

16. 06.07.2017 No one present on behalf of appellant. Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Notice be issued to the appellant and his counsel for attendance. To come up for arguments on 31.10.2017 before D.B.

(Gul Zeb Khan)  
Member

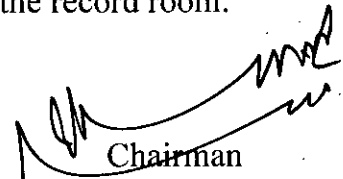
  
(Muhammad Hamid Mughal)  
Member

31.10.2017

None is present on behalf of the appellant. On previous date also none was present on behalf of the appellant. Called several times till last hours of the court but none appeared on behalf of the appellant. Mr. Ziaullah, Deputy District Attorney for the respondents present.

In view of the above, the present appeal is dismissed for want of prosecution. File be consigned to the record room.

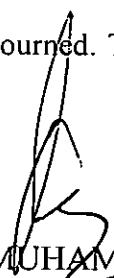
  
Member


  
Chairman

ANNOUNCED  
31.10.2017

07.03.2017

Clerk to counsel for the appellant and Mr. Usman Ghani,  
Sr.GP for respondents present. Clerk to counsel for the appellant  
requested for adjournment. Adjourned. To come up for arguments  
on 06.07.2017 before D.B.

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER

~~07.03.2017~~ ~~No one present~~ ~~beneficial to the appellant~~ ~~notice~~ ~~for~~ ~~the~~ ~~respondent~~ ~~present~~ ~~notice~~ ~~be~~ ~~issued~~ ~~to~~ ~~the~~ ~~appellant~~ ~~to~~ ~~appear~~ ~~for~~ ~~attendance~~ ~~to~~ ~~come~~ ~~up~~ ~~for~~ ~~arguments~~ ~~on~~ ~~31~~ ~~10~~ ~~2017~~ ~~before~~ ~~D.B.~~

10.03.2016

None present for appellant. Mr. Mukhtiar Ali, Supdt. alongwith Mr. Ziaullah, GP for respondents present. Due no non-availability of learned counsel for the appellant therefore, case is adjourned to 2-6-2016 for arguments.

  
MEMBER

  
MEMBER

02.06.2016

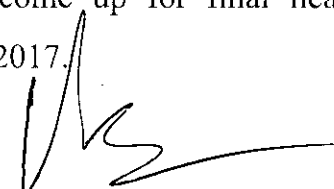
Counsel for the appellant and Mr. Mukhtiar Ali, Supdt. alongwith Mr. Muhammad Jan, GP for respondents present. Learned counsel for the appellant requested for adjournment. Adjourned for arguments to 31-10-16 before D.B.

  
MEMBER

  
MEMBER

31.10.2016

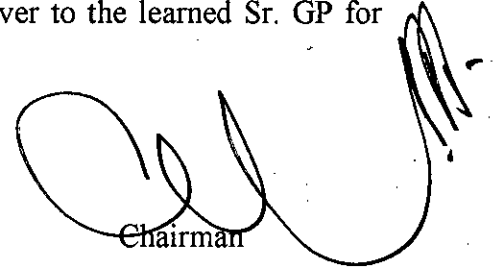
Agent of counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for final hearing before the D.B on 7.3.2017.

  
Member

  
Chairman

8.5.2014

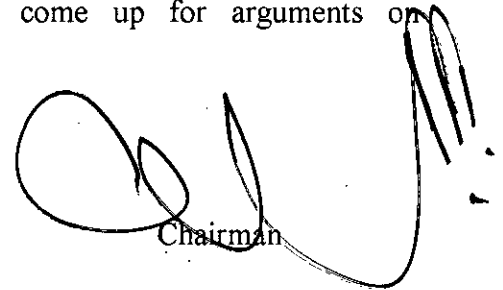
Appellant with counsel (Mr. Sajid Amin, Advocate) and Mr. Mir Qasim, Assistant Secretary for respondents with Mr. Usman Ghani, Sr. GP present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned Sr. GP for arguments on 2.10.2014.



Chairman

02.10.2014

Counsel for the appellant (Mr. Sajid Amin, Advocate) and Mr. Mukhtiar Ali, Supdt. on behalf of the respondents with Mr. Muhammad Adeel Butt, AAG present. Arguments could not be heard due to non-availability of leaned senior counsel for the appellant (Mr. Ijaz Anwar, Advocate) and incomplete Bench. To come up for arguments on 09.04.2015.



Chairman

9.04.2015

Counsel for the appellant and Mr. Mukhtiar Ali, Supdt. alongwith Addl: A.G for respondents present. Arguments could not be heard due to rush of work. To come up for arguments on 15.10.2015 before D.B.



MEMBER



MEMBER

16.10.2015

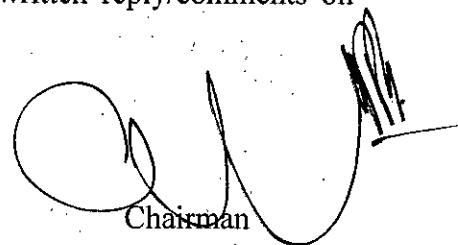
Since 15.10.2015 has been declared as public holiday on account of Ist Muharramul Haram, therefore, case is adjourned to 10.3.2016 for the same.



READER

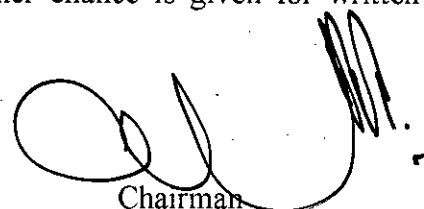
04.07.2013

Appellant in person and Mr. Mir Qasim, Assistant Secretary for respondents with Mr. Usman Ghani, Sr. GP present. Written reply has not been received. To come up for written reply/comments on 25.10.2013.

  
Chairman

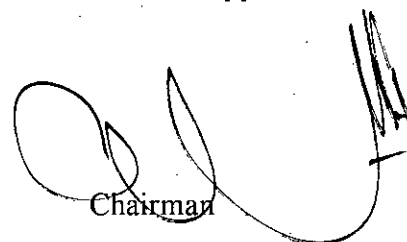
25.10.2013

Counsel for the appellant (Mr. Sajid Amin, Advocate) and Mr. Mir Qasim, Assistant Secretary for respondents with AAG present. Written reply has not been received, and request for further time made on behalf of the respondents. Another chance is given for written reply/comments on 6.2.2014.

  
Chairman

6.2.2014

Appellant in person and Mr. Mir Qasim, Assistant Secretary for respondents with AAG present. Written reply/para-wise comments received on behalf of the respondents, copy whereof is handed over to the appellant for rejoinder on 8.5.2014.

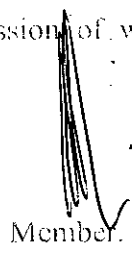
  
Chairman

Appeal No. 98/2013  
Pir Azam

3. 25.2.2013

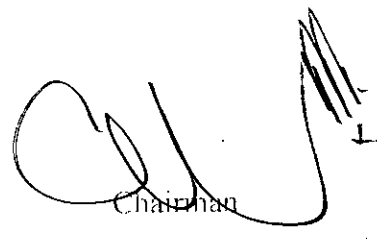
Counsel for the appellant present and heard. Contended that the appellant has been compulsorily retired from service via the impugned order dated 20.9.2012 without fulfilling the legal procedure. He has not been associated properly with the impugned proceedings nor allowed the opportunity of personal hearing. Appellant filed a departmental appeal but the same has been rejected on 6.12.2012. Hence, the instant appeal.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 14 days. Thereafter, notice be issued to the respondents. Case adjourned to 7.5.2013 for submission of written reply of respondents.

  
Member

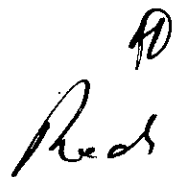
4. 25.2.2013

This case be put before the Final Bench P for further proceedings.

  
Chairman

7.5.13

The Hon'ble Bench's order  
is noted, case is closed  
16.4.7.13.



  
Bench

Appellant deposited  
security & process fee  
Rs 160/- Bank receipt  
is attached with file



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Case No. 98 /2013

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/01/2013	<p>The appeal of Mr.Pir Azam 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> REGISTRAR</p>
2	18-1-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>25-2-2013</u></p> <p> CHAIRMAN</p>

8

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Appeal No. 98 /2013


Pir Azam S/O Pir Muhammad Hassan, Ex- Assistant/ In Charge  
Record Room Office of the District Officer (R&E) Peshawar.  
(Appellant)


**VERSUS**


Govt of Khyber Pakhtunkhwa through Chief Secretary KPK  
Peshawar and others.  
(Respondents)

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5.	Charge sheet statement of allegations dated 03.09.2009 and enquiry report.	'B' & 'C'	9-17
6.	Judgment dated 15.12.2011.	'D'	18-25
7.	Charge sheet along with statement of allegations dated 16.04.2012 and reply to the charge sheet.	'E' & 'F'	26-29
8.	Inquiry Report.	'G'	30-37
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12	Vakalat Nama		

  
Appellant  
Through

  
**IJAZ ANWAR**  
Advocate, Peshawar  
&

  
**SAJID AMIN**  
Advocate, Peshawar



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Appeal No. 98 /2013

W F Province  
No. 109  
Dated 11-1-2013

Pir Azam S/O Pir Muhammad Hassan, Ex- Assistant/ Incharge  
Record Room Office of the District Officer (R&E) Peshawar.

**(Appellant)**

Versus

1. Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Senior Member Board of Revenue Khyber Pakhtunkhwa, Peshawar.

**(Respondents)**

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 20.09.2012, whereby the appellant has been awarded the major punishment of Compulsory Retirement from service, against which the Departmental Review dated 15.10.2012, has also been rejected vide order dated 06.12.2012, communicated to the appellant on 17.12.2012.

**Prayer in service Appeal**

On acceptance of this appeal, both the orders dated 20.09.2012 and 06.12.2012 may please be set aside and the appellant may please be reinstated in service with full back benefits and wages of service.

*Handwritten signature and date*  
11/1/2013

**Respectfully submitted**

1. That the appellant was initially appointed as Junior Clerk in the Office of the then Deputy Commissioner, Peshawar vide order dated 09.12.1980, he was promoted as Senior Clerk in the year 1993, the appellant was lastly promoted as Assistant (BPS-14) in the year 2008.

2. That ever since his appointment the appellant has performance his duties as assigned to him with zeal and devotion and there was no complaint whatsoever regarding his performance.
3. That the appellant while posted as Copying Agent in the Office of District Officer Revenue & Estate, Peshawar on 15.09.2005 issued attested copy of mutation No. 405/1 attested on 24.02.1921. (Copy of the mutation is attached as Annexure 'A').
4. That on the direction of the Government of Khyber Pakhtunkhwa, the then Chairman, Provincial Inspection Team, initiated an inquiry on the direction of the competent authority against the land grabbers and Revenue Department and it was established in facts finding inquiry report dated 10.06.2006 that fake mutations, including mutation No. 405/1 dated 24.02.1921, have been entered in the Jamabandi for the year 1921-22.
5. That as consequence departmental proceedings were initiated against the appellant and three other officials, the appellant was served with the Charge Sheet and statement of allegations and enquiry was conducted wherein the appellant was proved innocent.
6. That the competent authority while not agreeing with the findings of the Inquiry Officer ordered a 2<sup>nd</sup> Inquiry through Inquiry Committee, again the appellant alongwith other three official were charge sheeted and a full fledged inquiry was conducted, however the appellant was again found innocent, accordingly he was exonerated of the charges leveled against him while the other three officials being found guilty were awarded penalties respectively. (Copies of the charge sheet statement of allegations dated 03.09.2009 and enquiry report are attached as Annexure 'B' & 'C')
7. That being aggrieved, all the three officials of the Revenue Department approached to the Khyber Pakhtunkhwa, Service Tribunal, Peshawar through appeals No. 1393 / 2010, No. 1911 / 2010 and No. 2157 / 2010, which were partially accepted vide consolidated judgment dated 15.12.2011, the impugned orders were set aside and cases of all three appellants of those appeals were remanded to the competent authority for de-novo department proceedings in accordance with letter and spirit of law with direction to provide reasonable opportunity of defense to the aggrieved officials and thereafter, the competent authority shall pass an appropriate order strictly in accordance with law. (Copy

of the Judgment dated 15.12.2011, is attached as Annexure 'D')

8. That though the remand order of the Honourable Tribunal was only in respect of the appellants of the above said appeals, however quite wrongly the competent authority initiated denovo proceedings against the appellant too, he was again served with charge sheet and statement of allegations dated 16.04.2012 for the same baseless and unfounded allegations. The appellant again replied the charge sheet and refuted the allegations leveled against him. (Copies of the charge sheet dated 16.04.2012 along with statement of allegations and reply to the charge sheet are attached as annexure 'E' & 'F')
9. That a partial inquiry was conducted and without properly associating the appellant with the inquiry proceedings, the inquiry officer gave his findings and recommended the appellant for major penalty of compulsory retirement from service while the other three officials have been exonerated. (Copy of the Inquiry Report is attached as 'G').
10. That there the appellant was served with show cause notice dated 11.07.2012, he replied the show cause notice with a written request to provide him opportunity of personal hearing. (Copies of the Show Cause Notice, reply to the Show Cause Notice & application for personal hearing are attached as Annexure 'H', 'I' & 'J').
11. That instead to provide free and fair opportunity of hearing and self defense, major penalty of compulsory retirement from service was imposed upon the appellant vide Office Order No. SO (E-1) E&AD/4-472/2012, dated 20.09.2012. (Copy of the Order dated 20.09.2012 is attached as Annexure 'K')
12. That the appellant being aggrieved from the said order, submitted his department Review dated 15.10,2012, however, it was also rejected vide order dated 06.12.2012 communicated to the appellant on 17.12.2012. (Copies of the departmental Review and rejection Order dated 06.12.2012 along with dispatch envelop is attached as Annexure 'L' & 'M')
13. That the order of dismissal from service is illegal, unlawful and the same is liable to be set aside inter alia on the following grounds :-

