  
Advocate High Court  
At Mardan.

AFFIDAVIT:-

I, Muhammad Anwar Sohail S/o Nawab Dindo hereby state on solemn affirmation that the contents of this Petition are true and correct to the best of my knowledge and belief.

Deponent

*M. A. Sohail*

(Muhammad Anwar Sohail)

Before The Service Tribunal, Peshawar.

Appeal No. 2020.

Muhammad Anwar Sohail V/S The Deputy Commissioner etc;

Application for the condonation of delay.

- 1. That the captioned Appeal is being instituted in this Honourable Tribunal, Today.
- 2. That the impugned order dated 14.01.2020, was not conveyed to Appellant. The same came to the notice of Appellant, when the Respondent produced the copy thereof in this Honourable Tribunal during the Execution Application No.268/2019 on 20.01.2020, and the Appellant preferred departmental representation there-against on 15.02.2020.
- 3. That since the denovo inquiry Proceedings were not completed within the stipulated period of one month, as per direction of this Honourable Tribunal in Appeal No.1842/2010, decided on 28.11.2018.
- 4. That the Appellant in persuance to the judgement of the Federal Service Tribunal and Judgements of Peshawar High Court, instituted W.P No.2130-P/2020 on 19.03.2020, which was disposed-off on 22.09.2020, holding that the jurisdiction lies with the Service Tribunal.

(Copies whereof are Annexed with the Main Appeal).

- 5. That the period lapsed in the institution of the captioned Appeal, is liable to be condoned in Appellants' favour, on the following amongst many other grounds:-

- A. That the period beyond the prescribed limitation period lapsed in pursuance of the above referred judgements, in good faith, agitating for his legal right.
- B. That valueable rights of Appellant are invalved in the captioned Appeal.
- C. That the impugned order is illegal and void, while limitation does not run against such like void order.
- D. That the Appellant seeks leave of this Honourble Tribunal to claim further grounds also.

It is prayed that on accepting of this Application, the period of Four Months and ~~75~~<sup>(13)</sup> days may be condoned in favour of Appellant.

Dated: 26.10.2020.  
(Monday)

Appellant

*M A Sohail*  
(Muhammad Anwar Sohail)

Through: *Adnan*  
Muhammad Adam Khan  
Advocate Mardan.

AFFIDAVIT:-

I, Muhammad Anwar Sohail S/o Nawab Dindo hereby state on solemn affirmation that the contents of this application are true and correct to the best of my knowledge and belief.

Deponent

*M A Sohail*  
(Muhammad Anwar Sohail)

P/6

OFFICE ORDER

Attested  
Arshad  
Adnan Khattar

1. Whereas Mr. Mohammad Anwar Sohail, Patwari of this office applied for 3 years leave w.e. 01/01/2008 to 31/12/2010.
  2. And whereas, the above said patwari did not avail and get his leave sanctioned and has willfully absented himself from duty since then.
  3. And whereas, on coming in to the knowledge of the undersigned (Competent Authority) a show cause notice was issued to him on his known Home address through Registered A.D. The notice was received back as un-delivered with the remarks of the postman that "دریافت نہیں ہو سکی ہے کیونکہ پتہ غلط ہے۔" اور اس کے بارے میں کوئی اطلاع نہیں دی گئی۔
  4. And whereas another final show cause notice was published in our leading News Paper directing him to resumed his duty and to show cause of his willful absence within 15 days of the publication else he will be removed from service.
  5. And whereas the Board of Revenue, N.W.F.P. vide letter No. 2052/Admn. VII/Swabi dated 29/4/2010 also directed him to appear before the office of District Officer (R&F) Collector, Swabi.
  6. And whereas the accused patwari failed to report for duty as well as to explain his position within the stipulated period of time. The Board of Revenue, N.W.F.P. was also informed vide this office letter No. 1160/R.A/Admn dated 10/5/2010 of his failure to attend the office of the undersigned.
  7. His name may also be struck off from the strength of this office. Necessary entry to this effect may also be made in the service book/service record of the removed patwari.
- Now after completion of all legal formalities and on ascertaining the facts that the accused official/patwari namely Muhammad Anwar Sohail is not interested to report back for duty and has to be in efficient and thus has been found guilty of his mis-conduct, therefore, Mr. Khaista Rahman, District Officer (R&F) Collector Swabi (Appointing Authority)/Competent Authority under the Removal from Service (Special Power Ordinance) F&D Rules 1977 hereby award a Major Penalty of Removal from Service of Mr. Muhammad Anwar Sohail Patwari from date of his willful absence i.e. 1/1/2008.

Muhammad  
District Officer (R&F)  
District Collector, Swabi.

A  
D

OFFICE OF THE DISTRICT OFFICER (B&L) / COLLECTOR, SWAHILI

No. 1188-1240/DOR/SWA

Dated 13/05/2019

Copy forwarded to:-

1. The Chief Justice, Board of Revenue, Court of L.P.L., Peshawar
2. The Commissioner, Malakand Division, Peshawar
3. The Director, Board of Revenue, Court of L.P.L., Peshawar
4. The District Coordination Officer, Swabi
5. The District Accounts Officer, Swabi
6. The Deputy District Officer (B), Swabi/Jhok
7. The Tehsildar, Swabi/Jhok/Topa/Kazzor.
8. The Bill Clerk.
9. The Official Concerned.

District Officer (B&L)  
District Collector, Swabi.

2/5/19

P/8

of Annexure 'A'  
of Page 6

BETTER COPY

DISTRICT OFFICER.

1. Whereas Mr. Mohammad Anwar Sohail, Patwari of this office applied for 3 years leave w.e.f. 1.1.2008 to 31.12.2010
2. And whereas the above said Patwari did not wait and get his leave sanctioned and has willfully absented himself from duty since then.
3. And whereas, on coming in to the knowledge of the undersigned (Competent Authority) a show cause notice was issued to him on his known home address through Registered A.D. The notice was received back as un-delivered with the remarks of the Postman that:  

در بیان سے مستور ہے۔ کہ یہ نوٹس سے پہلے ہی ہو گیا ہے۔  
 آئے گا تو انکار نہیں ہے۔ نیز اس کی اطلاع دی جا رہی ہے۔
4. And whereas another/final show cause notice was published in one leading News Paper directing him to resume his duty and to show cause of his wilful absence within 15 days of the publication else he will be removed from service.
5. And whereas the Board of Revenue, N.W.F.P. vide letter No.2057/ Admo:VII/Swabi dated 29.4.2010 also directed to appear before the office of District Officer (R&E)/Collector Swabi.
6. And whereas the accused Patwari failed to report for duty as well as to explain within the stipulated period of time. The Board of Revenue, N.W.F.P. was also informed vide this office letter No.1160/B.A./leave dated 10.5.2010 of his failure to attend the office of the undersigned.
7. His name may also be struck off from the strength of this office. Necessary entry to this effect may also be made in the service book/service record of the removed Patwari.
8. Now after completion of all codal formalities and on ascertaining the facts that the accused official/Patwari namely Mohammad Anwar Sohail is not interested to report back for duty and has to be in-efficient and thus has been found guilty of his mis-conduct, therefore, Mr. Khaista Rehman District Officer (R&E)/Collector Swabi (Appointing Authority)/Competent Authority under the Removal from Service (Special Power Ordinance R&R Rules 1973 hereby accord a Major Penalty of Removal from Service of Mr. Mohammad Anwar Sohail, Patwari from his service from the date of his wilful absence i.e, 1.1.2008

Sd/-  
 KHAISTA REHMAN  
 DISTRICT OFFICER (R&E)  
 Distt. Collector, Swabi.

A  
 ①  
 J  
 H

8/9

Better Copy  
of Page 7

OFFICE OF THE DISTRICT OFFICER (R&E)/COLLECTOR SWABI

No. 1180/1200/DOR/S.B.A.

Dated: 18.5.2010

Copies forwarded to :

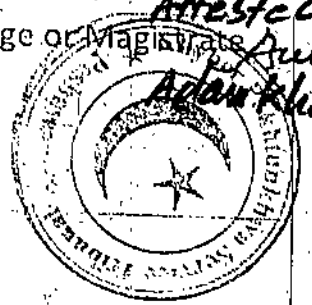
1. The Senior Member Board of Revenue Govt. of NWFP PESHAWAR.
2. The Commissioner, Mardan Division, Mardan.
3. The Secretary, Board of Revenue Govt. of NWFP PESHAWAR.
4. The Distt. Coordination Officer, Haripur, Swabi.
5. The Distt. Accounts Officer, Mardan.
6. The Deputy Distt. Accounts Officer (R) Swabi also.
7. The Tehsildar, Swabi/Lahor/Topi/<sup>Razbar</sup>~~Haripur~~.
8. The Bill clerk.
9. The official concerned.

Sd/- KHAISTA REHMAN  
DISTRICT OFFICER (R&E)  
District Collector, Swabi.

(2)

15



Attested  
by  
Adnan Khan

Order or other proceedings with signature of Judge or Magistrate

Date of  
order/  
proceeding

1

2

3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Appeal No. 1842/2010

Date of Institution ... 09.09.2010

Date of Decision ... 28.11.2018

Muhammad Anwar Sohail s/o Nawab Din (Ex- Patwari/AoK  
Lahore District Swabi) resident of Mohallah Near Post office  
Swabi.

-----Appellant

1. The District Officer (R&E) the District Collector, Swabi.
2. The Additional Commissioner Mardan, Division Mardan.
3. The Assistant Secretary (Admn) Board of Revenue, KPK  
Peshawar

-----Respondent

Mr. Hamid Farooq Durrani.....Chairman  
Mr. Hussain Shah.....Member

**JUDGMENT**

Mr. HUSSAIN SHAH:- Appellant, learned counsel for the  
appellant and Mr. Kabirullah Khattak learned Additional Advocate  
General on behalf of the respondents present.

2. The appellant was granted one year leave with full pay from  
01.01.2006 to 31.12.2006 which was extended further on half pay  
till 31.12.2007. The appellant applied on 15.11.2007 for extension  
of leave without pay for further three (03) years. As the application  
for further extension in the leave was not responded therefore the  
appellant, allegedly, reported for duty on 01.01.2008. The  
appellant submitted another application to report for duty on  
06.06.2008 which was officially endorsed to DOR&E Swabi by

28.11.2018

**ATTESTED**

Mr. Hamid Farooq Durrani  
Chairman  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

P/11

Tehsildar on 07.06.20.

3. Meanwhile a Show Cause Notice was published in the daily "AAJ" on the charge of absence from duty which was replied by the appellant on 23.04.2010 through registered A/D post. The competent authority i.e. DOR Swabi, ordered on 18.5.2010, the removal of the appellant from service w.e.f 01.01.2008. The appellant submitted representation/departmental appeal to the Additional Commissioner Mardan on 16.06.2010 which was rejected on 11.08.2010.

4. The learned counsel for the appellant contested the impugned order and the proceedings as illegal, unjustified, of malice and against the principal of the natural justice; as the appellant never remained absent from duty. He referred to the arrival report of the appellant, at the expiry of his leave on half pay, on 01.01.2008. He further argued that since 01.01.2008 the appellant was kept in waiting the posting order which was never issued by the DOR. The appellant submitted another report for duty on 06.06.2008 which was officially endorsed to DO (R&E) Swabi by Tehsildar on 07.06.20. The learned counsel for the appellant also argued that the publication of show cause notice in the newspaper on the ground that the appellant did not respond to the notice issued at postal address of the appellant was based on ill intention as how could the postal authority write on the letter about appellant being absent from home. The appellant is living in a village and his family member could receive the notice. To prove the personal mala fide intention of the DO (R&E) the council for the appellant

ATTESTED

*[Signature]*  
 MEMBER  
 Service Tribunal,  
 Peshawar

P/12

drew the attention of the Tribunal to the correspondence between the BOR and the DO (R&E) Sawabi on the subject of the application of the appellant for three years extension in leave without pay. He stated that the BOR vide letter no. 11418 / ADMN VH Dated 06.05. 2009 advised the DO (R&E) that the appellant is entitled to leave on half pay from 1.1.2008 to 31.01.2009 and leave without pay from 01.02.2010 as per Rule-12(1) of Revised Leave Rules, 1981. He further referred to the non-payment of the salary for the approved one year leave on half pay for which the appellant went in a Write Petition No. 1390 of 2010 and he was paid on the direction of the Hon'ble High Court.

5. The learned Additional Advocate General contested the facts and grounds of the appeal and stated that Show Cause notice issued at the postal address of the appellant was returned un-served. He further argued that the appellant did not await the decision for the competent authority on application for extension in his leave without pay and absented himself as such without leave. He also argued that an inquiry was conducted and the statement of the appellant was duly recorded by the inquiry officer.

6. Arguments heard. File perused.

7 The appellant was on leave and he applied for further extension in leave for three years which was allowed by BOR on 06.05.2009 under Rule-12(1) of Revised Leave Rules, 1981 up to 31.12.2010. The DO (R&E) issued on 18.05. 2010 the removal from service of the appellant order which appears to be not fair on

*Handwritten initials*

**ATTESTED**

*Handwritten signature*  
 CHIEF CLERK  
 Sawabi Tribunal,  
 Peshawar

P/13

the part of the DO(R&E) hence the appeal is partially accepted, the case is remanded to SMBR for conducting De novo Enquiry within a period of one month positively. The issue of re-instatement into service of the appellant and the back service benefit depends on the outcome of the De novo Enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(Hamid Farooq Durrani)  
Chairman



(Hussain Shah)  
Member

**ANNOUNCED**

28.11.2018

Certified to be true copy

EX-100  
Khayal  
Sardar  
Peshawar

Date of Presentation of Copy Fee 28-11-18  
 Number of Words 1680  
 Copying Fee 10/-  
 Urgent ✓  
 Total 10/-  
 Name of Copyist [Signature]  
 Date of Completion of Copy 08-01-19  
 Date of Delivery of Copy 08-01-19

P/14

Annexure C

Before The Service Tribunal, Peshawar.

Petition No. 268 /2019.  
IN  
Service Appeal No.1842/2010.  
Decided on 28-11-2018.

Attested  
Anwar  
Anwar Khan

Muhammad Anwer Sohail S/o Nawab Din (Ex-Patwari/AOK  
Lahor District Swabi) residence near Post office Swabi.  
Petitioner.

VERSES

- 1.The District officer (R & E) / The District Collector, Swabi.
- 2.The Additional Commissioner, Mardan Division, Mardan.
- 3.The Assistant Secretary (Admn;), The Board of Revenue, K.P Peshawar.

Respondents.

-----  
Petition for implementation of the judgement of the service Tribunal, in Appeal No.1842/2010 decided on 28-11-2018, titled "Muhammad Anwar Sohail Versus The District officer etc".  
-----

- 1.That while posted as Patwari/Aok Lahor District Swabi, under the Respondent No.1, the Appellant was awarded the punishment of removal from service on 18-05-2010, on disciplinary grounds.
- 2.That the Appellant, grieved there-with, approached this Honourable Tribunal in Appeal No.1842 of 2010, which was accepted on 28-11-2018, setting-aside the impugned order and remanded the case to the S.M.B.R for "Conducting De Novo Enquiry within a period of one month and further held that the issue of re-instatement into service and the back service benefits, depends on the outcome of the denovo inquiry".

(Copy Annexure-"A")

P/15

3. That resultant to the above captioned judgment, the Petitioner submitted arrival for duty on 29-01-2019.

(Copy Annexure-"B").

4. That on setting-aside of the impugned order there-in, the Petitioner is to be considered to have be re-instated into service, especially for the purpose of conducting the de novo enquiry proceedings.

5. That this Honourable Tribunal also sent the copy of the judgement inquestion to Respondent No.1 vide Letter No.32/ST dated 04.01.2019, which was received there, as per endorsement thereon dated 10/01/2019.

(Copy Annexure-"C").

6. That inspite of lapse of a long period of more than four months instead of one month, the Respondents have not even, initiated the de-novo proceedings, what to say about completion thereof. But, only a summon dated 04.02.2019 and the verbal direction by the Additional Deputy Commissioner Swabi dated 09.02.2019 to the Petitioner for submission of his defence statement, which was submitted there and then. But, without issuance of charge sheet and statement of allegation etc.

(Copy Annexure-"D & E").

7. That no further proceedings are carried-out by the Respondent, there-after.

8. That on lapse of the stipulated period of one month, fixed by this Honourable Tribunal, the Appellant stands reinstated with all back service Benefits, as held by the Honourable High Court Peshawar.

9. That the Appellant has been jobless, after the impugned order, in respect of removal of Appellant from service.

10. That as per the Judgment of the high court Peshawar, non-completing the De-novo proceedings within the stipulated Period, the concerned civil Servant, stands re-instated in service with retrospective effect.

P/16

It is prayed that on acceptance of this Petition, the Respondent may be directed to consider the petitioner to have been re-instated into service with back service and financial benefits.

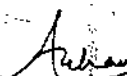
The costs of this Petition may also be awarded in favour of Petitioner against the Respondents.

Dated: 24.06.2019.

Petitioner



(Muhammad Anwar Sohail)

Through:   
Muhammad Adam Khan  
Advocate High Court  
Mardan.

AFFIDAVIT

I, Muhammad Anwar Sohail S/o Nawab Din do hereby state on solemn affirmation that the contents of this Petition are true and correct to the best of my knowledge and belief.

Deponent



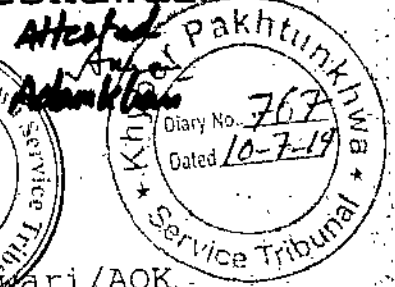
(Muhammad Anwar Sohail)

16(A)

Annexure "Cj"

Before The Service Tribunal, Peshawar

Petition No. 2018 /2019.  
IN  
Service Appeal No.1842/2010.  
Decided on 28-11-2018.