**GROUND OF APPEAL:**

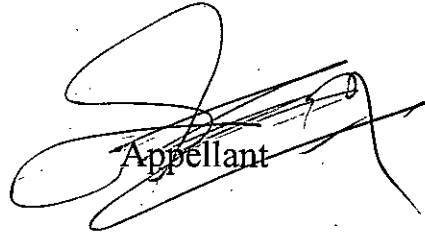
- A. That the appellant has not been treated in accordance with law, he was not given proper, fair and meaningful opportunity to defend himself, thus he was greatly prejudiced in the enquiry proceedings.
- B. That no proper procedure has been followed before awarding the penalty of compulsory retirement from service to the appellant, he has not been associated properly with the enquiry proceedings nor he has been allowed the opportunity of personal hearing, thus the whole proceedings are nullity in the eye of law.
- C. That procedure given under Rule-5 of the Khyber Pakhtunkhwa, Govt. Servant (Efficiency & Discipline) Rule, 2011 has flagrantly been deviated, moreover, neither opportunity of personal bearing has been offered to the petitioner, nor free and fair opportunity of self defense has been provided and the impugned order has been issued, which resulted into grave miscarriage of justice.
- D. That the remand order of this Honourable Tribunal was only in respect of those who were party to the previous proceedings while at the stage of Department proceedings at the relevant time the appellant was exonerated, therefore, his case should not have been opened subsequently and fresh enquiry should have been in respect of only those whose cases were remanded by the Tribunal, therefore, the Departmental gone on completely wrong premises in proceeding a fresh against the appellant and punishing him.
- E. That no witness has been examined during the enquiry or of so examined, neither their statement has been taken in presence of the appellant nor the appellant has been allowed opportunity of cross examination.
- F. That in the Show Cause Notice dated 11.07.2012 it has clearly been mentioned in Para No. 3 that whether appellant desired to be heard in person? Which has been acceded to by the appellant and requested to be heard in person, but this material fact has totally been ignored and the impugned order has been passed which speaks volume of malafides on the part of the issuing authority.

- G. That mutation No. 405/1, dated 24.02.1921 still exists in the official record of the Revenue Department and appellant was duty bound to issue attested copy whereof, hence has committed no wrong, rather fulfilled his official duties, moreover, denial from issuing attested copy of a public document itself amounts to misconduct, thus the appellant has committed no wrong which could be termed misconduct albeit he has been awarded the major punishment of compulsory retirement from service.
- H. That attested copy of mutation carry no legal weight and could not be used for any official transaction and, if at all, the same has been used for further official transaction without essential supporting documents i.e. fresh jamabandi and latest Fard, that is not fault of the appellant, rather responsibility should have been fixed on the officials who materialized the transaction, whatsoever and on this score alone the impugned orders deserves to be set at naught.
- I. That the charges leveled against the appellant were never proved in the departmental enquiry, no copy of the enquiry report was provided to him and hence, the appellant has not been provided proper opportunity to defend himself.
- J. That appellant has more that 31 years spotless career at his credit and not a single complaint has ever been filed against him, however his long and spotless service carrier has not been taken into consideration while awarding him the penalty of compulsory retirement.
- K. That appellant has been made escape goat and the entire proceedings have been carried out in utter violation of law and rules governing the subject, hence not sustainable in the eyes of law.
- L. That the charges leveled against the appellant were false, frivolous, moreover the same were never proved in the inquiry albeit the inquiry officer gave his findings on surmises and conjunctures. In previous inquiries too the appellant was exonerated, however the same fact was not kept in mind while preceding a fresh against the appellant.
- M. That the appellant has never committed any act or omission which could be termed as misconduct albeit

he has illegally been awarded the penalty of compulsory retirement from service.

- N. That the appellant is jobless since his illegal compulsory retirement from service.
- O. That the appellant seeks the permission of this Honourable court to rely on additional grounds at the hearing of this appeal.

It is therefore, very humbly prayed that on acceptance of this appeal, both the orders dated 20.09.2012 and 06.12.2012 may please be set aside and the appellant may please be reinstated in service with full back benefits and wages of service.

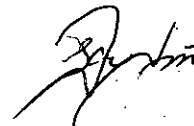
  
Appellant

Through



**IJAZ ANWAR**  
Advocate Peshawar

&



**SAJID AMIN**  
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

In the matter of  
Appeal No. \_\_\_\_\_/2013

Pir Azam S/O Pir Muhammad Hassan, Ex- Assistant/ In Charge  
Record Room Office of the District Officer (R&E) Peshawar.

**(Appellant)**

**VERSUS**

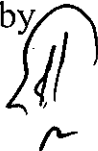
Govt of Khyber Pakhtunkhwa through Chief Secretary KPK  
Peshawar and others.

**(Respondents)**

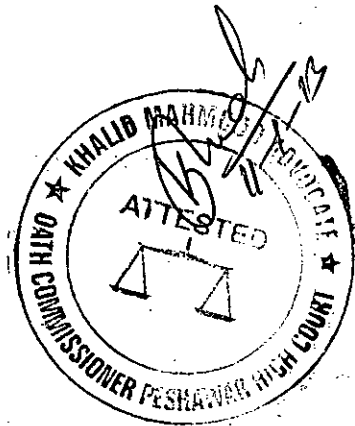
**AFFIDAVIT**

I, Pir Azam S/O Pir Muhammad Hassan, Ex- Record  
Keeper Office of the District Officer (R&E) Peshawar, do  
hereby solemnly affirm and declare that the contents of the  
above service appeal are true and correct to the best of my  
knowledge and belief and that nothing has been kept back or  
concealed from this Hon'ble Court.

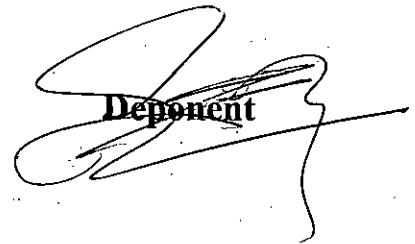
Identified by



**IJAZ ANWAR**  
Advocate, Peshawar



**Deponent**







(11)

Date of Presentation

16/1/1909  
3/12/09

*[Signature]*

13/9/11

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*[Signature]*



**CONFIDENTIAL/MOST IMMEDIATE**

**ANNEX-B**  
GOVERNMENT OF N.-W.F.P.  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT.

NO. SO(E-I)E&AD/11-8/2009  
Dated Peshawar, the 3<sup>rd</sup> September 2009

To

1.	Dr. Jamal Nasir (DMG BS-20) Secretary to Govt: of NWFP, Home & T.A Department.
2.	Mr. Aurangzeb (PCS EG BS-20) Secretary to Govt. of NWFP, ST&IT Department

**SUBJECT: - IMPLEMENTATION OF RECOMMENDATIONS OF ENQUIRY REGARDING JAVED PARK GULBAHAR PESHAWAR - DISCIPLINARY PROCEEDINGS**

Dear Sir,

I am directed to refer to the subject cited above and to say that on receipt of enquiry report submitted by Dr. Hammad Uwais Agha (DMG BS-20) the then Secretary Environment the Competent Authority has been pleased to appoint you as Inquiry officers/Committee to conduct a second fact finding enquiry/disciplinary proceedings under RSO 2000 and submit report within (25) days, against the following officer/officials. Revised Charge sheets/statement of allegations duly signed by the Competent Authority, are enclosed herewith for further necessary action:-

1. Mr. Khalid Salim (PCS EG BS-18) the then D.O.(R&E) Peshawar.
2. Mr. Samiullah Jan, Ex-Sub Registrar, Peshawar Now Tehsildar Tangi.
3. Mr. Gul Said, the then Registration Moharrir, Now Sub-Registrar, Peshawar
4. Mr. Pir Azam, Record Keeper Mohafiz Khana/Sr. Clerk D.O.(R&E) Peshawar.

2. In view of above, it is requested to kindly conduct the enquiry and submit report within stipulated time.

**Encl: as above.**

Yours faithfully,

(ZUBAIR AHMAD)  
SECTION OFFICER (ESTT. I)  
PHONE & FAX # 091-9210529

**Endst. No. & date even**

Copy forwarded to the following:-

1.	Senior Member Board of Revenue, NWFP.	With the request to kindly provide the necessary record as and when required by the Enquiry Officer and depute representative well conversant with the case.
2.	District Officer (R&E) Peshawar	
3.	Secretary, Board of Revenue, NWFP	
4.	Mr. Khalid Salim (PCS EG BS-18) the then D.O.(R&E) Peshawar alongwith statement of allegations and charge sheet.	They should submit their written replies to the Enquiry officer and attend the proceedings when directed by the Enquiry Officer.
5.	Mr. Samiullah Jan, Ex-Sub registrar, Peshawar Now Tehsildar Tangi alongwith statement of allegations and charge sheet.	
6.	Mr. Gul Said, the then Registration Moharrir, Now Sub-Registrar, Peshawar alongwith statement of allegations and charge sheet.	
7.	Mr. Pir Azam Record Keeper Mohafiz Khana/Sr. Clerk D.O. (R&E) Peshawar alongwith statement of allegations and charge sheet.	

**SECTION OFFICER (ESTT. I)**  
PHONE & FAX # 091-9210529

(10)

## CHARGE SHEET

I, Amir Haider Khan Hoti, Chief Minister, NWFP, as Competent Authority hereby charge you Mr. Pir Azam, Record Keeper Mohafiz Khana/Senior Clerk, DO(R&E) Office Peshawar (BS-09) as follows:-

2. That you, while posted as Record Keeper Mohafiz Khana/Senior Clerk, DO(R&E) Office Peshawar, committed the following irregularities:-

i. Attested copies of a bogus mutation was handed over by you to Rohullah Jan from Mohafiz Khana. The bogus mutation was entered in the mutation register of year 1921-22 on a blank page. The writing was not matching with other writings on the register and the mutation No. was not according to serial number. Despite these lacunas, you handed over attested copies of the out dated mutation to Rohullah Jan which facilitated him to grab Government land in the name of his father Mohammad Ilyas, showing it as his inherited property. You being custodian of the Mohafiz khana record were found having malafide intentions and were involved in connivance with land mafia in fraudulent activities.

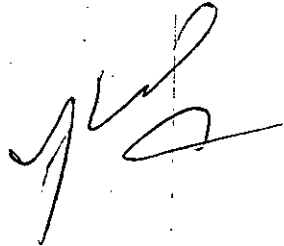
3. By reasons of the above, you appear to be guilty of misconduct under section 3 of the NWFP Removal from Service (Special Powers) Ordinance 2000, and you have rendered yourself liable to all or any of the penalties specified in Section 3 of the Ordinance ibid.

4. You are, therefore, called upon to submit your written defense within 7 days of the receipt of this charge sheet to the inquiry officer / committee, as the case may be.

5. Your written defense, if any, should reach the inquiry officer/ committee, within the specified period, failing which it shall be presumed that you have no defense to put in and in that case Ex-Parte action shall follow against you.

6. Intimate whether you desire to be heard in person.

7. A statement of allegations is enclosed.



A. Haider  
(Amir Haider Khan Hoti)  
Chief Minister, NWFP,  
Competent Authority.

Mr. Pir Azam,  
Record Keeper Mohafiz Khana/Senior Clerk,  
District Officer (E&E), Office Peshawar (BS-09)

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DISCIPLINARY ACTION

I, Amir Haider Khan Hoti, Chief Minister, NWFP, as Competent Authority, am of the opinion that Mr. Pir Azam, Record Keeper Mohafiz Khana/Senior Clerk, DO(R&E) Office Peshawar (BS-09) has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Section 3 of the North West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 as amended vide NWFP Removal from Service (Special Powers) Amendment Ordinance, 2001:-

STATEMENT OF ALEGATIONS:

2. That while posted as Record Keeper Mohafiz Khana Peshawar (BS-09) he committed the following irregularities:-

i. Attested copies of a bogus mutation was handed over by him to Rohullah Jan from Mohafiz Khana. The bogus mutation was entered in the mutation register of year 1921-22 on a blank page. The writing was not matching with other writings on the register and the mutation No. was not according to serial number. Despite these lacunas, he handed over attested copies of the out dated mutation to Roohullah Jan which facilitated him to grab Government land in the name of his father Mohammad Ilyas, showing it as his inherited property. He being custodian of the Mohafiz Khana record was found having mala fide intentions and was involved in connivance with land mafia in fraudulent activities.

3. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an inquiry officer / committee consisting of the following officers is constituted Under Section 5 of the Ordinance.

- a. Dr. Jamal Nasir
- b. Mr. Aurangzeb
- c. \_\_\_\_\_

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4. The inquiry officer/committee shall, in accordance with the provisions of the Ordinance, provide reasonable oppo

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hearing to the accused, record its findings and make, within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

5. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officers/ committee.

*A. Haider*

(Amir Haider Khan Hoti)  
Chief Minister, NWFP,  
Competent Authority.

Mr. Pir Azam,  
Record Keeper Mohafiz Khana/Senior Clerk,  
District Officer (E&E), Office Peshawar (BS-09)

*gva*

ANNEX C

13

SUBJECT: - IMPLEMENTATION OF RECOMMENDATIONS OF ENQUIRY REGARDING JAVED PARK GULBAHAR -DISCIPLINARY PROCEEDINGS

Vide letter no. SO(E-I)E&AD/11-8/2009 dated 3<sup>rd</sup> September 2009 (Flag-A) the Establishment and Administration Department directed to conduct a second fact finding enquiry/disciplinary proceedings under Removal from Service(Special Powers) Ordinance, 2000 against the following Officers/Officials:

1. Mr. Khalid Salim (PCS) EG (BS-18) the then DO(R&E) Peshawar.
1. Mr. Samiullah Jan, Ex-Sub Registrar, Peshawar now Tehsildar Tangi
2. Mr. Gul Said, the then Registrar Moharar, now Sub Registrar, Peshawar.
3. Mr. Pir Azam, Record Keeper, Mohafiz Khana/Senior Clerk, DO(R&E) Peshawar.

The revised charge sheets/statements of allegations (Flag-B) duly signed by the Competent Authority were served on the accused Officers and Officials and they were asked to submit their written responses.

1. KHALID SALIM DO(R&E) PESHAWAR.

Mr. Khalid Salim, submitted Para-wise reply to the charge sheet along with relevant documents (Flag-C) vide letter no. PA/DS (Admn)/General/enquiry, dated 17<sup>th</sup> September 2009.

In his reply the Officer had stated that an application was submitted by one Roohullah for directing Sub Registrar Peshawar to register gift on the basis of a mutation of 1921. The Officer in the capacity of Registrar issued the following directions:-

"Gift deed as requested is allowed subject to observance of all codal formalities and as provided in the law on the subject".

The same application was presented before Sub-Registrar for registration, who subsequently approved the registration deed in favour of the applicant. The accused Officer has stated in his reply that soon after the realization that Mr. Roohullah had fraudulently obtained gift deed of the state land, he along with his field staff rushed to the spot for retrieving the possession of state land in khasra number.1482 measuring 18 kanals and five marlas with the help of local police. Mr. Roohullah was dispossessed and SSP Peshawar was requested to direct SHO Gulbahar to take care of the said plot of land. He has further stated that Mr. Roohullah aggrieved with this action, approached Civil Court and succeeded in getting ex-parte decree about this land. According to the accused Officers, he challenged this decision in the Court of Senior Civil Judge Peshawar and succeeded in setting aside ex-parte decree. He directed the Sub-Registrar to cancel his gift deed which was done accordingly.

As regard Mohafiz Khana, the officer has stated that it was located in a very old building which had been declared dangerous in 1976. According to him, several meetings were held for construction of new Mohafiz Khan and repair/rehabilitation of the existing one, but there was no concrete outcome of these meetings.

2. MR. SAMIULLAH JAN, EX-SUB REGISTRAR PESHAWAR NOW TEHSILDAR TANGI.

Mr. Samiullah Jan, submitted reply (Flag-C) to the charge sheet vide his letter No. nil dated 25th September 2009. In his reply he denied all the charges leveled against him. He has stated that the application for registration of the alleged deed was allowed by District Officer

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verified by DOR who functioned as District Registrar. He had further stated that according to Section 135 of Registration Act, the Registering Officers are not concerned with the validity of the document and other formalities. According to him the description of immovable property for the purpose of identification should be made through plan as provided in Section 21 Sub-Section-1 (4) of Registration Act. He has stated that instructions for cancellation of the alleged register deed were issued by him when he realized that the land involved was state property.

3. MR. GUL SAID, THE THEN REGISTRAR MOHARRAR NOW  
SUB-REGISTRAR PESHAWAR

Mr. Gul Said submitted his reply to the charge sheet (Flag-D). In his reply, he had referred to section-151 of the Registration Manual of 1991 which contained the duties of Registration Moharrir. According to this section the duty of Registration Moharrir was to enter the particulars of already approved registration deed in the appropriate book and he was not supposed to scrutinize cases. According to him the executant Mr. Roohullah presented application to the District Officer Revenue for registration of the gift deed without fard jamabandi which was subsequently marked to Sub-Registrar who after scrutiny of the documents approved the gift deed according to the orders received from the DOR. The deed was presented to him for recovery of registration fee. He had referred to section 34-35 of the Registration Act and Registration Rules paragraph no.135 where it has been explained that scrutiny of the documents was the duty of Sub-Registrar and Moharrir has no role in it. He has stated that it was not possible for the subordinate staff to refuse the registration of documents after its approval by the Sub-Registrar. He has submitted that he was not guilty of any misconduct in these circumstances.

4. MR. PIR AZAM, RECORD KEEPER MOHAFIZ  
KHANA/SENIOR CLERK, (DOR&E) PESHAWAR

The reply of Mr. Pir Azam, Record Keeper, Mohafiz Khana is at (Flag-E). According to him, being record keeper, he had no concern with the registration deed. He has admitted that copy of mutation was issued to the applicants on 15<sup>th</sup> September 2005 on the basis of available record which is still lying there. According to him it was the duty of Sub-Registrar to verify and scrutinize the documents presented to him. In his statement he has deposed that the Mohafiz Khana was in dilapidated condition and that he had made all possible efforts to reassemble the remaining record after the fire incident in 1973.

FINDINGS

We have examined the accused and have gone through their written statements. The available record has been perused and the accused officers/officials heard.

The record would transpire that the deed was registered on the basis of a mutation attested in the year 1921 and this fact was in the knowledge of both the Registrar and the Sub Registrar as the same was appended with and mentioned in the application submitted for the purpose. It is the general principal of law that any officer effecting transfer of the property must see that the person transferring the same is the real owner and authorized to transfer the same. The established procedure for the transfer of land having khasra number is the production of attested copies of the latest JAMABANDI or JAMABANDI ZERI KAR but both the officers have not bothered to ask for the same. The revenue record is updated after every four years and all the changes are incorporated in the CHARASALAS which is a valid document sufficient for transfer of the property and the revenue officers are required to go by that. Any correction in the

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ALA is the exclusive jurisdiction of the revenue authorities posted in the halqa who could  
any omission and the registrar has nothing to do with that. The registrar is under obligation  
go by the latest revenue record i.e. JAMABANDI ZERIKAR which they have blatantly  
dated. In the instant case the alleged mutation was of the year 1991 i.e. more than 80 years old  
and even the revenue authorities have no power to touch and change such long standing entries. It  
is within the exclusive jurisdiction of the civil courts and that too with certain period of  
limitation.

Not only this the Dist Registrar is the appellate authority and as per practice in vogue he  
has no role to order straight away the registration of deed without ascertaining the legal authority  
of the vendor or donor to sell or transfer the same but the accused officer had done so setting  
aside all the norms and that too where mutation of the year 1921 was itself an evidence to the  
contrary. Astonishing to note that he ordered registration of the deed 1<sup>st</sup> and action according to  
law later on leaving no space for the revenue subordinates to go into details about the real  
ownership of the property in question.

Last but not the least is the fact that even validity of the mutation was doubtful as the  
same could not get the entry in any JAMABANDI prepared and updated after every four years  
since 1921. Dist Peshawar had even a settlement in the year 1926 i.e. after the alleged mutation  
but the mutation could not find place in the MISLI HAQIAT converting the doubt into reality.  
Whatever is its status, it is for the courts to decide and the burden of proof prima facie lies on the  
person claiming any title on its basis.

The plea of the Sub Registrar Mr. Samiullah Jan that he has done all the proceedings  
under sec 135 of the Registration Act wherein he was not required to go for validity of the  
document produced for registration does not carry any weight as he was not required to enter the  
registry on the basis of any other document but attested copy of JAMABANDI ZERIKAR which  
he did not ask for at all. No doubt he was not under obligation to go into validity of the document  
which in the present case was required to be JAMABANDI if its attested copy was at all  
produced but unfortunately this was not the case here. The plea that he was to base his attestation  
on a plan is also vague as this was the landed property having khasra number. Where in the  
requirement was fard JAMABANDI ant not ABADI DEH where a simple plan could suffice.

The officers in their written statements could take the plea that they have taken the land  
back and that they have cancelled the deed but that does not mean that they have not committed  
the offence. In their cross examination they themselves have admitted that all this was done by  
them after enquiry by the JIT and intervention of the BOR.

In a nutshell both the officers (Distt.Registrar & Sub Registrar) have violated the law,  
exceeded all their authority by violating all the norms and the settled procedure and that too in a  
very hasty manner definitely with some ulterior motives. They instead of protecting the govt  
rights/interest as custodians and guardians of the state land have deprived the govt of a very  
valuable land.

The allegation that the DOR was responsible for the dilapidated conditions of the  
Muhafiz khana and its record however could not be proved as he as a Distt Collector has done  
every thing he could do for safety of the available record and has brought the matter into the  
notice of the concerned authorities but non from the Govt could take any concrete step for its  
reconstruction and its re establishment which was beynd the capacity of the DOR.

As for as the remaining two officials are concerned, Mr.Gul Said, the then Registration  
Muhafiz has tried to absolve himself of the responsibility by referring to sec.135 of the

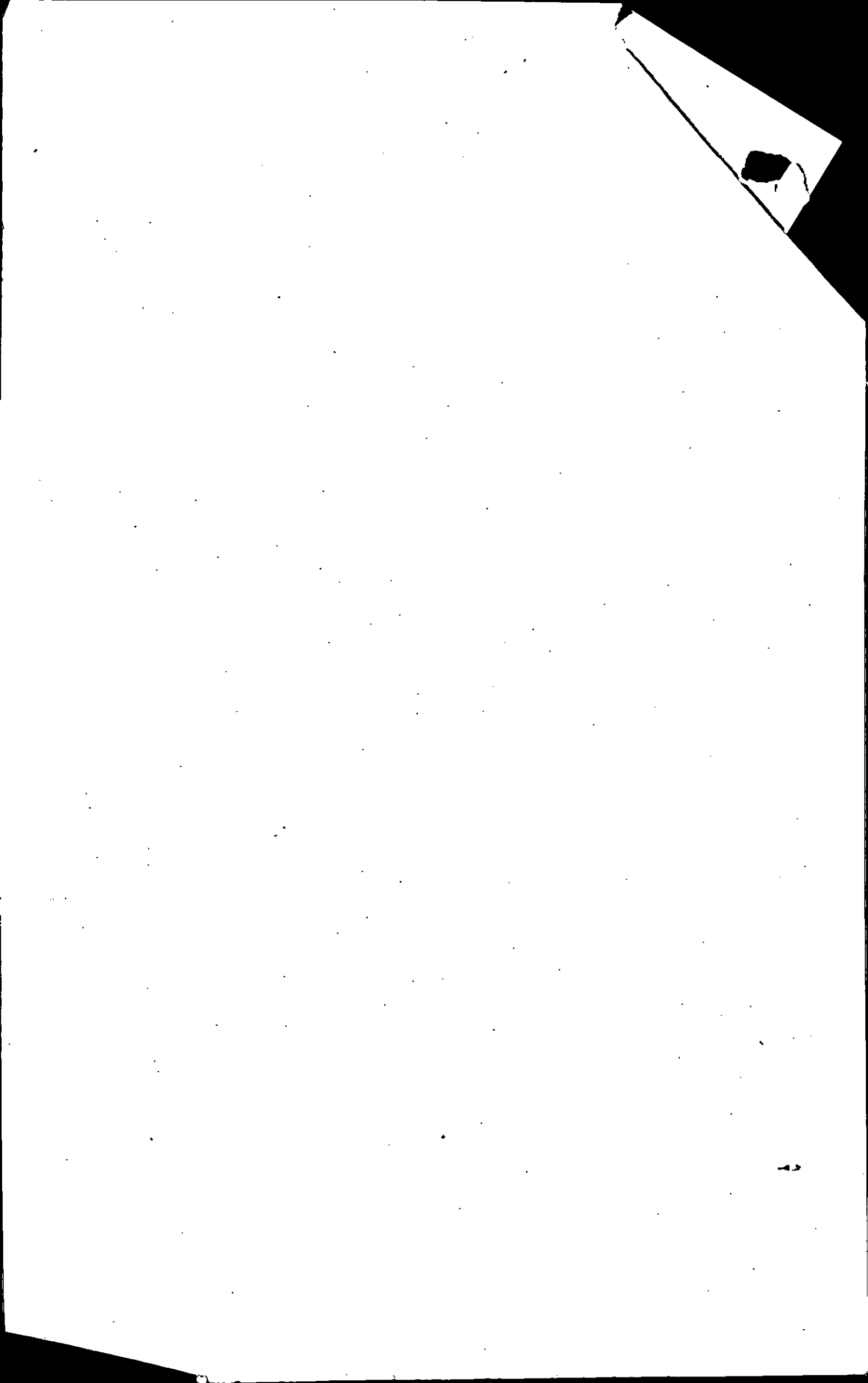
*Dr*

*Official*

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contents of the documents and not of the Muharrir. During cross examination he had tried to shift responsibility of the verification to some other muharrir restricting his role to the accountant, concerned with collection of fee and nothing else. In this regard we would refer to the cross examination of the accused Sub Registrar Samiullah Jan who had attributed the role of verification to the accused Muharrir during his stay as Sub Registrar, especially at the time of the instant registry. Muharrir is considered to be the supporting staff of the registrar office and as per practice in vogue and the prevailing procedure it is his duty to check all the documents presented for registration viz a viz the requirements. It is therefore established beyond any reasonable doubt that the accused Muharrir was assigned the duty of checking the documents before attestation by the Sub Registrar which he has not performed with honesty and due diligence and is therefore guilty of abetment, negligence and misconduct. The plea of innocence cannot be substantiated by any other proof except his lone plea that he was not concerned with the job which stands disproved when viewed with statement of the accused Sub Registrar, the then immediate boss of the official.