Muhammad Anwer Sohail S/o Nawab Din (Patwari/AOK, Lahor District Swabi) residence near Post office Swabi.  
Petitioner.

VERSES

1. The District officer (R & E) / The District Collector, Swabi.
2. The Additional Commissioner, Mardan Division, Mardan.
3. The Assistant Secretary (Admn;), The Board of Revenue, K.P Peshawar.

Respondents.

-----  
Petition for implementation of the judgement of the service Tribunal, in Appeal No.1842/2010 decided on 28-11-2018, titled "Muhammad Anwar Sohail Versus The District office etc".

- 
1. That while posted as Patwari/Aok Lahor District Swabi, under the Respondent No.1, the Appellant was awarded the punishment of removal from service on 18-05-2010, on disciplinary grounds.
  2. That the Appellant, grieved there-with, approached this Honourable Tribunal in Appeal No.1842 of 2010, which was accepted on 28-11-2018, setting-aside, the impugned order and remanded the case to the S.M.B.R for "Conducting De Novo Enquiry within a period of one month and further held that the issue of re-instatement into service and the back service benefits, depends on the outcome of the denovo inquiry".

(Copy Annexure-"A")

Certified to be true copy  
M. ANWER  
Khayr Pakhtunkhwa  
Service Tribunal,  
Peshawar



Execution Petition No. 268/2019  
M. Anwar Sohail vs Govt



01.09.2020

Counsel for the petitioner and Addl. AG  
Mukhtiar Ali, Asstt. Secretary for the respondents present.

Learned counsel states that after the submission of instant Execution Petition the petitioner was awarded major penalty through the departmental proceedings. A Writ Petition has been preferred before the Honourable Peshawar High Court against the order of penalty.

In the circumstances, it is appropriate to consign the present proceedings with the permission to the petitioner to apply for restoration as and when required, but under the law. Order accordingly.

SDP Chairman

Certified to be true copy

Kh. ...  
Service Tribunal,  
Peshawar

Date of Presentation of Application 01/09/2020  
Number of Words 800  
Copying Fee 10.00  
Urgent  
Total 10.00  
Name of Copy  
Date of Completion of Copy 22/09/2020  
Date of Delivery of Copy 22/09/2020

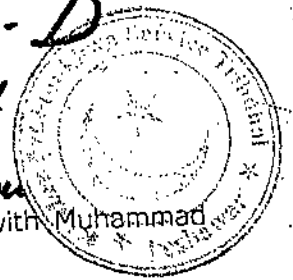
EP 268/2019

04.11.2019

Annexure-D<sup>4</sup>

P/17

Attested  
Aamir  
Adams Khan



Petitioner in person and Addl. AG-alongwith Muhammad Arif Superintendent for the respondents present.

A denovo enquiry, in pursuance to judgment under implementation was conducted and its report was submitted by Addl. Deputy Commissioner, Swabi/enquiry officer on 18.07.2019. The record is, however, short of any order passed by the competent authority as a consequence to the denovo enquiry.

The representative of respondents No. 3 undertakes to convey to the concerned respondent/official the instant order. To come up for further proceedings on 09.12.2019 before S.B.

Chairman

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Petition 04/11/19  
 Number of Pages 800  
 Copying Fee 10-00  
 Urgent \_\_\_\_\_  
 Title 10-00  
 Name of C.O. \_\_\_\_\_  
 Date of Completion of Case 05/11/19  
 Date of Delivery of Case 05/11/19

Attested  
Anwar  
Adnan Khan



OFFICE OF THE DEPUTY COMMISSIONER, SWABI

Tel: 0938-92007

email: dcswabi@yahoo.com

fax:

0938-92006

No. 30 /DCS/DK/Inquiry

dated 14 /01/2020

OFFICE ORDER

In pursuance of the August Service Tribunal Khyber Pakhtunkhwa Judgment passed in case title "Muhammad Anwar Sohail (Ex-Patwar/AOK Lahor District Swabi) VS District Officer (R&E) the District Collector, Swabi etc dated 28-11-2018, the De-novo Enquiry was conducted wherein the enquiry officer recommended / upheld the removal from service order issued by the then DOR, Swabi bearing No. 1182-1200/DOR/S.B.A dated 18-05-2010.

Agreeing with the recommendation of the inquiry officer, the order of removal of Mr. Muhammad Anwar Sohail from service bearing No. 1182-1200/DOR/S.B.A dated 18-5-2010 is hereby upheld.

DEPUTY COMMISSIONER,  
SWABI

No & date even

1. The Commissioner, Mardan Division, Mardan.
2. The Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
3. The Assistant Secretary (Istt), Board of Revenue, Khyber Pakhtunkhwa.
4. The Additional Deputy Commissioner/enquiry Officer, Swabi.

DEPUTY COMMISSIONER,  
SWABI

95/11/2020  
in Court

2  
E

To  
P/19  
The Additional Commissioner,  
Mardan Division,  
Mardan.

Annexure F

Attested  
Adam Khan

Through proper Chanel.

**Subject:-** Representation against the order of the Deputy Commissioner Swabi Contained in Endorsement No. 30/ Des/ /Dk/inquiry dated 14.01.2020, whereby the previous order dated 18.05.2020 regarding removal from service is upheld.

Sir,

with reference to the captioned order, whereby the punishment order of removal from service imposed upon me, vide letter No. 1182-1200/ DOR/S.B.A dated 18.05.2010 is upheld.

Copy Attached.

It is submitted that the punishment of removal from service was imposed upon me vide letter dated 18.05.2010, referred to above.

I challenged the said order before the K.P service tribunal, Peshawar in Appeal No.1842/2010, which was accepted vide judgment dated 28.11.2018, setting-aside the order referred-to above and the case was remanded to the S.M.B.R for conducting de-Noy enquiry within a period of one month.

Copy Attached.

Resultantly, I submitted arrival report for duty on 29.01.2019.

Copy Attached.

Since the said judgment of the Hon'ble Service Tribunal was not implemented within the period of one month, the Appellant instituted contempt of court petition No.268/2019 on 24.06.2019.

Copy attached.

\* P/20

On 20.01.2020, the Dy; commissioner swabi submitted the copy of the letter no.30 dated 14.01.2020, containing the order, of removal of Appellant from service vide letter No.1182-1200/DOR/SBA dated 18.05.2010, is upheld.

Copy attached.

It is submitted that the impugned order dated 14.01.2020 is also illegal, void and the same liable to be set-aside, on the following amongst many other grounds:-

1. That after lapse of one month period, the appellant stood re-instated.
2. That the copy of the judgment of the Service Tribunal was sent to the District officer/The deputy Commissioner swabi vide letter No.32/St dated 04.01.2019 and received in D.C Swabi office on 10.01.2019, as per endorsement there-on.  
Copy attached.
3. That inspite of long period (i.e against one Month) the de novo proceeding, had not been initiated, within one Month. But only summon dated 4.2.2019 had been issued to Appellant and verbal direction by the D.C swabi for the submission of defence statement, which was complied there and there. Yet, no charge sheet and statement of allegation was issued.
4. That no further proceedings had been carried-out there-after.
5. That no enquiry, as claimed, had been conducted according to law. Thus Appellant is condemned unheard.
6. That even no witness was examined in presence of the Appellant nor any record was examined in his presence.

It is prayed that on acceptance, of this Appeal, Setting-Aside the impugned order, the

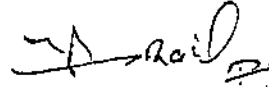
3

3

Appellant may be reinstated into service with  
back service benefits.

Dated:-09.02.2020

Appellant



(Muhammad Anwar Sohail)

Ex- patwari/AOK

Lahor (swabi)

Resident:-Near Post

office swabi

P/21

Annexure G

Attested  
Anam  
Adamkhan

No. 419 15.02.20 Rs. 80

For Insurance Notices-see reverse. Stamps affixed except in case of uninsurance RGL37985321

the initials of the Post Office Guide or on which no acknowledgment is due.

Received a registered addressed to A.C.

Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before (if necessary).

Initials of Receiving Officer ABC

Insured for Rs. 1000 (in figures) 1000 (in words)

Weight 12 Kilos

Name and address of sender Swabhi

رسید

درج ذیل یا دیگر بھیجے والے کوپسٹ پر دیئے گئے پتہ پر واپس بھیجا جائے۔

Attested  
Adam Khan

~~The Additional Commissioner~~ \*

برائے (نام) Mardan Division وصول پان۔

گرام Mardan برائے ایس۔

Handwritten signature and stamp on the left side of the document.