Record keeper PirAzam, alleged to have issued copy of the mutation was also examined who confirmed the issue of the copy but any illegality or irregularity on his part could not be proved. The allegation that muhafiz khana or its record was not in order can not be attributed to the Incharge as the same has undergone so many incidents, the one being its burning in 1973. Everybody would try to wash his sins in the same taking advantage of and giving all the blames to its dilapidated condition. Nobody even the govt paid any attention to the demand of its reconstruction and re establishment. It is one of the main reasons that the present accused official can not be blamed for the issue of the alleged dubious mutation which could have find place in the muhafiz khana in the recent past but with no specific and known time wherefrom one could ascertain the period and fix responsibility.

The allegation that the DOR was responsible for the dilapidated conditions of the Muhafiz khana and its record however could not be proved as he as a Distt. Collector has done every thing he could do for safety of the available record and has brought the matter into the notice of the concerned authorities but non from the govt could take any concrete step for its reconstruction and its re establishment which was beyond the capacity of the DOR.

**RECOMMENDATIONS**

1. Accused Officers Khalid Salim, the then DOR, Peshawar, Mr. Samiullah Jan, the then Registrar Peshawar and Mr. Gul Said, the then Registration Muharrir Peshawar have been proved guilty of sheer negligence and misconduct and are therefore recommended to be awarded major penalty, of reducing them to lower posts/pay scale as provided under section 3 of the NWFP Removal from Service (Special Powers) Ordinance, 2000.
2. Accused Official Mr. Peer Azam record keeper could not be proved guilty either of commission of offence or its abetment. He is therefore recommended to be exonerated of the charges
3. Muhafiz khana which is the backbone of any administration .requires immediate attention of the concerned authorities and is recommended to be built on emergency basis to avoid such like happening in future. The record also requires to be re-established and re-organized so that the problem is solved once for all.
4. The Registration Act requires to be amended defining the role of the Distt. Registrar, Sub


by the law otherwise to face specific penalty under the same Act so that nobody could take refuge behind the ambiguous legal terms; State land has always been the victim of encroachment considered to be ownerless and hence easy to grab by the influential. The situation has further been aggravated after the Devolution of Powers where everybody (Distt.Nazim, DCO, Tehsil Nazim, DOR& Tehsildar) claim to be the custodians with Authority but no responsibility. This needs to be clarified and specific authority with responsibility be notified with the duty to protect the state land from encroachment and to defend the same in the courts also which is considered to be one of the loopholes. Mechanism should also be devised to monitor the defense in the courts on regular basis and to bring the persons responsible for any laxity to book.

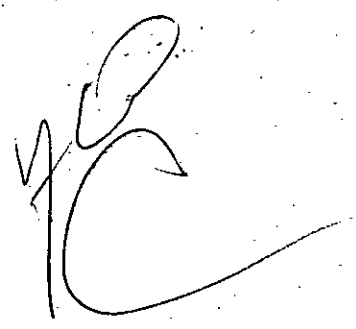
  
Dr. Jinnat Nasir

Secretary Planning & Development FATA



Mr. A. Arifgzeb  
Secretary Science & Technology & IT  
Department

  
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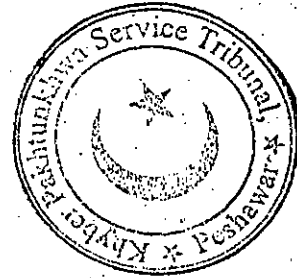
ANNEX - D

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

APPEAL NO: 1393/2010

Date of institution ... 26.07.2010  
Date of judgment ... 15.12.2011



Khalid Saleem Marwat, Deputy Secretary,  
Govt. of Khyber Pakhtunkhwa,  
Home & Tribal Affairs Department, Peshawar,  
Ex-District Officer (Revenue & Estate), Peshawar.

..... (Appellant)

VERSUS

1. Chief Minister, Govt. of Khyber Pakhtunkhwa through Chief Secretary,  
Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
  2. Chief Secretary, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
  3. Secretary, Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
- ..... (Respondents)

APPEAL AGAINST OFFICE ORDER NO. SO(I-D)E&AD/11-S/2010, DATED  
25.5.2010 OF RESPONDENT NO. 1 WHEREBY MAJOR PENALTY OF  
REDUCTION TO LOWER POST/PAY SCALE FOR A PERIOD OF THREE YEARS  
AND ON RESTORATION IT SHALL OPERATE TO POSTPONE FUTURE  
INCREMENTS FOR THREE YEARS WAS IMPOSED ON THE APPELLANT FOR  
NO LEGAL REASON.

Mr. Saadullah Khan Marwat,  
Advocate.  
Mr. Ghulam Mohy-ud-Din Malik,  
Advocate.  
Mr. Bilal Ahmad Kakaizai,  
Advocate.  
Mr. Sher Afgan Khattak,  
Addl: Advocate General.

Mr. Qalandar Ali Khan  
Mr. Khalid Hussain

For appellant  
For appellant in connected  
Appeal No. 1911/2010.  
For appellant in connected  
Appeal No. 2157/2010

For respondents

Chairman  
Member

ATTENDED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- Since this appeal as well as

appeals by Gul Saïd (No. 1911/2010) and Mian Samiullah (No. 2157/2010) arise  
out of the same case of illegal registration of gift deed, this single judgment shall  
also dispose of the said two connected appeals.

2: The facts, stated in brief, giving rise to the said three appeals are that one  
Roohullah submitted application for registration of gift deed to the appellant in

this appeal, then District Officer (Revenue & Estate), Peshawar, on 28.9.2005, which was allowed by the appellant 'subject to observance of codal formalities and as provided in the law on the subject'. Gift deed was accordingly entered in the record by Gul Said, then Registration Muharrir, Peshawar and registered by Mian Samiullah, then Sub-Registrar, Peshawar. Since the gift deed was regarding state land, namely, Javed Park, Gulbahar, Peshawar, it appears, a fact finding inquiry was conducted through the Provincial Inspection Team, and on receipt of the inquiry report, the Authority i.e. Chief Minister, Khyber Pakhtunkhwa, ordered initiation of disciplinary proceedings against the appellants and another person, namely, Pir Azam, Record Keeper Muhafiz Khana/Senior Clerk DOR office, Peshawar, under the NWFP (Khyber Pakhtunkhwa) Removal from Service (Special Powers) Ordinance, 2000, through Dr. Hamad Awais Agha, Secretary to Government of NWFP (Khyber Pakhtunkhwa), Environment Department, who, after inquiry, recommended, in his report, filing of the departmental/inquiry proceedings as the officers were not found guilty of committing any illegality or irregularity and further that allegations against them could not be proved. Meanwhile, the Senior Member Board of Revenue, NWFP (Khyber Pakhtunkhwa), Peshawar also submitted his report on the inquiry of Provincial Inspection Team, wherein, he also recommended filing of the departmental proceedings against the appellants as, according to him, no irregularity was found on their part. However, the Authority did not agree with the recommendations of the Inquiry Officer and directed/ordered a second inquiry/departmental proceedings against the appellants. The appellants were, accordingly, again served with charge sheets and statements of allegations, containing the same allegations as leveled in the first charge sheet and statement of allegations. This time, the inquiry was conducted through a committee comprising Dr. Jamal Nasir, Secretary, P&D, FATA, and Mr. Aurangzeb,

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**ATTACHED**  
 Mr. Aurangzeb  
 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal

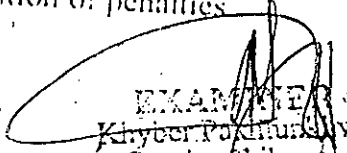
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Secretary, Science & Technology and I.T Department, who recommended awarding of major penalty of reducing the appellants to lower posts/pay scale while exoneration of the fourth officer/official, Pir Azam. The appellants were accordingly served with show cause notices by the competent authority to which they submitted their replies/written defence; and the Authority imposed the penalty of 'reduction to lower post/pay scale for a period of three years and on restoration it shall operate to postpone future increments for three years' on the appellant in this appeal as well as Mr. Gul Said, appellant in the connected appeal, while the third appellant, namely, Mian Samiullah, was awarded minor penalty of 'with-holding of promotion for a period of two years'. Initially, penalty imposed on the former two appellants was also described as 'minor' but later on the order was substituted with another order showing the penalty as 'major'. All the three appellants preferred departmental appeals, and both the appellants in this appeal as well as in the connected appeal, Gul Said, filed Writ Petitions in the High Court, while departmental appeal of Mian Samiullah was rejected by the appellate authority for being time barred. The departmental appeal of the appellant, in this appeal, was also rejected on 21.7.2010.

3. All the three appellants lodged separate appeals, inter-alia, on the grounds that they had acted in accordance with law which did not oblige them to probe into the title of the applicant asking for registration of the gift deed, and that there was also no malafide on their part, as the gift deed was cancelled as soon as they got knowledge that the same was fake and bogus. They alleged that they were found not guilty and exonerated by both the Inquiry Officer as well as the SMBR, but without furnishing any reason for dissenting with the recommendation of 1st Inquiry Officer, the Authority illegally constituted an Inquiry Committee, which, without recording any evidence and affording them the opportunity of defence and hearing, recommended the imposition of penalties

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 Service Tribunal,  
 Peshawar

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which did not commensurate with the gravity of charges against them. The appellant in this appeal as well as appellant in the connected appeal, Gul Said, further alleged that the Authority imposed two penalties, one major and the other minor, which amounted to double jeopardy and was not provided for by the law. The appellants maintained that they have not been treated in accordance with law and that their appeals have also been disposed of in a summary way without furnishing any reason for rejection, and further that the departmental appeal of Gul Said was not even disposed of within the statutory period.

4. The respondents resisted the appeals, mainly, on the ground that though fully aware of the rules and regulations, the appellants illegally registered gift deed which, though cancelled later, nevertheless landed the Provincial Government in unnecessary litigation. They defended the departmental proceedings and alleged that reasonable opportunity of defence and hearing was provided to the appellants, and major penalty was imposed by the competent authority only after charges were proved against the appellants.

5. The appellants also filed replications/rejoinders to the written replies/comments of the respondents, wherein, they reiterated their case put forth in their appeals, besides refuting contentions of the respondents; where-after arguments of counsel for all the appellants and AAG heard, and record perused.

As a result of departmental proceedings under the NWFP (Khyber Pakhtunkhwa) Removal from Service (Special Powers) Ordinance, 2000, and in the light of recommendations of the Inquiry Committee, the competent authority imposed penalties on the appellants, which have been impugned through these appeals. The appellants were proceeded against departmentally on the charge of their involvement in the registration of an illegal gift deed. The appellant in this appeal was District Officer (Revenue & Estate) Peshawar, appellant Gul Said

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Khyber Pakhtunkhwa  
Service Tribunal

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Registration Muharrir and appellant Mian Samiullah Sub-Registrar, Peshawar at the relevant time. The gift deed in-question was presented to the appellant in this appeal by one Rookhullah, which was allowed by the appellant, and then the deed was entered in the relevant record by appellant, Gul Said, and registered by appellant, Mian Samiullah. The main allegation against the appellants is that though duty bound, by virtue of their positions as DOR, Registration Muharrir and Sub-Registrar, respectively, to verify ownership of the executant of the gift deed/donor, they failed to perform their duty and committed mis-conduct by registration of a gift deed regarding state land. It is not disputed by the appellants that the gift deed was registered without verification of the ownership, but they claimed that while performing functions of registration authority, it was not their duty to verify ownership, and that they were bound to register the gift deed when presented for registration under paragraph 135 of the Registration Rules, 1929. Their this claim also received support from the findings/report of the Ist Inquiry Officer, Dr.Hamad Awais Agha, as well as report of SMBR. Nevertheless, they could not defend the procedure adopted for registration of the gift deed in the light of legal provisions. The appellant in this appeal could not explain under what authority he directly received application from Rookhullah and then allowed the same, and, like-wise, the other two appellants also failed to come up with explanation for not following the established procedure of going through the latest 'Jama-Bandi'. They also failed to explain that if the gift deed was properly and legally registered, what was the need of its subsequent cancellation and registration of case against the said Rookhullah, which, indeed, landed the Provincial Government in unnecessary litigation and complications.

7. However, since legality of the departmental proceedings and impugned orders have been assailed in these appeals, the question that whether the appellants have been treated in accordance with law, and prescribed procedure

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observed by the authority as well as Inquiry Committee, becomes relevant and essential for proper adjudication of the appeals. It is an admitted fact that in the first instance, on the basis of inquiry report of the Provincial Inspection Team, the appellants were proceeded against under the NWFP (Khyber Pakhtunkhwa) Removal from Service (Special Powers) Ordinance, 2000, served with charge sheets and statements of allegations by the competent authority, and inquiry conducted through the Inquiry Officer, Dr. Hamad Awais Agha. In his report, the Inquiry Officer recommended filing of the departmental/inquiry proceedings and held that the appellants were not found guilty of committing any illegality or irregularity. Though one can ignore the report of the SMBR sent to the Political Secretary to the Chief Minister as the same is not only uncalled for but also having no legal value; but one cannot over-look this fact that the competent authority was duty bound to record reasons for disagreeing with the inquiry report and also serve notice on the accused officer (2011 SCMR 1504 (b) (Supreme Court of Pakistan), before ordering/directing a second inquiry through an Inquiry Committee after serving the appellants with another charge sheet and statement of allegations. The learned counsel for the appellant, Gui Said, argued that once inquiry was conducted through an inquiry Officer, the competent authority could not switch over to Inquiry Committee; but once the second inquiry, without furnishing reasons for dissenting with the first inquiry report and serving the accused-officer with notice by the competent authority, is held as not warranted by law, hardly any room is left for further discussion on the issue whether the competent authority was bound to conduct second inquiry also through an Inquiry Officer instead of Inquiry Committee once it was decided to conduct inquiry through an Inquiry Officer. It is, indeed, note worthy that neither in the first inquiry by the Inquiry Officer nor during the second inquiry by the Inquiry Committee, any evidence was recorded. Both the Inquiry Officer and the

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Service Tribunal

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Inquiry Committee placed reliance on the written replies of the appellants to the charge sheets and statement of allegations and their own examination, without seeking support or rebuttal from other evidence. As such, the appellants were also deprived of the valuable opportunity of defence and cross-examination. Consequently, it would be safe to hold that inquiry proceedings were not in accordance with letter and spirit of the relevant law.

8. The final show cause notices served on the appellants by the competent authority contained tentative decision of the competent authority to impose the penalty of reduction to a lower post/pay scale, but in the impugned orders, the competent authority traveled beyond the scope of show cause notice and also imposed the minor penalty of postponing future increments for three years on restoration in respect of appellant in this appeal as well as appellant in the connected appeal, Gul Said; while made a complete departure from the show cause notice in the case of Mian Samiullah and imposed the minor penalty of with-holding of promotion for a period of two years on him. The learned counsel for the appellants in the two appeals sounded convincing when they alleged that the other two appellants have been discriminated against even in the imposition of penalty on them as all the three appellants were proceeded against on similar charges and found equally guilty by the Inquiry Committee. The learned counsel are also not wrong when they say that the imposition of two penalties and combination of a minor penalty with a major penalty amount to not only double jeopardy but also illegality, not at all sustainable in law.

9. Needless to say that once the impugned order of the competent authority is held to be illegal and not sustainable in law, limitation would not run against a person aggrieved of such a void order, but even then departmental appeals in this case as well as in the case of Gul Said, appellant, against the impugned order

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dated 25.5.2010 were preferred on 23.6.2010 and 7.6.2010 respectively. The departmental appeal in this case was rejected by the appellate authority on merits, not on the ground of limitation, on 21.7.2010, whereas the appeal was lodged on 26.7.2010; and in the case of Gul Said the departmental appeal was not decided within the statutory period, and the appellant lodged the service appeal on 6.10.2010, after his writ petition was dismissed as withdrawn by the august High Court on 22.9.2010. Though departmental appeal/representation of Mian Samiullah, appellant, has been filed on the ground of the same being time barred; but the record, especially the impugned order dated 25.5.2010, would show that the same was received by the appellant on 7.6.2010 and he preferred departmental appeal on 16.6.2010.

10. As a sequel to the foregoing discussion, all the three appeals are partially accepted and by setting aside the impugned orders, the cases of all the three appellants are remanded to the competent authority for denovo departmental proceedings in accordance with letter and spirit of law, in the light of above observations, with further direction to afford reasonable opportunity of defence and hearing to the appellants; where-after the competent authority shall pass an appropriate order strictly according to law, within reasonable time, but in no case beyond the period prescribed by the law. There shall, however, be no order as to costs.

**ANNOUNCED**  
15.12.2011

(KHALID HUSSAIN)  
MEMBER

(QALANDAR ALI KHAN)  
CHAIRMAN

Date of presentation of Application 3.10.2012  
 No. 3200  
 Copying Fee 18  
 Urgent 2  
 Total 20  
 Name of Copy [Signature]  
 Date of Completion of Copy 3.10.2012  
 Date of Delivery of Copy 3.10.2012

Certified to be true copy  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

**CONFIDENTIAL/MOST IMMEDIATE/TIME LIMIT CASE**

*ANNEX E*



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT**

*26*

NO. SO(E-I)E&AD/4-472/2012  
Dated Peshawar, the 16<sup>TH</sup> April 2012.

To

Mian Muhammad (PCS SG BS-19)  
Additional Secretary (Cabinet), Establishment Department.

**SUBJECT: - IMPLEMENTATION OF RECOMMENDATION OF ENQUIRY REGARDING  
JAVED PARK, GULBAHAR, PESHAWAR.**

Dear Sir,

I am directed to refer to the subject cited above and to say that an enquiry in the subject matter was conducted and the following penalties are imposed upon the following accused officers/Officials. These accused approached Service Tribunal for redressal of their grievances and Service Tribunal remanded back the case to Provincial Government for initiation of denovo inquiry (Service Tribunal Judgment enclosed):-

Sr.#	Name of officer/Officials	Recommendations duly approved
1.	Mr. Khalid Saleem, Ex-DOR, Peshawar.	Reduction to lower post & stoppage of 3-future increment.
2.	Mr. Samiullah Jan, Ex-Sub Registrar, Peshawar	With holding of promotion for two years.
3.	Mr. Gul Said, Ex-Registration Moharrar, Sub Registrar office, Peshawar	Reduction to lower post and stoppage of 3-future annual increments.
4.	Mr. Pir Azam, Senior Clerk/Record Clerk, O/O DOR Peshawar	Exonerate.

2. In light of the Service Tribunal Judgment the competent authority has been pleased to appoint you as enquiry officer to conduct enquiry under Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011. Charge Sheets and Statement of Allegations of the following officers/officials duly signed by the competent authority are enclosed for further necessary action (copy of fact finding enquiry is also enclosed):-

Sr.#	Name of officer/Officials
1.	Mr. Khalid Saleem, Ex-DOR, Peshawar.
2.	Mr. Samiullah Jan, Ex-Sub Registrar, Peshawar
3.	Mr. Gul Said, Ex-Registration Moharrar, Sub Registrar office, Peshawar
4.	Mr. Pir Azam, Senior Clerk/Record Clerk, O/O DOR Peshawar

3. It is therefore, requested to kindly conduct the enquiry and submit report within in time as prescribed by rules.

Yours faithfully,

**Encl: as above.**

**(MUHAMMAD TAUFIQUE)  
SECTION OFFICER (ESTT. I)**

Copy forwarded to the following:-

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa with the request to kindly direct the concerned Section(s) to provide necessary record as and when required by the enquiry officer and depute representative of the Deptt: well conversant with the case to assist the enquiry officer.
2. Mr. Khalid Saleem, Ex-DOR, Peshawar now DDO(F) Lakki Marwat
3. Mr. Samiullah Jan, Ex-Sub Registrar, Peshawar now Tehsildar Charsadda.
4. Mr. Gul Said, Ex-Registration Moharrar, now Sub Registrar office, Malakand
5. Mr. Pir Azam, Senior Clerk/Record Clerk o/o D.O. (R&E) Peshawar.

**SECTION OFFICER (ESTT. I)**

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT

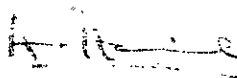
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CHARGE SHEET

I Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa as competent authority hereby charge you Mr. Pir Azam, the then Record Keeper Mohafiz Khana/Senior Clerk, DO(R&E) Office Peshawar (BS-09) as follows:-

That you, while posted as Record Keeper Mohafiz Khana/Senior Clerk, DO(R&E) Office Peshawar (BS-09), committed the following irregularities:-

- i) Attested copies of a bogus mutation was handed over by you to Roohullah Jan from Mohafiz Khana. The bogus mutation was entered in the mutation register of year 1921-22 on a blank page. The writing was not matching with other writings on the register and the mutation No. was not according to serial number. Despite these lacunas, you handed over attested copies of the out dated mutation to Roohullah Jan which facilitated him to grab Government, land in the name of his father Mohammad Ilyas, showing it as his inherited property. You being custodian of the Mohafiz Khana record were found having malafide intentions and were involved in connivance with land mafia in fraudulent activities.
2. By reasons of the above, you appear to be guilty of misconduct under Section-3 (a to c) of the Khyber Pakhtunkhwa, Government servants (Efficiency and Discipline) Rules-2011, and have rendered yourself liable to all or any of the penalties specified in Section-4 of the Rules.
3. You are, therefore, required to reply your defence within 7-days of the receipt of this charge sheet to Enquiry Officer or Enquiry Committee as the case may be.
4. Your written defence, if any, should reach the enquiry officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. The statement of allegations is enclosed.

  
(AMIR HAIDER KHAN HOTI)  
CHIEF MINISTER,  
KHYBER PAKHTUNKHWA  
(COMPETENT AUTHORITY)

Mr. Pir Azam,  
Record Keeper Mohafiz Khana/Senior Clerk (BS-09),  
District Officer (R&E), Office Peshawar.



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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT

DISCIPLINARY ACTION

I Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa as competent authority hereby charge you Mr. Pir Azam, the then Record Keeper Mohafiz Khana/Senior Clerk, DO(R) Office Peshawar (BS-09), has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Section 3 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules-2011:-

STATEMENT OF ALLEGATIONS:

- 1) Attested copies of a bogus mutation was handed over by you to Roohullah Jan from Mohafiz Khana. The bogus mutation was entered in the mutation register of year 1921-22 on a blank page. The writing was not matching with other writings on the register and the mutation No. was not according to serial number. Despite these lacunas, you handed over attested copies of the out dated mutation to Roohullah Jan which facilitated him to grab Government, land in the name of his father Mohammad Ilyas, showing it as his inherited property. You being custodian of the Mohafiz Khana record were found having malafide intentions and were involved in connivance with land mafia in fraudulent activities.
- 2) For the purpose of enquiry against the said accused with reference to the above allegations, the inquiry officer/inquiry committee consisting of the following, is constituted under rule 10(1) (a) of the ibid rules:-
  - 1) *MIA M MUHAMMAD (PESHAWAR BS-19)*
  - 2)
3. The Inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within 30-days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.

*16-4-12*  
(AMIR HAIDER KHAN HOTI)  
CHIEF MINISTER,  
KHYBER PAKHTUNKHWA  
(COMPETENT AUTHORITY)

Mr. Pir Azam,  
Record Keeper Mohafiz Khanan/Senior Clerk (BS-09),  
District Officer (R&E), Office Peshawar.

بیان پر محترم سٹیٹریٹک DOR لٹر

2005 میں روح انامی شخص نے درخواست  
 خلیفہ عالی میں حلفاً بیان کرنا ہوں کہ سال 1929-30 میں  
 برائے حصول نقل انتقال نمبر 405 موضع کراچی اور دیگر تھا۔ جس میں نے  
 فائدہ سے جمعندی متعلقہ سے انتقال نہ کوری فوٹو کاپی کے لئے کہا جس پر متعلقہ محافظ  
 سے رجسٹر کی فوٹو کاپی بنوائی اور میں نے تصدیق کی۔

تبادلہ نقل ایجنٹ کی ذمہ داری ہے کہ نقل مطابق اصل کی تصدیق کرے۔  
 میں نے جس انتقال کی فوٹو کاپی تصدیق کی۔ وہ اصل ریکارڈ میں  
 موجود ہے۔ یہ انتقال سال 1922ء کا ہے جو قبل از سال 1929-30ء کا ہے اور مثل حقیقت  
 1929ء اور اس کے بعد حال کسی بھی جمعندی میں متنازعہ انتقال کا کوئی عمل درآمد نہیں  
 ہے اس انتقال کی بنیاد پر کوئی رجسٹری ہوئی ہے تو وہ غیر قانونی ہے چونکہ رجسٹری  
 کے لئے نزد جمعندی زیر کار اور وہ بھی اس تاریخ کا جس پر رجسٹری ہو  
 رہی ہو وہ کار لا ہوتا ہے نیز رجسٹری کیا ہے میرا کوئی تعلق اور واسطہ نہیں  
 یہ ذمہ داری سب رجسٹرار کی ہے وہ مروجہ قواعد کے پابند و ذمہ دار ہیں۔

ضابطہ عالی: یہ متنازعہ انتقال اب بھی ریکارڈ پر موجود ہے اور میں نے اسکی نقل صدر  
 قانون کوئی ابراہیم سے حاصل کی ہے اور موجودہ صدر قانون کوئی سے بھی نقل  
 حاصل کی ہے جو کہ وہ نقل شامل انکوائری ہے اور جب تک یہ ریکارڈ پر موجود ہو سکے کوئی  
 نقل نہیں یا نقل ایجنٹ اس سے درخواست پر حسب ضابطہ نقل جاری کریگا  
 کیونکہ یہ پبلک ڈاکومنٹس ہیں۔ اور قانونی طور پر اس سے نقل کرنے پر کوئی قدغن  
 نہیں ہے جب تک مجاز اتھارٹی اس سے نقل کرنے پر پابندی نہ لگائے۔

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# ENQUIRY REPORT

IMPLEMENTATION OF RECOMMENDATION OF ENQUIRY  
REGARDING JAVED PARK, GULBAHAR, PESHAWAR.