RAR  
37985321

ACKNOWLEDGEMENT DUE CARD

نام محمد الزمزمی  
پتہ محمد آدم خان ایم ویلز سردان  
ڈاکخانہ تھیل ضلع ضلع

Post code box with four empty slots.

پوسٹ کوڈ

5/1

(پتہ کو گمنام پر لکھو)



P/23

Annexure H<sup>c</sup>

Before The High Court, Peshawar.

W.P No. 2130-P /2020.

Attested  
Ahsan  
Adam Khan

Muhammad Anwer Sohail S/o Nawab Din (Ex-Patwari/AOK Lahor District Swabi) residence near Post office Swabi.  
Petitioner.

VERSES

1. The Deputy Commissioner, / The District Collector, Swabi.
2. The Additional Commissioner, Mardan Division, Mardan.
3. The Assistant Secretary (Admn;), The Board of Revenue, K.P Peshawar.

Respondents.

-----

CONSTITUTIONAL PETITION UNDER ARTICLE-199 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973 TO THE EFFECT THAT THE ORDER OF THE Dc/RESPONDENT NO.1) CONTAINED IN LETTER NO.30/DCS/DK/ INQUIRY DATED 14-01-2020. WHEREBY THE PREVIOUS ORDER DATED 18-05-2020 regarding penalty of removal from service IS UPHOLD IS WITH-OUT LAW-FULL AUTHORITY AND OF NO LEGAL EFFECT, NULLITY IN THE EYES OF LAW AND THE SAME IS TO SET-ASIDE RE-INSTATING THE PETITIONER INTO SERVICE WITH RETROSPECTIVE EFFECT i.e; 18-05-2010, WITH BACK SERVICE BENEFITS.

-----

Respectfully Sheweth:-

1. That while posted as Patwari/Aok Lahor District Swabi, under the Respondent No.1, the Appellant was awarded the punishment of removal from service on 18-05-2010, on disciplinary grounds.

2. That the Appellant, grieved there-from, approached the Service Tribunal in Appeal No.1842 of 2010, which was accepted on 28-11-2018, setting-aside the impugned order and remanded the case to the S.M.B.R for "Conducting De Novo Enquiry within a period of one month.

(Copy Annexure-"A").

3. That resultant to the above captioned judgment, the Petitioner submitted arrival for duty on 29-01-2019.

(Copy Annexure-"B").

4. That the Honourable Service Tribunal also sent the copy of the judgement in question to Respondent No.1 vide Letter No.32/ST dated 04.01.2019, which was received there, as per endorsement thereon dated 10/01/2019.

(Copy Annexure-"C").

5. That inspite of lapse of a long period of more than four months instead of one month, the Respondents did not even, initiated the de-novo proceedings, what to say about completion thereof.

6. That the D.C/Respondent No.1, vide letter No.30/DCS/DK/inquiry dated 14-01-2020 ordered that the previous order, removal from service vide Endorsement No.1182-1200/DOR/SBA dated 18-05-2010 is upheld.

(Copy Annexure-"D").

7. That on lapse of the stipulated period of one month, fixed by this Honourable Tribunal, the Appellant stands reinstated with all back service Benefits, as held by the Honourable High Court Peshawar in W.P No.1541-P/2016 titled Iftikher Ahmed V/s Govt; of K.P etc;"decided on 22-09-2016.

(Copy Annexure- "E").

3 P/25

8. That as per the Judgment of the Honourable High Court Peshawar, non-completing the De-novo proceedings within the stipulated period, the concerned civil Servant, stands re-instated in service with retrospective effect and that the proceedings of denov-enquiry with the relevant order are to be set-aside and the Petitioner to be reinstated in service with back service benefits.

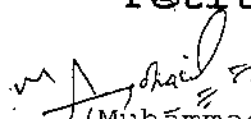
9. That the Appellant has been jobless, after the impugned order, in respect of removal of Appellant from service dated 18-05-2010.


It is prayed that the impugned order with the relevant proceedings may be declared to be without law-full authority and of no legal effect, nullity in the eyes of law and the same is to set-aside re-instating the petitioner into service with retrospective effect i.e; 18-05-2010, with back service benefits.

The costs of this Petition may also be awarded in favour of Petitioner against the Respondents.

Dated: 17.03.2020.

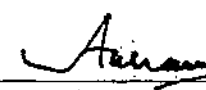
Petitioner

  
(Muhammad Anwar Sohail)

  
Through: Muhammad Adam Khan  
Advocate High Court  
Mardan.

**CERTIFICATE:**

This is to certify that as per the Petitioner, he has not instituted any other Petition/case of the nature or suit on the same cause of action.

  
\_\_\_\_\_  
MUHAMMAD ADAM KHAN  
B.A LLB Advocate  
High Court Mardan

P/26

Annexure I

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Attested  
Adam Khan

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2
<b>ORDER</b> 22.09.2020	<p><u>Writ Petition No.2130-P/2020</u></p> <p>Present: Mr. Muhammad Adam Khan, Advocate, for Muhammad Anwar Sohail, petitioner.</p> <p>Syed Sikandar Hayat Shah, Addl. AG, for the respondents (on court notice).</p> <p>*****</p> <p><b><u>QAISER RASHID KHAN, J.</u></b>-The petitioner, through the instant writ petition, has asked for the issuance of an appropriate writ seeking the office order dated 14.01.2019 of respondent No.1 to be nullity in the eye of law and of no legal effect whereby his earlier removal order dated 18.05.2010 has been upheld and also for directions to the respondents to reinstate him in service with all back benefits.</p> <p>2. As per averments in the petition, the petitioner while performing his duty as a Patwari / AOK Lahor was removed from service on disciplinary ground vide order dated 18.05.2010, which was assailed before the learned Khyber Pakhtunkhwa Service Tribunal, Peshawar through an appeal and in turn, the matter was remanded to SMBR for conducting de dono</p>

17

enquiry within a one month vide judgment dated 28.11.2018 and, on failure thereof, he approached the respondents for his reinstatement but to no avail and that is how, he is before this court with his grievance.

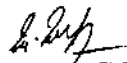
3. Arguments heard and the available record perused.

4. We have before us the impugned order dated 14.01.2020 of respondent No.1, which reflects that pursuant to the decision of the learned Khyber Pakhtunkhwa Service Tribunal dated 28.11.2018, a de novo inquiry was conducted and, on its basis, the earlier decision dated 18.05.2010 of the removal of the petitioner from service was upheld vide the impugned order dated 14.01.2020, meaning thereby, that the directions of the learned Service Tribunal have been complied with in letter and spirit and nothing is left for the interference of this court.

5. This writ petition being misconceived stands disposed of accordingly.

Announced.  
22. 09. 2020

  
SENIOR PUISNE JUDGE

  
JUDGE.

Attached  
 Akhbar  
 Adan Khan

To

The Deputy Commissioner,  
 Swabi.

Subject: Arrival report.

Sir,

Reference Service Tribunal, Peshawar  
 Judgement in Appeal no. 1842/2010  
 dated 28.11.2018, whereby I am reinstated  
 into service. Copy attached herewith.

Hence, I hereby report my arrival  
 for duty from today, the 29.01.2019.

Dated 29.01.2019

DA-17

Yours obediently  
 (Muhammad  
 Anwar Suhail)

Patwari/Aok  
 Lohor (Swabi)

With the approval of competent authority, Earned leave of 265 days with effect from 01-01-2006 to 31-12-2006 (both days inclusive) on half pay is hereby granted to Mr. Mohammad Anwar Shahid, Patwaris/A.C. of this office subject to title as admissible under the revised leave rules 1981.

ATTESTED:  
*Alina*  
ADAM KHAN

DISTRICT OFFICER (R & E)  
DISTRICT COLLECTOR SWABI.

OFFICE OF THE DISTRICT OFFICER (R & E) SWABI.

Dating: 6-1-06 / 17/2/2006

Copies forwarded to the:-

- 01) District Coordination Officer Swabi with reference to his NO. 2131/DCO/AR, dated: 11-02-2006.
- 02) District Accounts Officer Swabi.
- 03) Tehsildar Bahor (District Swabi).
- 04) Official concerned.

*M. E. Hillan*  
DISTRICT OFFICER (R & E)  
DISTRICT COLLECTOR SWABI.

Half pay w/e/f 1-1-2006 } (09-Months) 26603/-  
 To 31-12-2006 }  
 Half pay w/e/f 1-1-2007 } (12-Months) 26603/-  
 To 31-12-2007 }

K

OFFICE ORDER

With the approval of the competent authority ADAM KHAN  
Earned leave of 365 days with effect from 01.01.2006 to 31.12.2006,  
(both days inclusive) on half pay is hereby granted to  
Mr. Mohamad Anwar Sohail, Patwari/A.O.K. of this office subject  
to title as admissible under the revised leave rules 1981.

Sd/-  
DISTRICT OFFICER ( R&E )/  
DISTRICT COLLECTOR SWABI.

OFFICE OF THE DISTRICT OFFICER ( R AND E ) SWABI.

Endst. No.61-64/P-F leave/AD, dated Swabi the 17.2.2006.