Conducted by:

(MIAN MUHAMMAD)  
Additional Secretary (Cabinet)  
Enquiry Officer

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ADMINISTRATION DEPARTMENT



## ENQUIRY REPORT

Subject:- IMPLEMENTATION OF RECOMMENDATION OF ENQUIRY REGARDING JAVED PARK, GULBAHAR, PESHAWAR.

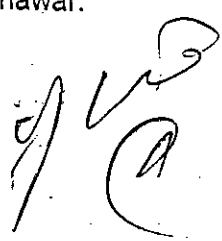
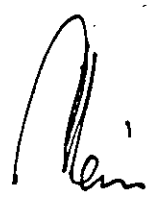
### Introduction:

The Provincial Inspection Team conducted a detailed enquiry in respect of state land situated in Tukra-1 (Gulbahar) Peshawar when certain persons tried to grab and seize it during the year 2006. On the basis of report of Provincial Inspection Team, disciplinary proceedings were initiated against the concerned revenue staff. An enquiry conducted under Removal from Service (Special Powers) Ordinance, 2000, by Dr.Hammad Uwais Agha, former Secretary Environment, recommended filing of the enquiry against the revenue staff, whereas the other conducted through an enquiry committee comprising Dr. Jamal Nasir, Secretary P&D FATA and Mr. Aurangzeb, Ex-Secretary ST&IT, recommended awarding of major penalty of reduction to lower post/pay scale while exonerating Mr.Pir Azam. Subsequent to the final orders of the competent authority, they approached the Khyber Pakhtunkhwa Services Tribunal. The Services Tribunal, while accepting their appeal partially and setting aside the impugned orders, remanded the case for denovo departmental proceedings in accordance with letter and spirit of law.

### Order of Enquiry:

2. The Chief Minister, Khyber Pakhtunkhwa (Competent Authority) entrusted the enquiry to the undersigned on 16.04.2012 (Annex-I) against the following accused:-

- i. Mr. Khalid Saleem,  
Ex-District Officer (R&E), Peshawar.  
(Retired from service on 30.04.2012).
- ii. Mr. Mian Samiullah Jan,  
Ex-Sub Registrar, Peshawar,  
Now Tehsildar, Tangi.
- iii. Mr. Gul Said,  
Ex-Registration Moharrar,  
O/O Sub Registrar, Peshawar,  
Now O/O Sub Registrar, Malakand.
- iv. Mr. Pir Azam,  
Ex-Senior Clerk/Record Clerk,  
O/O D.O. (R&E), Peshawar.



APPROVED

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Law applicable:

3. The accused officers/officials were charge sheeted under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

Enquiry Proceedings:

4. Charge sheets and statement of allegations (Annex-II, III, IV & V) were served on the accused officers/officials and they were directed to submit written replies to the Enquiry Officer. The accused were required to submit their replies to the Enquiry Officer within a reasonable time (not less than 07 days or more than 15 days) under rule-10(1)(d) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Except accused No.(ii) i.e. Mian Samiullah Jan, the remaining accused M/S Khalid Saleem, Gul Said and Pir Azam could not submit their replies to the Enquiry Officer within the specified time. They were, therefore, directed to expedite and submit their written defence/replies to the charge sheets, otherwise ex-parte proceedings will be initiated against them under rule-11(2) of the Rules ibid (Annex-VI). Keeping in view time limitation factor specified under rule-11(7), the competent authority was requested to extend the period for submission of enquiry report (Annex-VII) and the competent authority accorded approval to the extension in time period for one month (Annex-VIII).

5. The accused submitted their replies (Annex-IX, X, XI & XII) to the charge sheets and statement of allegations. They were afforded an opportunity of personal hearing and cross examination on 23.05.2012. During personal hearing, departmental representatives of the Establishment Department and Board of Revenue were present. District Kanoongo Peshawar and Sub Registrar-I, Peshawar were also associated with the proceedings of personal hearing (Annex-XIII). District Kanoongo was specifically directed to attend the proceedings along with record and mutation in question with a view to have a close examination of periodical record containing forged and fictitious mutation No.405/1 dated 24.02.1921. However, it was informed that mutation in question along with 94 other mutations had been taken in custody for investigations by the National Accountability Bureau, Peshawar. Hence, the original periodical record of 1921-22 could not be produced (Annex-XIV). The charges leveled against the accused officers/officials were clearly spelt out during

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personal hearing and they were handed over a questionnaire seeking some basic and pertinent information to which they replied without duress a fair, free and candid manner (Annex-XV, XVI and XVII).

Mr. Khalid Saleem, Ex-District Officer (R&E), Peshawar.  
(Retired from service on 30.04.2012).

6. Five charges were framed against the accused officer. He submitted his reply to the charge sheet and statement of allegations on 14.05.2012 intimating and indicating therein that he had been retired on attaining the age of superannuation on 30.04.2012 and as such charges/ statement of allegations against him may be dropped.

Findings / Recommendation:

7. In terms of FR-54-A enquiry proceedings against the accused ex-officer stand abated.

Mr. Mian Samiullah Jan, Ex-Sub Registrar, Peshawar.  
(Tenure - 27.07.2004 to 03.05.2006).

8. The accused explained the procedure of registering documents under the Registration Act, 1908 in his written reply as well as during the course of personal hearing. In support of his act to have registered gift deeds No.4032 and 4033 dated 07.10.2005 on the basis of Tamleek Inteqal (gift mutation) dating back to 1921 and subsequent gift deeds No.4048 and 4049 dated 08.10.2005, he took the shelter of Registration Act, 1908 and Registration Rules, 1929. His contention was that being in subordination to District Officer Revenue & Estate (by virtue of his post as Registrar in the district) he received the orders "gift deed as requested is allowed subject to observing of codal formalities and as prescribed in the law on the subject". The documents were handed over to the co-accused Mr.Gul Said, the then Registration Muharrar for examination/ scrutiny. On a question from the Enquiry Officer that whether Fard from Patwari halqa was not required for registration of gift deed? He quoted Section-21(1) & (4) of the Registration Act which stipulates that "no non-testamentary documents relating to immovable property shall be accepted for registration unless it contains a description of such properties sufficient to identify the same" and as such a true copy of the map or plan was sufficient so far as the land situated inside the red line is concerned. The statement of incumbent Sub-Registrar-I, Peshawar confirmed the

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A copy of the findings of the inquiry officer is enclosed.

legal procedure under Section-21 of the Registration Act for producing a true copy of the map or plan in respect of the immovable property (Annex-XVIII). He also supported the contention of the accused during personal hearing. On yet another query from the Enquiry Officer that was it not incumbent upon him to satisfy himself about the execution of gift deed? He quoted Section-34 & 35 of the Registration Act and Rule-135 of the Registration Rules. In terms of Section 34 of Registration Act, the Registration Officer is empowered "not to register a document under the Act unless the person executing such documents, of the representatives, assigns or agents authorized as aforesaid, to appear before the Registering Officer within the time allowed for presentation under sections 23, 24, 25 & 26". "By Section-35 of the Registration Act, registration is directed when certain persons have appeared, have been duly identified and have admitted the execution of the document propounded, and the necessary persons are the persons executing the document". Similarly, Rule-135 of the Registration Rules does not hold the Registering Officer responsible for validity of documents brought for registration.

9. Regarding 2<sup>nd</sup> charge, the accused officer solemnly affirmed that while exercising the power of review, delegated to Sub-Registrars by the Board of Revenue, he had taken corrective measure on 03.05.2006. He cancelled registration deeds No.4032 and 4033 dated 07.10.2005 vide office order No.180-181/SRP dated 26.04.2006 and 4048 & 4049 dated 08.10.2005 vide office order No.183-84/SRP dated 03.05.2006. He further elaborated that it was the responsibility of Registration Muharrar to have issued those orders on the same day. Since he was transferred from the post of Sub-Registrar, Peshawar on 03.05.2006, the co-accused (Mr. Gul Said) did not issue it for reasons best known to him. On a question from the Enquiry Officer that these office orders have two separate dates whereas you claimed that these were issued on one and the same day i.e. 03.05.2006 – the day when you were transferred? He said that it was the job of Registration Muharrar to have diarized and issued. The co-accused contested this point but did not press it as he remained posted against the same position till 27.11.2006. On verification from the office of Sub-Registrar-I, Peshawar, the diary Nos. produced by the accused did not match the entries in diary register as other entries had been made there against (Annex-XIX).

ATTESTED

*[Signature]*

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Findings:

10. The accused Sub-Registrar had performed his duties and exercised his authority drawn from the Registration Act, 1908 and Registration Rules, 1929. After having known and realized that the immovable property in gift mutation was in fact state land, he while exercising power of review should have ensured the issuance of office order for cancellation of registration deeds No.4032 and 4033 dated 07.10.2005 and No.4048 and 4049 dated 08.10.2005, in his presence. On administrative level he exhibited slackness and was not able to get the job done by the Registration Muharrar as per distribution of work. Resultantly, these registration deeds could be cancelled only when formal directions were received from the Inspector General of Registration on 29.09.2008.


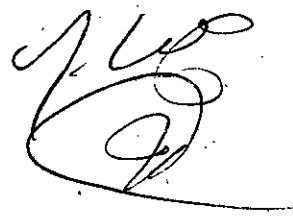
Recommendation:

11. Minor penalty of censure is recommended for the accused ex-Sub-Registrar, Peshawar - Mian Samiullah Jan.

Mr. Gul Said, Ex-Registration Moharrar, O/O Sub-Registrar, Peshawar, (Tenure - 12.05.1999 to 27.11.2006)

12. In reply to the charge sheet as well as during the course of personal hearing the accused official negated and disowned to have been handed over documents for scrutiny by the then Sub-Registrar. His contention was that on receipt of the orders of District Registrar (District Officer Revenue & Estate), the Sub-Registrar allowed registration and as 'Pardanasheen' were Executants, the Sub-Registrar himself registered it on the spot. Moreover, he was only concerned with the assessment and realization of Government dues on account of registration fee and stamp duty. However, his attention was drawn by Enquiry Officer to the fact that it was Tamleek (gift deed) and tax evaluation table was not applicable in this case. On a question of Enquiry Officer from the present Sub-Registrar-I, Peshawar as to whether there had been no distribution of work in the office of Sub-Registrar? He confirmed that the office was functioning under well defined distribution of work amongst the Registration Muharrars. The accused Sub-Registrar was asked whether he had distributed office work amongst the Registration Muharrars? He replied that scrutiny of documents was the duty of accused Registration Muharrar under the distribution of work prevalent prior to his tenure which he did continue. Assistant Secretary, Board of Revenue supported his plea and stated that on receipt of documents for registration, the concerned Registration Muharrar is duty bound to make assessment of registration fee, stamp duty, verification with regard to litigation and stay orders etc.

A copy of the findings of the inquiry officer is enclosed

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Findings:

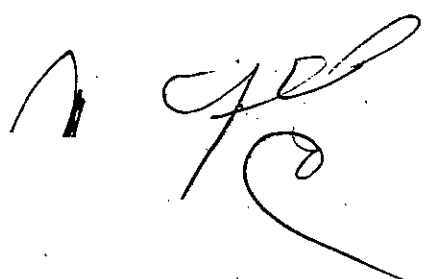
13. Any organization, whether a large scale or an office as a small unit, functions under the principle of distribution of work. The office of Sub-Registrar, Peshawar was no exception. The distribution of work was very well in place and the four registration Moharrars were responsible for their assigned/allotted area of functions. The accused ex-Registration Moharrar not only miserably failed to have carried out legal orders of his senior/incharge for scrutiny of the case but also proved to have been instrumental in averting rectification of an error in larger public interest. Quite contrary to the principle and actual distribution of work amongst the Registration Muharrars, he was found trying to shift his responsibility towards the accused Sub-Registrar, Peshawar.

Recommendation:

14. Minor penalty of stoppage of two increments for two years is recommended for the accused ex-Registration Muharrar – Mr. Gul Said.

Mr. Pir Azam, Ex-Senior Clerk/Record Clerk, O/O D.O. (R&E), Peshawar (Tenure - 09.05.2004 to 06.10.2006).

15. In his reply to the charge sheet, the accused stated that one Rqohullah had submitted an application for issuance of copy of mutation No.405/1 Tukra-1 in 2005. He asked his peon to get a copy of the same from relevant Jamabandi and on receipt of photo copy he attested it after due verification. He further explained that mutation in question had neither been effectuated in the Jamabandi (periodical record) nor in Misli Haqiat (settlement record) till date. During the course of personal hearing, he was asked as to whether it had not been his duty to check that how could an odd number like (405/1) be given to a mutation because the Register must contain mutation numbers in sequence such as 404, 405 and 406 etc? He replied that it was part of the Register and he was bound to provide copy of the mutation as per request of the applicant. When the Enquiry Officer drew his attention to self contradictory statement in his reply to the charge sheet/statement of allegations that "it is the responsibility of the copying agent to verify the copies according to the original" whereas he "attested the same after verification"? He replied that it might have occurred in english translation or english version of his defence and this was not the case with urdu version of his reply. The urdu version was spelt out as well and it did contain the self contradictory statement. On a cross question from the then Sub-Registrar (Accused) that what did he do to safeguard Government interest in writ petition No.2276/2009 before the Peshawar High Court? The accused simply replied that he pursued the case vigorously.