Copy forwarded to the :-

- 01):- District Coordination Officer, Swabi with reference to his No.2131/DCO/AE, dated 11.02.2006
- 02):- District Accounts Officer, Swabi.
- 03):- Tehsildar Lahor ( Distt. Swabi)
- 04):- Official concerned.

Sd/- DISTRICT OFFICER ( R&E )/  
DISTRICT OFFICER SWABI.



ICE ORDER

*Arrested*  
*Adar Khan*

Earned leave of 303 days w.e.f. 1.1.2007 to 31/12/2007 (both days inclusive) on half pay is hereby granted to Mr. Anwar Sohail, Patwari / AOK, Lador District Swabi subject to: *File* as admissible under the Revised Leave Rules 1981.

\_\_\_\_\_  
District Officer (R&B)  
Swabi

OFFICE OF THE DISTRICT OFFICER (R&B) SWABI

- 311-511 /PT  
Copy forwarded to the:-
1. District Accounts Officer, Swabi
  2. Tehsildar, Lador
  3. Official concerned.

Dated 3/03/2007

*Anwar Sohail*  
District Officer (R&B)  
Swabi

OFFICE ORDER

*Attested  
Adnan  
Adnan Khan*

Earned leave of 365 days w.e.f. 1.1.2007 to 31.12.2007 (both days inclusive) on half pay is hereby granted to Mr. Anwar Sohail, Patwari/AOK Lahor District Swabi subject to title as admissible under the Revised Leave Rules 1981.

Sd/- DISTRICT OFFICER (I)  
SWABI.

OFFICE OF THE DISTRICT OFFICER (R&E) SWABI.

N o. 514-5161PP dated 3/05/2007.

Copy forwarded to the :-

1. The District Accounts Officer, Swabi.
2. Tehsildar, Lahor.
3. Official concerned.

Sd/- District Officer (I)  
SWABI.

L

Master  
Abraham  
Adam Khan

مختصر رسالہ... (Handwritten title)

درجہ اولیٰ... (Handwritten text)

سوال... (Handwritten text)

جواب... (Handwritten text)

سوال... (Handwritten text)

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15/11/2007

④ M

Attested  
Adnan Khan

مختصر بیان کے ساتھ ملکر یہ فیچر ریکورڈنگ اسٹیٹمنٹ فراہم ہے

صاف بنائی ۔۔۔  
درخواست دربارہ عطا شدہ رخصت از ستمبر 1/1 تا 31/12/2010

تک تین سال کیلئے تنخواہ گزارش کی جائے۔ نہ سائل ایک ایسا ہی  
بہترین پورا سہارا ملا ہے۔ سائل کی گئی رخصت کا مفید سہارا  
رکھتا ہے۔ 1/1 تا 31/12/2006 منظور ہو گیا ہے۔  
|| جو 31/12 کو ختم ہوا ہے۔

صاف بنائی ۔۔۔ سائل خود ملک سے باہر ہے۔ سائل کا فی ڈائی سپریشن  
میں مبتلا ہے۔ جس کے سائل ڈیوٹی کرنے سے باہر ہے  
جس کے سائل نے تین سال کو تین تین سال کی گئی ہے  
لہذا اسے سائل کو بڑا کفر درخواست اس کے لیے ہے۔ کہ سائل  
کو از ستمبر 1/1 تا 31/12/2010 تک تین سال کیلئے تنخواہ کی گئی  
منظور کرنے کی رعایت صادر فرمائی جائے۔ سائل کے سابقہ تنخواہ  
دینے کی رعایت صادر فرمائی جائے۔

صفحہ 11/2007

عینہ کوثر

Adnan Khan  
Adnan Khan

M  
4

Page No. 35

Annexure N

No. 805

Attested  
Adam Khan

For Insurance Notice, see reverse.  
 This is to certify that the above  
 mentioned parcel is of the weight  
 and contents as stated in the  
 invoice and is in conformity with  
 the actual weight and contents  
 ascertained by the undersigned  
 on the date mentioned below.

Date: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

(S)

D

(S)

N

کتابت و تصدیق کے لئے درج ذیل کے ناموں کے ساتھ

Attested  
Adam Khan

کتابت کے لئے

من علی

کوٹہ اور جہلم کے درمیان 516-514 کی طرف سے 2007

12 1 11  
31/6/02  
07

2008

اس کے لئے تصدیق کے لئے

کتابت کے لئے

2008

کتابت کے لئے

Handwritten marks and symbols on the right margin.

حکومت پاکستان، دفتر سیکرٹری جنرل، اسلام آباد۔  
فائل نمبر: 514-516/2007

Attested  
Adam Khan

صاف کاپی

مذکورہ بالا کیس کے متعلق 31 اگست 2007ء کو  
پولیس نے رپورٹ نمبر 514-516/2007  
میں بتایا ہے کہ ایک شخص نے 1 جنوری 2008ء کو  
میں سے 50 روپے کی رقم چوری کی۔  
اس کی اطلاع میرے والدین کو دی گئی۔  
1 جنوری 2008ء

اس کی تصدیق کے لیے AOK کے ساتھ منسلک ہے۔

0  
B

Annexure

Attested  
Aurang  
Adam Khan

Handwritten signature and date: 16/6/08

Handwritten text: 2006 2007

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6.06.08

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REVENUE OFFICE  
828  
14/6/08  
SHARDA

NO 224/Tch  
12/6/08



Attested  
Adnan Khan



صوبہ پنجاب حکومت

### انٹرنیشنل جنرل سروسز کمیشن کا سٹیٹس آف اپلوریشن کا اظہار

مذکورہ بالا کے تحت سٹیٹس آف اپلوریشن کے لئے درخواست دہندگان کی فہرست درج ذیل ہے:

1010	17/12/2006	17/12/2006
011	17/12/2007	17/12/2007
777	17/12/2010	17/12/2010

Ch. J. (Final) No. 002/2005-10

www.wia.gov.pk

انٹرنیشنل جنرل سروسز کمیشن (R.G.E) سرکاری طور پر قائم کیا گیا ہے اور اس کے تحت سٹیٹس آف اپلوریشن کے لئے درخواست دہندگان کی فہرست درج ذیل ہے:

1. 17/12/2006 17/12/2006 17/12/2006

2. 17/12/2007 17/12/2007 17/12/2007

3. 17/12/2010 17/12/2010 17/12/2010

انٹرنیشنل جنرل سروسز کمیشن کے تحت سٹیٹس آف اپلوریشن کے لئے درخواست دہندگان کی فہرست درج ذیل ہے:

1. 17/12/2006 17/12/2006 17/12/2006

2. 17/12/2007 17/12/2007 17/12/2007

3. 17/12/2010 17/12/2010 17/12/2010

انٹرنیشنل جنرل سروسز کمیشن کے تحت سٹیٹس آف اپلوریشن کے لئے درخواست دہندگان کی فہرست درج ذیل ہے:

1. 17/12/2006 17/12/2006 17/12/2006

2. 17/12/2007 17/12/2007 17/12/2007

3. 17/12/2010 17/12/2010 17/12/2010

14.4.2010  
(2.1)

6

Q

To.

The District Officer  
Revenue & Estate Officer  
District Swabi

Annexure R

Subject:-

STATEMENT OF MR. MUHAMMAD ANWAR SOHAIL PATWARI  
(AOK) TESHHSIL LAHORE DISTRICT SWABI

*Attested*  
*Adam Khan*

Sir,

I Patwari Muhammad Anwar Sohail have read in the newspaper, the show cause notice from your side in which you have asked for cause, sir you have ignored the reply of my application for leave of three years, the application no. 805 dated 15-11-2007, you have also ignored the letter No. 114/18 Admn VII Peshawar dated 6-5-2009 of Revenue & Estate Department, I had arrived to the Department, I had made arrival on 17-2-08 before afternoon, I had given my statement to the D.D.O.R. Judicial, Swabi you ignored that also, I have received non of the registered letters which you sent, you ignored my application etc. You have committed the crime of leave of right of legal remedies, I have the right of court of Law, I was compelled by you and your behaviour to knock the door of Law, actual misconduct was on your part, ignored the rules of E & D of 1973. You did not give the salaries, which were from 1-1-06 to 31-12-2007 which were passed from treasury, Swabi I have emity in village I cannot come out of the house, you have met with my rivals you provoked me, I have compulsion of leave because of my personal security, I have due right of leave which is my legal right, I have filed the Writ Petition in the Peshawar High Court this advertisement has got no value, which had no requirement, you gave the advertisement which gave mental torture to me, this case is in the court, which is pending for the decision.

(Documents are attached)

Date 12/1/2010

*Muhammad Anwar Sohail*  
(Muhammad Anwar Sohail)  
Patwari (AOK) Lahor  
District Swabi

Copies of the above forwarded to :-

- 1- Chief Secretary NWFP Peshawar
- 2- Senior Member Board of Revenue, Peshawar For information & necessary action please
- 3- Registrar Peshawar High Court Peshawar,

H  
①

Attested  
Anwar  
Adam Khan

23/4/10  
589

For Insurance Notices see reverse.  
Stamps affixed except in case of  
uninsured letters of not more than  
the initial weight prescribed in the  
Post Office Guide or on which no  
acknowledgement is due.