**Findings:**

16. The plan, to prepare, make it part of the periodical record and then execute a forged and fictitious mutation No.405/1 dated 24.02.1921, was originated in Muhafiz Khana or record room. This has neither been first nor last mutation to grab state land in Peshawar because state land has always been up for grabs and seizure by land mafia. An interesting and research oriented report (1993) based on revenue record submitted to Commissioner, Peshawar (prior to devolution of 2000) which might not have seen light of day and gone in obscurity, will reveal the undeniable and established fact that state land initially in thousands of kanals situated in urban areas of Peshawar as per settlement record of 1929-30, substantially reduced due to encroachment till late 1980's and early 1990's (Annex-XX). The ground reality and factual position has even gone from bad to worse uptill now. Of course mutation in question could not have found place in the Jamabandi without the connivance of revenue and clerical staff. The role of the accused Mr. Pir Azam is quite evident that Mr. Roohullah submitted an application to get an attested copy of that mutation. His self contradictory statement strengthens the argument that he was hand in glove with the state land grabbers otherwise as a well versed and experienced clerk in official and revenue matters, he must have brought to the notice of District Officer (R&E) the oddity of mutation No.405/1.

17. His plea that mutation in question had neither been effectuated in the periodical record nor settlement record and even then providing an attested copy of it to Mr. Roohullah is self-defeating argument which smells out and speaks for itself. The accused was not only instrumental to make the task of state land grabbers easier by taking the shelter of shabby condition of Muhafiz Khana but he equally failed as custodian of land record to have raised the issue before the senior officers. Had he not been in unholy alliance with Mr. Roohullah, the illegal step was possible to have been checked at the initial stage like nipping evil in the bud. His defence or argument that he was bound to provide an attested copy of the paper available on record is beyond comprehension. It does not hold ground and is not tenable.

**Recommendation:**

18. Major penalty of compulsory retirement from service is recommended for the accused ex-Senior/Record Clerk - Mr. Pir Azam.

( Mian Muhammad )  
Additional Secretary (Cabinet)  
(Enquiry Officer)

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ANNEXED H

CONFIDENTIAL

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT

38

No. SO (E-I) E&AD/4-472/2012  
Dated Peshawar, the July 11, 2012

To

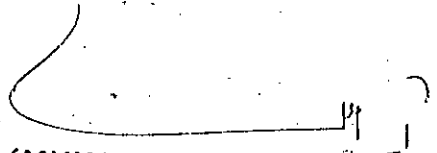
Mr. Pir Azam,  
The then Record Keeper Mohafiz Khana/  
Now Senior Clerk, DO(R) Office Peshawar.

**SUBJECT: - SHOW CAUSE NOTICE**

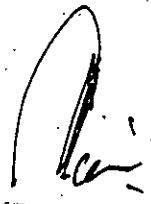
Kindly refer to the subject cited above.

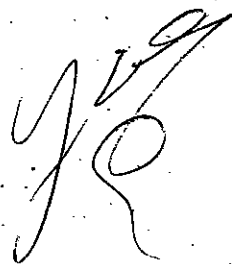
2. A copy of Show Cause Notice, duly signed by the competent authority, is enclosed with the request to kindly submit your reply within stipulated time. Copy of findings of inquiry report is also annexed herewith.

Encl: As above

  
(MUHAMMAD TAUFIQUE)  
SECTION OFFICER (ESTT-I)  
PH: & FAX # 091/9210529

23/7/2012

  
ATTESTED





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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT

SHOW CAUSE NOTICE

I, AMIR HAIDER KHAN HOTI, Chief Minister, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 do hereby serve you, Mr. Pir Azam, the then Record Keeper Mohafiz Khana/Senior Clerk, DO(R&E) Office Peshawar (BS-09) as follows:-

1. (i) that consequent upon the completion of inquiry conducted against you by Mian Muhammad (PCS SG BS-19), Addl; Secretary (Cabinet), Administration Department for which you were given opportunity of hearing vide communication No. AS(Cabinet)/Admn:Dept/1-9/12 dated 18.05.2012.
- (ii) That on going through the findings and recommendations of the inquiry officer, the material on record and other papers connected with the case,

I am satisfied that the charge given below has been proved against you:

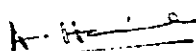
- a. Attested copies of a bogus mutation was handed over by you to Roohullah Jan from Mohafiz Khana. The bogus mutation was entered in the mutation register of year 1921-22 on a blank page. The writing was not matching with other writings on the register and the mutation No. was not according to serial number. Despite these lacunas, you handed over attested copies of the out dated mutation to Roohullah Jan which facilitated him to grab Government, land in the name of his father Mohammad Ilyas, showing it as his inherited property. You being custodian of the Mohafiz Khana record were found having malafide intentions and were involved in connivance with land mafia in fraudulent activities.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of compulsory retirement from service under Rule-4 of the said rules.

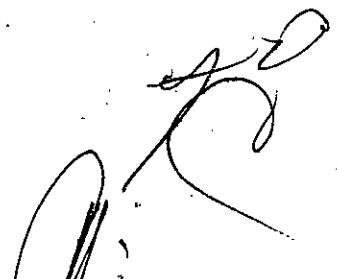
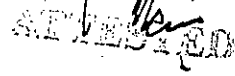
3. You are, therefore required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

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

5. A copy of the findings of the inquiry officer is enclosed.

  
(AMIR HAIDER KHAN HOTI)  
CHIEF MINISTER  
KHYBER PAKHTUNKHWA

Mr. Pir Azam, the then Record Keeper Mohafiz Khana/  
Senior Clerk, DO(R&E) Office Peshawar (BS-09).

ANNEX I

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REPLY TO SHOW CAUSE NOTICE NO. SO(E-1) E & AD-4-472/012 DT  
PESHAWAR JULY 11, 2012.

On behalf of the undersigned.

Respected Sir,

- (1) That it is submitted to Para I of the show cause notice, that the applicant was never given a fare chance of hearing on the date mentioned in the show cause notice. Although he appear before the inquiry affair but he was never given a chance to defend his stance and was condemned unheard, neither any document nor any evidence or witness what so ever was brought before the applicant, what to say about the opportunity of hearing or opportunity of cross examination upon the witnesses; hence, the above so called inquiry was just a formalities, thereby denying all the norms of justice and the rules / procedure as mentioned in the concerned procedural law was never adopted by the concerned authority.
- (2) It is further submitted herein that before the said inquiry another inquiry was also conducted where by in applicant was totally exonerated from all the above mentioned wrong and illegal charges hence, the second shift of inquiry was no need, the applicant was made escape goat instead of pointing out the real and actual culprits of the above said event.

It is submitted that the Para No. 2 of the show cause notice that has already held in Para No. 1 with regard to the validity of the so, called inquiry proceeding, hence, no recommendation on the basis of such an inquiry can be made a ground for the punishment of a misconduct case. Further more, so far as the material record referred in the said Para the applicant has never been given a chance to look through such record what to say about Examining him and deciding the truth fullness of the above mentioned record.

- (a). In reply to Para (a) it is submitted that the allegation of entering fake, bogus mutation in the register for the year 1921/22 an a blank page is concerned nor it is the duty of the applicant to enter and attest any type of mutation nor he is eligible or competent to do so, hence the proper person may please be proceeded against who is responsible for such entry.

OD [Signature] For -  
26/07/12

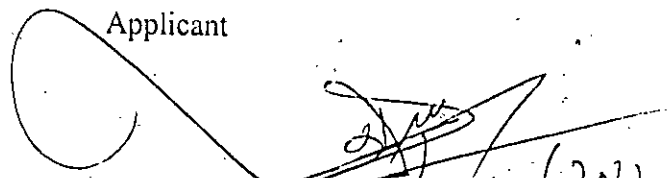
SUPERINTENDENT  
Estt. I Section  
Es'tt & Admin. Deptt.  
Khyber Pakhtunkhwa.

ATTESTED

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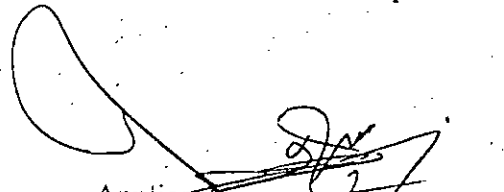
The Govt. land grab by one Roohullah who has been facilitated by the person making entries in the mutation register and uttering the serial No's of his mutation register, where as all this is out of the responsibility and duty of the replying applicant. Hence, he can not be held responsible for the act committed by some other person / employee of this dept. The applicant has ever committed any wrong as mentioned above nor is involved in any forgery as alleged against him, hence the whole proceeding against the applicant be null void in the eyes of law. The same may please be filed in the interest of justice and the applicant be declared innocent and re - exonerated from the charge level against the applicant.

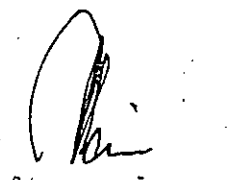
Applicant

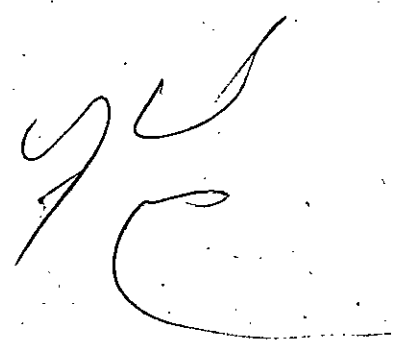
  
Pir Muhammad Azam 26/7/2012  
Ex Incharge Record Room  
DOR Office Peshawar.

**Note:** It is necessary to note here that the undersigned has received the show cause notice on 23/07/2012 and the reply is submitted with in the stipulated period mentioned in the show cause notice.

Applicant.

  
26/7/2012

  
ACCEPTED



ANNEX J (42)

**BEFORE THE SECTION OFFICER ESTABLISHMENT  
AND ADMINISTRATION DEPARTMENT PESHAWAR.**

SUBJECT REQUEST FOR ADDING THE PLEA OF PROVIDING CHANCE OF  
PERSONAL HEARING TO THE UNDER SIGNED AS PER SHOW  
CAUSE NOTICE NO. SO(E-1) E&AD-4-472/012 DATED PESHAWAR  
THE JULY 11, 2012

Respected Sir,

1. That the under signed had submitted reply to the show cause notice mentioned above to your honour on 26-07-2012.
2. That at the time of drafting the reply to Show Cause notice the words providing chance of Personal hearing has inadvertently left to mentioned in the reply to Show Cause notice which is very much necessary in the interest of justice.

So, it is therefore, humbly requested that by accepting and considering this application as an integral part of the reply to Show Cause notice the under signed be given a fair chance of personal hearing in this connection please.

(Pir Muhammad Azam)  
 Ex Incharge Record Room  
 DOR Office, Peshawar

*6/8/12*

Received

*7*  
*4*  
*6.8.12*  
 SO E-1

*Pir*

*7/8*

Amir K

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT

Dated Peshawar, the September 20, 2012

**ORDER**

**NO.SO(E-I)E&AD/4-472/2012** WHEREAS, in light of Service Tribunal, Khyber Pakhtunkhwa Judgment dated 15.12.2011 in Service Appeal No. 1393/2011, Mr. Khalid Saleem Vs Government of Khyber Pakhtunkhwa and others, Mr. Pir Azam, the then Record Clerk O/o DOR, Peshawar, were proceeded against for the charges mentioned in charge sheet and statements of allegations dated 16.04.2012.

2. **AND WHEREAS**, Mr. Mian Muhammad (PCS SG BS-19) Additional Secretary (Cabinet), Administration Department was appointed as Inquiry Officer to conduct devono inquiry against the accused official.

3. **AND WHEREAS**, the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused official, submitted report.

4. **NOW THEREFORE**, the Competent Authority after having considered the charges, evidence on record, the explanation of the accused official, finding of inquiry officer and exercising his powers under Section 3 read with section 14 of Efficiency & Discipline Rules 2011, has been pleased to impose major penalty of "**Compulsory retirement from service**" on Mr. Pir Azam, the then Record Clerk O/o DOR, Peshawar.


5. Consequent upon above, this Department's order No. SO(E-I)E&AD/11-8/2010 dated 25.05.2010 is hereby cancelled.

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

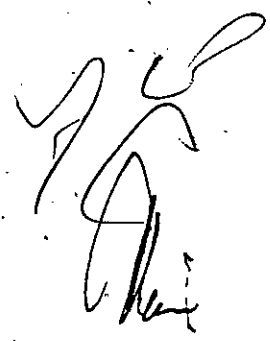
Encl. No. & date even.

Copy forwarded to the: -

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Commissioner, Peshawar.
5. Accountant General, Khyber Pakhtunkhwa.
5. DCO, Peshawar/Charsadda.
7. DO (R&E), Peshawar/Charsadda.
8. PS to Chief Secretary, Khyber Pakhtunkhwa
9. PS to Secretary Establishment, E&A Department.
10. Section Officer (Admn)/SO(Secret)/SO (E-IV) E&AD.
11. Mr. Pir Azam, the then Record Clerk O/o DOR, Peshawar-C/o Senior Member Board of Revenue, Khyber Pakhtunkhwa.
12. Manager, Govt Printing Press Peshawar.

  
(ZUBAIR AHMAD)

**DEPUTY SECRETARY (ESTT)**  
PHONE & FAX # 091-9210529



AN...  
...

ANNEX L  
(44)

To,

The Honourable Chief Minister,  
Khyber Pakhtunkhwa,  
Peshawar.

Subject: REVIEW OF THE ORDER DATED 20/09/2012 WHEREBY THE MAJOR PENALTY OF COMPULSORY RETIREMENT FROM SERVICE HAS BEEN IMPOSED ON THE UNDERSIGNED.