Registered  
Addressed to \_\_\_\_\_ Date Stamp \_\_\_\_\_

Write here "parcel", "postcard", "packet" or "parcel"  
"Receiving Officer" with the word "insured" before it where necessary  
Insured for Rs. (in figures) \_\_\_\_\_ (in words) \_\_\_\_\_

Weight \_\_\_\_\_ Kilo \_\_\_\_\_ Grams \_\_\_\_\_  
Postage fee Rs. \_\_\_\_\_ Ps. \_\_\_\_\_ (in words) \_\_\_\_\_

Name and address of sender \_\_\_\_\_  
\_\_\_\_\_



P/42

VAKALAT NAMA

In the Court of Service Tribunal Peshawar

Appeal No. \_\_\_\_\_ of 2020

Muhammad Anwar Sorial

(Petitioner)  
(Plaintiff)  
(Appellant)

**VERSUS**

The Deputy Commissioner etc;

(Respondent)  
(Defendant)

I/we Muhammad Anwar Sorial the above noted Appellant do

hereby appoint and constitute **Muhammad Adam Khan, Advocate Mardan** as Counsel in subject proceedings and authorize him to appear, plead etc., compromise, withdraw or refer to arbitration for me/us, as my/our Advocate in the above noted matter; without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel at my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated: 22.10.2020

(Signature)  
Signature of Client

Accepted  
Adam Khan  
**MUHAMMAD ADAM KHAN**  
B.A LLB Advocate  
High Court Mardan

**N.W.F. Bar Council**

ADVOCATE  
High Court

ADAM KHAN

No. DC-09-0600

Secretary's Signature

Father's Name: BADSHAH GUL  
Address: VILL. GOJARGARH DISTT. MARDAN  
Office Tel: 0931-63013  
Enrolment Date: 03/08/1978  
Enrolment Date H.C.: 31/05/1990  
Place of Practice: MARDAN  
Date of Birth: 04/04/1945  
Blood Group: B+VE  
N.I.C. No.: 6402-4612513

N.W.F. BAR COUNCIL

Mob: 0313 9363450

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

**APPEAL NO. 12789/2020**

Muhammad Anwar Sohail Patwari

(Petitioner)

Versus

1. Deputy Commissioner, Swabi.
2. Additional Commissioner, Mardan.
3. Secretary, Board of Revenue , Khyber Pakhtunkhwa.

(Respondents)

**INDEX**

S.NO	Description of Documents	Annexure	Page No
1	Para wise reply	-----	1-2
2	Enclosures	A,B,C,D	3-12
3	Affidavit	-----	14

  
Deputy Commissioner, Swabi

**Deputy Commissioner  
Swabi**

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

Appeal No. 12789/2020

Mr. Muhammad Anwar Sohail Patwari

(Petitioner)

**Versus**

1. Deputy Commissioner, Swabi (Respondents)
2. Additional Commissioner Mardan.
3. Secretary, Board of Revenue, Khyber Pakhtunkhwa.

**Joint para wise comments of respondent No. 1 to 3 are as under :**

**PRELIMINARY OBJECTIONS.**

1. That the appellant has got no cause of action.
2. The appeal is badly time Barred.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. The Appeal is bad for misjoinder and nonjoinder for necessary parties.

**Respectfully Sheweth:**

**FACTS.**


1. Correct to the extent that the petitioner was removed from service vide order No. 1182-1200/DOR/SBA dated 18-05-2010 on account of willful absence from duty. (annexure at Flag "A")
2. Correct to the extent that a denovo inquiry was conducted as per directions of Honorable Service Tribunal through the Addl: Deputy Commissioner (G), Swabi who conducted the same and submitted recommendations whereby the order of removal from service was upheld. (Annexure at Flag "B")
3. Since the denovo inquiry was conducted and the contents thereof including recommendations were found appealing to mind hence agreeing with the same, the order removal from service upheld in the capacity of competent authority.
4. As the said inquiry was conducted on the directions of Honorable Service Tribunal, therefore after proper inquiry, the same was forwarded/communicated vide letter No. 3026/DC/DK dated 18-09-2019 to the Registrar of Service Tribunal Khyber Pakhtunkhwa. (Annexure at Flag "C")

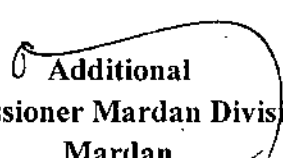
5. Since the entire process of denovo inquiry was merit-based, hence upheld by the appellant court. (Addl: Commissioner, Mardan). (Annexure at Flag "D").
6. No comments.
7. No comments.
8. Incorrect. The order is lawful and legal.

**Grounds.**


- I. In correct. During the course of inquiry, the appellant/petitioner was properly summoned and his statement was recorded which is placed on file. On the basis of available record and statement of the appellant, the case was decided on merit and the previous order of removal from service was upheld.
- II. Incorrect. As is evident from the denovo inquiry, no such arrival report was submitted/produced in support of his claim.
- III. Incorrect. On expiry of leave, a civil servant is required to join duty and to apply for further extension in the leave, if he so desires. Issuance of show cause itself is a proof that neither the appellant joined his duty nor applied for extension in the leave, hence willful absence.
- IV. No comments.
- V. No comments.

In view of the facts narrated above, the appeal having no weight in the eyes of law may kindly be dismissed with cost.

  
**Deputy Commissioner,**  
**Swabi.**  
(Respondent No.1)

  
**Additional**  
**Commissioner Mardan Division,**  
**Mardan**  
(Respondent No. 2)

Deputy Commissioner  
Swabi

  
**Secretary**  
**Board of Revenue, Khyber Pukhtunkhwa,**  
**Peshawar.**  
(Respondent No. 3)





OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

No. 1664 /ACR/Court matter:

Dated Mardan the 01/07/2021.

To: The Deputy Commissioner, Swabi.

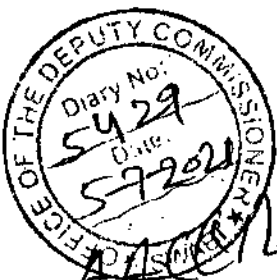
Subject: APPEAL NO.12789/2020.  
CASE TITLED: MUHAMMAD ANWAR SUHAIL VER DEPUTY COMMISSIONER SWABI.

Memo:

I am directed to enclose herewith a copy of Notice in appeal No.12789/2020 dated 22-06-2021 received from the office of Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar alongwith its enclosures and to state that joint para wise comments may kindly prepared signed from the respondents (1-3)and then vetted by the Advocate General Khyber Pakhtunkhwa Peshawar before the date fixed i.e 20-10-2021.

*No 334 / AAC (CR) Swabi  
9/7/2021*

*[Signature]*  
Assistant to Commissioner (Rev),  
Mardan Division, Mardan.



*AACR/DIC  
For n/a and report*

*[Signature]*

*DK  
Prep Comments (Amended)  
08/7/21*



Before The Service Tribunal, Peshawar.

Service Appeal No. /2020.

Muhammad AnwerSohail S/o Nawab Din (Ex-Patwari/AOK  
Lahor District Swabi) residence near Post office Swabi.  
Petitioner.

VERSES

1. The Deputy Commissioner / The District Collector,  
Swabi.
2. The Additional Commissioner, Mardan Division,  
Mardan.
3. The Secretary, The Board of Revenue, K.P,  
Peshawar.

Respondents.

-----

Appeal under Section-4 of the Service Tribunal  
Act, 1974 against the order of the Deputy  
Commissioner/Respondent No.1 vide Endorsement  
No.30/Des/Dk/inquiry dated 14.01.2020, whereby the  
Appellant is awarded the punishment of removal from  
service.

-----

1. That while posted as Patwari/Aok Lahor District  
Swabi, under the Respondent No.1, the Appellant  
was awarded the punishment of removal from  
service on 18-05-2010, on the grounds of  
alleged absence from duty.

(Copy Annexure- "A").

2. That the Appellant, after compliance with the  
requisite formalities approached this  
Honourable Tribunal in Appeal No.1842 of 2010,  
which was accepted on 28-11-2018, setting-aside  
the impugned order and remanded the case to the  
S.M.B.R for "Conducting De Novo Enquiry within  
a period of one month and further held that the  
issue of re-instatement into service and that  
service benefits, will depend on the outcome of  
the denovo inquiry".

(Copy Annexure-"B").

2

3. That the Deputy Commissioner/Respondent No.1 vide Endorsement No.30/Dcs/Dk/inquiry dated 14-01-2020 upheld the previous punishment.

(Copy Annexure-"C" & "I")

4. That the impugned order was not conveyed to Appellant till copy thereof was provided to this Honourable Tribunal during the Execution proceedings (E.P No.268/2020) on 20-01-2020.

(Copy Annexure-"D" & "E")

5. That grieved there-from the Appellant preferred representation dated 09-02-2020 to the Addl, Commissioner through registered post on 15-02-2020, which is yet pending adjudication.

(Copy Annexure-"F" & "G/1")

6. That since the denov proceedings were not completed within the stipulated period of one month, the Appellant approached the worthy High Court for declaring the denov proceedings & the impugned order, to be without legal effect.

(Copy Annexure-"H")

7. That said W.P No.2130-P/2020 was disposed-off on 22-09-2020, holding that the jurisdiction lies with the Service Tribunal.

(Copy Annexure-"I")

8. That the impugned order dated 14-01-2020 is illegal, void, untenable under the law and thus, the same is liable to be set-aside, on the following amongst many other grounds.

i. That no fresh enquiry was carried-out after remand. Thus, the Appellant is condemn unheard.

ii. That after remand of the case, the Appellant submitted arrival report on 19-01-2019, to Respondent No.1, submitting himself for the purpose of enquiry proceedings. But, with no response.

(Copy Annexure-"J")

iii. That the allegation of absence against the Appellant are in-correct and false,

which is evident from the documents attached here-with.

(Copy Annexure-"K" to "S")

iv. That the Appellant is jobless there-out. Since 18-05-2010, the date of the first punishment order.

v. That the Appellant seeks leave of this Honourable Tribunal to urge further grounds also.

It is prayed that on acceptance of this Appeal, the impugned order may be set-aside and the Appellant to be re-instated into service with back service and financial benefits.

The costs of this Appeal may also be awarded in favour of Appellant against the Respondents.

Dated: 26 . 10 . 2020.

(Monday)

Appellant

*M A Sohail*

(Muhammad Anwar Sohail)

Through:-

*Adam*

Muhammad Adam Khan  
Advocate High Court  
At Mardan.

AFFIDAVIT:-

I, Muhammad Anwar Sohail S/o Nawab Dindo hereby state on solemn affirmation that the contents of this Petition are true and correct to the best of my knowledge and belief.

Deponent

*M A Sohail*

(Muhammad Anwar Sohail)

8/9

Better Copy  
of Page 7

OFFICE OF THE DISTRICT OFFICER (R&E)/COLLECTOR SWABI

No. 118A1200/DOR/S.B.A.

Dated: 18.5.2010

Copies forwarded to :

1. The Senior Member Board of Revenue Govt. of NWFP PESHAWAR.
2. The Commissioner, Mardan Division, Mardan.
3. The Secretary, Board of Revenue Govt. of NWFP PESHAWAR.
4. The Distt. Coordination Officer, Haripur, Swabi.
5. The Distt. Accounts Officer, Mardan.
6. The Deputy Distt. Accounts Officer (R) Swabi also.
7. The Tehsildar, Swabi/Lahor/Topi/<sup>Razor</sup>~~Haripur~~.
8. The Bill clerk.
9. The official concerned.

Sd/- KHAISTA REHMAN  
DISTRICT OFFICER (R&E)  
District Collector, Swabi.

(2)  
15

1/8  
Annexure 'A'  
of Page 6  
BETTER COPY

DISTRICT OFFICER.

1. Whereas Mr. Mohammad Anwar Sohail, Patwari of this office applied for 3 years leave w.e.f. 1.1.2008 to 31.12.2010.
2. And whereas the above said Patwari did not wait and get his leave sanctioned and has willfully absented himself from duty since then.
3. And whereas, on coming in to the knowledge of the undersigned (Competent Authority) a show cause notice was issued to him on his known home address through Registered A.D. The notice was received back as un-delivered with the remarks of the Postman that:  
درمانند سے وصولی ہوئی ہے۔ کہ ہندوستان سے وصولی ہوئی ہے۔  
ان کے پاس کوئی اندازہ نہیں ہے۔ یہاں والی ارسال صورت ہے۔
4. And whereas another/final show cause notice was published in one leading News Paper directing him to resume his duty and to show cause of his wilful absence within 10 days of the publication else he will be removed from service.
5. And whereas the Board of Revenue, N.W.F.P. vide letter No.2057/ Adm:VII/Swabi dated 29.4.2010 also directed to appear before the office of District Officer (R&E)/Collector Swabi.
6. And whereas the accused Patwari failed to report for duty as well as to explain within the stipulated period of time. The Board of Revenue, N.W.F.P. was also informed vide this office letter No.1160/B.A./leave dated 10.5.2010 of his failure to attend the office of the undersigned.
7. His name may also be struck off from the strength of this office. Necessary entry to this effect may also be made in the service book/service record of the removed Patwari.
8. Now after completion of all codal formalities and on ascertaining the facts that the accused official/Patwari namely Mohammad Anwar Sohail is not interested to report back for duty and has to be in-efficient and thus has been found guilty of his mis-conduct, therefore, Mr. Khaista Rehman District Officer (R&E)/Collector Swabi (Appointing Authority)/Competent Authority under the Removal from Service (Special Power Ordinance R&R Rules 1973 hereby accord a Major Penalty of Removal from Service of Mr. Mohammad Anwar Sohail, Patwari from his service from the date of his wilful absence i.e, 1.1.2008

Sd/-  
KHAISTA REHMAN  
DISTRICT OFFICER (R&E)  
Distt. Collector, Swabi.

A  
①  
A



## DEPUTY COMMISSIONER SWABI

Tel #: 0938-221402

e-mail: adcswabi@gmail.com

fax #: 0938-221917-221500

Dated: 19/07/2019

No. 1577/ADC/GC/Swabi

Subject: DENOVO ENQUIRY IN THE CASE OF MRJ. ANWAR SUHAIL PATWARI ON ACCOUNT OF REMOVAL FROM SERVICE.

### BACKGROUND:

The instant enquiry was assigned to the undersigned vide Deputy Commissioner Swabi office order No. 1558/DCS/DK dated 02/02/2019 (Flag A). In compliance with KP Service Tribunal Judgment dated: 28-11-2018 (Flag-B), whereby it has been stated that the order of the DOR dated 18/05/2010 (Flag-C) appears to be not fair and the appeal has been partially accepted with the direction that denovo enquiry may be conducted. Hence the current enquiry.

### CASE DETAILS:

#### Proceedings:

For investigating the matter, the record file was perused, the accused Patwari was summoned and his statement recorded.

The accused in his statement (Flag-D) pleaded that he availed leave as per leave rules since 01.01.2006 to 31-12-2006 and then from 01-01-2007 to 31-12-2007 and submitted his arrival report on 01-01-2008. He further stated that receiving no response from DOR, he submitted another arrival report on 06-06-2008 but despite that his posting order was not issued. Instead, notice was published in daily Aaj against him warning him to report within 15 days otherwise disciplinary action will be taken against him. Subsequently on 18-05-2010, DOR removed him from service aggrieved from his order, he submitted appeal against it to Add: Commissioner, Mardan on 16-06-2010 which was also rejected on 11/08/2010 (Flag-E).

The accused further added that the whole proceeding against him was illegal and wrong as he was not absent from duty and was on leave as per rules. On the contrary, he blamed the DOR for not accepting his arrival report and denying him posting. He out rightly denied issuance charge sheet against him and stated that the same is available in record.

He further stated that the then DOR delayed payment of his arrears of salary of leave period despite the crystal clear opinion of BOR (Flag-F) and the same was released to him on the order of Peshawar High Court (Flag-G). He prayed that as he was denied posting on his arrival after termination of his leave period, therefore he may be exonerated from the charge of willful absence from duty.

The record file was thoroughly perused, the court judgment studied and all the correspondence made into the matter taken into account.

*[Handwritten signature and date]*  
18/7/19

**FINDINGS:**

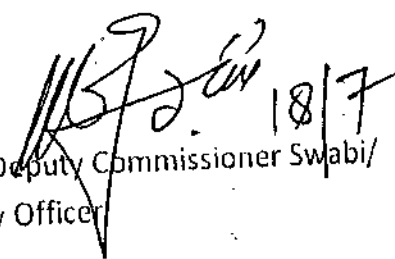
No record of the claimed arrival report produced by the accused dated: 01-01-2018 was found in the case. Furthermore, the accused could not show any official receipt of the stated arrival report nor presented any other evident in that report. As per the second arrival report, submitted by the accused on 06-06-2008 is concerned, the same was required to be submitted to the competent authority instead of Tehsildar. Even if this assertion of ignorance from show cause notice is accepted, still the notice published in Newspaper is an open fact and can't be denied. However, in response to the show cause notice, the accused should have presented himself along with showing reasons for his absence but as per his own statement he only relied on sending a reply to the notice through a registered post.

Furthermore, from the expiry of his leave, i.e 31-12-2007 till his removal of order i.e 18-05-2010, during the two and half year period, he did not bother to approach any proper forum against the alleged denial of DOR for accepting his arrival report and subsequent posting. The validity of the DOR order was further proved when the same was upheld by the worthy Additional Commissioner, Mardan. (Flag-E)

**RECOMMENDATIONS:**

Keeping the above mentioned findings in view this is recommended that the then DOR order No. 1182-1200/DOR/S.B.A Dated 18/05/2010 may be upheld without any changes being based on facts and according to rules.

Enclosed: the original file received with Deputy Commissioner Swabi office order no 1558/DCS/DK dated 02/02/2019. (99 pages)

  
Addl: Deputy Commissioner Swabi/  
Inquiry Officer



**OFFICE OF THE DEPUTY COMMISSIONER SWABI**

Tel: 0938-221401

fax: 0938-221917

No. 3.26 /DC/DK

Dated 18 /09/2019

To:

1. The Registrar,  
Khyber Pakhtunkhwa,  
Service Tribunal, Peshawar
2. The Assistant Secretary, (Estt)  
Board of Revenue, KPK, Peshawar.

Subject:

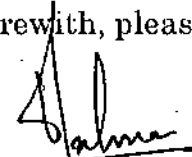
- (1). JUDGMENT IN APPEAL NO.1842/2010, MR. MUHAMMAD ANWAR SOHAIL.  
(2). ORDER MUHAMMAD ANWAR SOHAIL VS SENIOR MEMBER BOARD OF REVENUE KHYBER PAKHTUNKHWA.

Memo: Kindly refer to your letters No.32/ST dated 04/01/2019 & No.EsttVII/S.ANO.1842/10/M.Anwar Sohail/870 dated 09/01/2019.

In pursuance of the directions contained in Para-7 of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar judgment in case titled Mr. Anwar Suhail Patwari VS Senior Member Board of Revenue Khyber Pakhtunkhwa, Peshawar, dated. 28/11/2018 for conducting De novo Inquiry.

The Additional Deputy Commissioner, Swabi was nominated as Inquiry Officer, who recommended in the inquiry report that the Removal from Service Order No.1182-12/DOR/S.B.A dated 18/05/2010, passed by the Ex-DOR, Swabi was just and according to Rules/ Law.

Photocopy of the De novo Inquiry is attached herewith, please.

  
DEPUTY COMMISSIONER  
SWABI



*Dipe*

*11/8/2010 30/8/2010*



IN THE COURT OF ADDITIONAL COMMISSIONER, MARDAN DIVISION,

MARDAN

Page No. 27

Mohammad Anwar Sulail, Ex. Patwari

(Appellant)

Versus

Annexure L

DOR/District Collector, Swabi.

(Respondent) **ATTESTED**

*Adam Khan*  
**ADAM KHAN**

Case No.

Date of Institution: 30/06/2010

Date of Decision: 11/08/2010

APPEAL AGAINST THE ORDER OF DOR/ DISTRICT COLLECTOR, MARDAN DATED 18-05-2010

**ORDER:**

Through the instant appeal the appellant assailed the impugned order cited above whereby the learned DOR/District Collector, Swabi removed him from service. Feeling aggrieved with the said order of the DOR/District Collector, Swabi the appellant has come to this court with the appeal in hand.

Arguments of the counsel for the appellant and DOR was heard. Record of the case in hand as well as comments of the DOR perused.

From perusal of the record of the case, comments of the DOR and hearing the arguments of the learned counsel for the appellant, I have come to the conclusion that the order passed by the DOR, Swabi is based on facts and relevant law. Furthermore, it is clear from the record that the appellant (Patwari) willfully absented himself from the official duty. Therefore the appeal of the appellant is hereby rejected and the order of the DOR/District Collector, Swabi is upheld.

No order as to costs.

File may be consigned to the record room after completion.

Announced:

11/08/2010



(41)

Date of Application.....  
Name of Applicant.....  
Words... 400 ... Fee... 400 ...  
Urgent Fee... 200 ...  
Sig of Copyist.....  
Date of Preparation.....

*30.8.2010*

**ATTESTED**  
*[Signature]*  
20.8.2010  
Examiner/Reader  
Additional Commissioner's Court,  
Mardan Division, Mardan

L

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

**APPEAL NO. 12789/2020**


Muhammad Anwar Sohail Patwari (Petitioner)

Versus

1. Deputy Commissioner, Swabi. (Respondents).
2. Additional Commissioner, Mardan.
3. Secretary, Board of Revenue, Khyber Pakhtunkhwa.

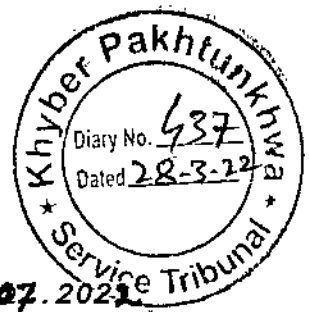
**AFFIDAVIT**

I, Mr. Humayun Khan, Additional Assistant Commissioner, Revenue, Swabi hereby solemnly affirm and declare on oath that the contents of the para wise comments to the instant Petition on behalf of respondent No. 1,2 and 3 is correct to the best knowledge has been concealed from this Hon'ble Court.

  
Deputy Commissioner, Swabi

  
Deponent

**Deputy Commissioner**  
**Swabi**



Before The Service Tribunal, Peshawar.

Service Appeal No.12789/2020. Date of hearing: ~~04.07.2022~~

Muhammad Anwar Suhail V/S The D.C & others.

**Rejoinder :-**

**Pry; Objections:-**

1. All the preliminary objections are incorrect, & false. Denied.

Put up to the court with  
rejoinder app-ent.

**facts:-**

28/3/2022

1. The Appellant had not been absent.
2. 3:- Manipulated. Denied. The alleged denov enquiry was not conducted within the stipulated period of one month. Hence, the said proceedings turned illegal. Even, no denov enquiry was conducted except the statement of Appellant was sought in writing and was demoted, & the Appellant is again condemned unheard. The impugned order is also illegal.
4. Incorrect & false. Denied. No denov inquiry was conducted, neither the Appellant was called to participate in participate in the denov inquiry, if any, nor any witness in support of the alleged charges examined in presence of Appellant.

Even, the copy of inquiry report and even nor the final show cause notice were supplied to him.

5. Incorrect & false. Denied. No de novo enquiry was held nor the authority has taken the legal & factual aspects of the case, into consideration.

6. & 7:- Needs no comments.

8. Incorrect & false. Denied. The impugned order is incorrect & illegal.

**Grounds :-**

i. Incorrect & misleading. Denied. The Appellant was ordered to submit his statement in writing, without inquiry proceedings. Even, no further proceedings were carried-out per direction of this Honourable Tribunal. While, the impugned order was passed on the basis of previous proceedings, in contravention of the said direction.

ii. Incorrect, false and based on malice. Denied. The Appellant had correctly submitted the said arrival report. An affidavit to this effect is attached herewith as "**Annexure-X/I**".

iii. Incorrect, false and based on malice. Denied. The documents annexed on file, is the proof of the said facts that the Appellant had submitted the applications as referred-to by him.

iv. and v. No further reply.


It is prayed that on acceptance of this Appeal, the impugned order may be set-aside and the Appellant may be re-instated into service with back service benefits.

The costs of this Appeal may also be awarded in favour of Appellant against the Respondents.

Dated: 13-12-2021.

Appellant

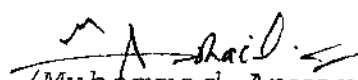
  
(Muhammad Anwar Suhail)


Through :-   
Muhammad Adam Khan  
Advocate Mardan.

**Affidavit**

I, Muhammad Anwar Suhail / The Appellant do hereby state on Solemn affirmation that the contents of the captioned this Appeal, as well as, Rejoinder are true and correct to the best of my knowledge and belief. While, the objection raised by Respondents are incorrect and false.

Deponent

  
(Muhammad Anwar Suhail)

  
M. LUQMAN Advocate  
Oath Commissioner  
No. \_\_\_\_\_ Date \_\_\_\_\_  
Distt Courts Mardan

13/12/2021

Before The Service Tribunal, Peshawar.

Service Appeal No.12789/2020. Date of hearing: ~~04.07.2022~~.

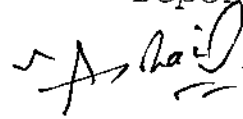
Muhammad Anwar Suhail V/S The D.C & others.

**Affidavit**

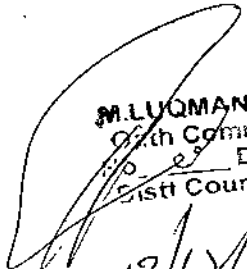
I, Muhammad Anwar Suhail / The Appellant do hereby state on Solemn affirmation that I had submitted arrival report dated 29.01.2019 (Copy Annexure-"J" with the Appeal) to the Deputy Commissioner/Respondent No.1, by hand, which is true and correct to the best of my knowledge and belief.

Dated:-13-12-2021.

Deponent



(Muhammad Anwar Suhail)  
The Appellant.



M. LUQMAN Advocate  
Oath Commissioner  
Date  
Distt Courts Mardan  
13/12/2021