Respectfully Sheweth:-

1. That the petitioner was appointed as Junior Clerk (BPS-05) in the office of the then Deputy Commissioner Peshawar vide appointment order No.12851-64/G dated 09/12/1980 and now posted as Assistant (PBS-14) in Settlement & Rehabilitation Branch in District Officer Revenue & Estate office District Peshawar.
2. That petitioner, on 15/09/2005 while posted as Copying Agent in the office of District Officer Revenue & Estate, Peshawar issued attested copy of mutation No. 405/1 attested on 24/02/1921.
3. That on the direction of the Government of Khyber Pakhtunkhwa, the then Chairman, Provincial Inspection Team, initiated an inquiry on the direction of the competent authority against the land grabbers and Revenue Department and it has been established in facts finding inquiry report dated 10/06/2006 that fake mutations, including mutation No.405/1 dated 24/02/1921; have been entered in the Jamabandi for the year 1921-22, resultantly, successive departmental inquiries have been initiated against the petitioner and 3 others, however petitioner was found innocent, while rest of the three officials have been found guilty and departmental proceedings have been initiated against them.
4. That being aggrieved, all the three officials of the Revenue Department approached to the Khyber Pakhtunkhwa, Services Tribunal, Peshawar through appeals No.1393/2010, No.1911/2010 and No.2157/2010, which were partially accepted vide consolidated judgment dated 15/12/2011, the impugned orders were set aside and cases were remanded to the competent authority for de-novo department proceedings in accordance with letter and spirit of law with directions to provide reasonable opportunity of defence to the aggrieved officials and thereafter, the competent authority shall pass an appropriate order strictly in accordance with law.
5. That in compliance to the consolidated judgment of the Khyber Pakhtunkhwa, Services Tribunal, Peshawar, fresh inquiry has been initiated, resultantly, all the three officials have been exonerated, while major penalty of compulsory retirement from services have been imposed on the petitioner vide inquiry report dated 18/05/2012 conducted by Additional Secretary (Cabinet), Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
6. That subsequently, notice No. SO (E-1) E&AD/4-472/2012 dated 11/07/2012 has been issued to petitioner by your honour to show cause, as to why the penalty of compulsory retirement from service under Rule-4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 should not be imposed upon you.
7. That petitioner submitted reply dated 11/07/2012 to the aforementioned show cause notice with a written request to provide him opportunity of personal hearing, as offered in Para No.3 of the show cause notice dated 11/07/2012.
8. That instead to provide free and fair opportunity of hearing and self-defence, major penalty of compulsory retirement from service has been imposed on the petitioner vide office order No. SO (E-1) E&AD /4-472/2012 dated 20/09/2012 issued by the Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
9. That petitioner being aggrieved of the office letter dated 20/09/2012 issued by the Chief Secretary, Khyber Pakhtunkhwa, Peshawar, approaches your honour through instant departmental Revenue, inter alia, on the following grounds.

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GROUND:

- A. That the impugned order is against the law and rules governing the subject, hence nullity in the eye of law.
- B. That procedure given under Rule-5 of the Khyber Pakhtunkwa, Government Servants (Efficiency & Discipline) Rules, 2011 has flagrantly been deviated, moreover, neither opportunity of personal hearing has been offered to the petitioner, nor free and fair opportunity of self-defence has been provided and the impugned order has been issued, which resulted into grave miscarriage of justice.
- C. That Show Cause notice dated 11/07/2012 has been issued by your honour, wherein it has clearly been mentioned in Para No.3 that whether petitioner desired to be heard in person? Which has been acceded to by the petitioner and requested to be heard in person, but this material fact has totally been ignored and the impugned order has been passed which speaks volume of malafides on the part of the issuing authority.
- D. That mutation No. 405/1 dated 24/02/1921 still exists in the official record of the Revenue Department, and petitioner was duty bound to issue attested copy whereof, hence has committed no wrong, rather fulfilled his official duties, moreover, denial from issuing attested copy of a public document itself amounts to misconduct, therefore, case of the petitioner reappraisal in the light of the available record, so as to secure the ends of justice.
- E. That attested copy of mutation carry no legal weight and could not be used for any official transaction and, if at all, the same has been used for further official transaction without essential supporting documents i.e. fresh Jamabandi and latest Fard, that is not fault of the petitioner, rather responsibility should have been fixed on the officials who materialized the transaction, whatsoever and on this score alone the impugned order deserves to be set at naught.
- F. That petitioner has more that 31 years spotless career at his credit and not a single complaint has ever been filed against him, moreover, condemned unheard, while passing the impugned order, hence principle of audi-alterm-palterm is attracted.
- G. That petitioner has been made escape goat and the entire proceedings have been carried out in utter violation of law and rules governing the subject, hence not sustainable in the eyes of law.

It is, therefore, most humbly prayed that on acceptance of instant review petition the impugned order dated 20/09/2012 may please be declared as illegal, unlawful, without lawful authority, void-ab-initio and of no legal effect and respondents may please be directed to treat the petitioner strictly in accordance with law by providing him free and fair opportunity of self-defence and personal hearing, so as to secure the ends of justice.

INTERIM RELIEF.

By way of interim relief, operation of the impugned order may please be suspended till final decision of the instant review.



Petitioner

Pir Muhammad Azam  
S/o Pir Muhammad Hassan  
R/o House No.384, Street No.07,  
Afghan Colony Peshawar City.

Dated: 15/10/2012



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

*Amir Azam*

(U)

NO. SO (E-1)/E&AD/4-472/2012  
Dated Peshawar the December 6, 2012

To

Mr. Pir Azam S/o Pir Muhammad Hassan,  
The then Record Clerk,  
o/o District Officer (P&F) Peshawar,  
No residing in House No. 384, Street No. 7, Afghan Colony,  
Peshawar.

**SUBJECT: - APPEAL / REVIEW PETITION.**

I am directed to refer to your appeal/review petition dated 15.10.2012 on the subject cited above and to inform that the appellate authority has considered your appeal/review petition and rejected the same.

*Muhammad Iqbal Siddiqi*  
(MUHAMMAD Iqbal SIDDIQI)  
SECTION OFFICER (ESTT. I)  
PH: & FAX # 091-9210523

*Received to Amir*

*1 PM*

*[Signature]*

*17/12/2012*

*[Signature]*



REGISTERED O.P.A.

SO(E-1) E, SAD/4-472/2012

میں سے

Mr. Pir Azam S/O Pir Muhammad Hassan

Record cleared o/o District officer

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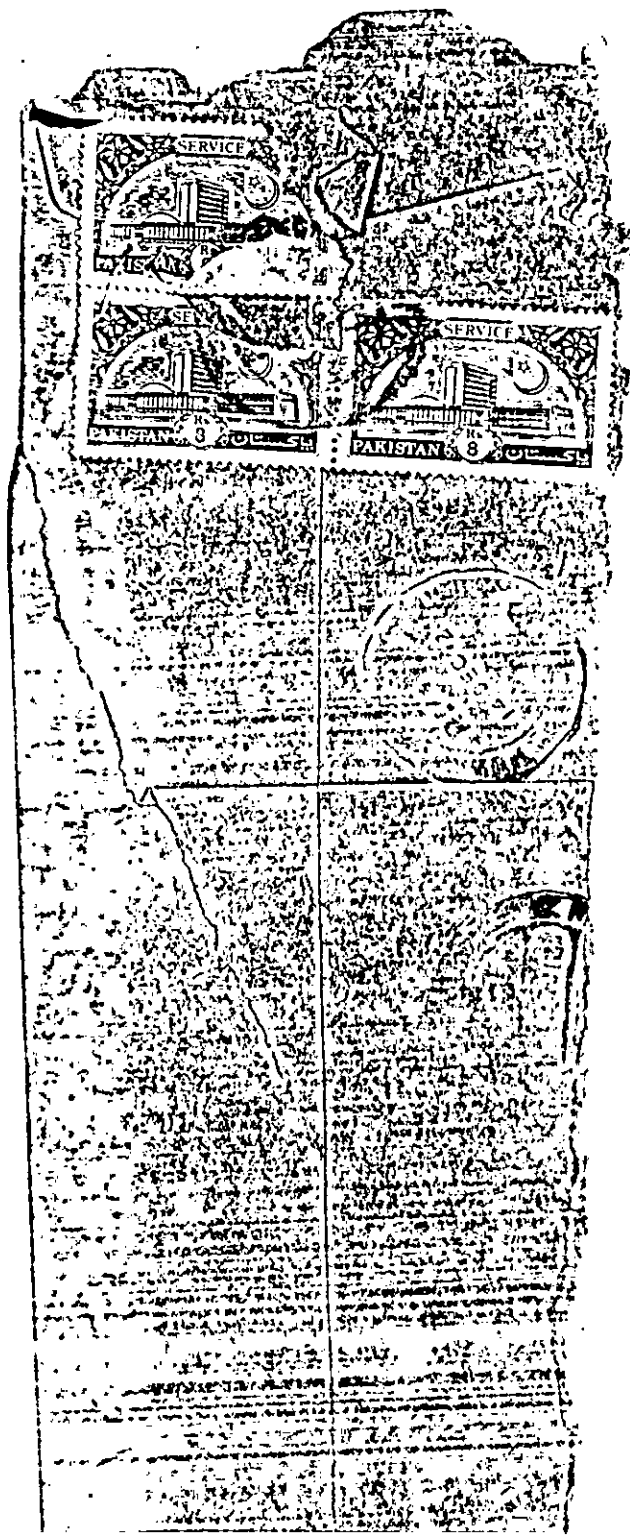
(R&E) Peshawar

رکورد کھول دیا گیا ہے

PESHAWAR SECRETARIAT

Dispatcher  
& A Deptt. Peshawar

Handwritten signature or initials at the bottom of the page.



POWER OF ATTORNEY

In The COURT of

19 P/12 Service Tribunal Peshawar  
Per Ijaz

For:  
Plaintiff  
Appellant  
Petitioner  
Complainant

VERSUS

Govt of P/12 P/12 & Others

Defendant  
Respondent  
Accused

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

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

MR.IJAZ ANWAR ADVOCATE, HIGH COURT, PESHAWAR

Sejad Aman Advocate my true and lawful attorney, for me in my name and on my behalf to appear at Yes to appear, plead, act and answer in the above Court or any appellate Court on 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 sub-poena and to apply for and get issued and arrest, attachment or other execution, 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 employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever 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 do all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may per 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 dismissed in default, if it be proceeded ex-parte the said counsel shall not held responsible for the same. All cost awarded in favour shall the right of Counsel or his nominee, and if awarded against shall payable by me/us.

IN WITNESS whereof I/We have hereto signed at Pesh the \_\_\_\_\_ day to \_\_\_\_\_ in the year \_\_\_\_\_

Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

  
Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-3, 4<sup>th</sup> Floor, Bilour Plaza, Saddar Road, Peshawar Cantt.  
Ph: 091-52772054 Mobile: 0333-9107225

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 98/2013

Pir Azam .....Appellant

VERSUS

Senior Member Board of Revenue and others .....Respondent

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.2.

PRELIMINARY OBJECTIONS

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.
6. That appeal is time barred.

RESPECTFULLY SHEWETH.

ON FACTS.

1. Relates to record of the office of Deputy Commissioner, Peshawar hence no comments.
2. Incorrect. The official does not carry a good reputations he used to prepare forged PTO/PTD on blank pages of registers.
3. Incorrect. The appellant was a Government official and was bound to check the record being custodian of the Government record but in the instant case the appellant provide copy of fake mutation.
4. Pertains to record.
5. No comment as Enquiry was conducted against the appellant by Establishment Department.
6. Relates to Establishment Department hence no comments.
7. Relates to Establishment Department Khyber Pakhtunkhwa hence no comments.
8. Incorrect. The Tribunal remanded the case for denovo enquiry in which the appellant was held responsible and was rightly awarded penalty of compulsory retirement.
9. Relates to Establishment Department Khyber Pakhtunkhwa.
10. No comments. Relates to Establishment Department Khyber Pakhtunkhwa.
11. No comments. Relates to Establishment Department Khyber Pakhtunkhwa.
12. No comments. Relates to Establishment Department Khyber Pakhtunkhwa.
13. Incorrect. The impugned order is valid and based on facts.

ON GROUNDS

- A. Incorrect. The appellant has been treated under the law.
- B. Incorrect. Proper procedure was adopted in the case of the appellant.
- C. Relates to Establishment Department Khyber Pakhtunkhwa.
- D. Relates to Establishment Department Khyber Pakhtunkhwa.
- E. Relates to Establishment Department Khyber Pakhtunkhwa.
- F. Relates to Establishment Department Khyber Pakhtunkhwa.

- G. Correct to the extent that the official was duty bound to issue certified copy of correct mutation under the provision of law/ Rules but in the instant case reportedly provide fake mutation.
- H. As in the preceding para.
- I. Relates to Establishment Department Khyber Pakhtunkhwa.
- J. Relates to DC, Office Peshawar, however, the appellant did not carry a good perception.
- K. Incorrect. All proceedings have been carried out accordingly to law.
- L. Incorrect. The charges levelled against the appellant were duly proved and he was rightly awarded penalty.
- M. Relates to Establishment Department.
- N. The official is responsible for his corrupt practices due to which he lost his job.
- O. The respondent also seek the permission of this honorable Tribunal to rely on additional grounds at the time of arguments.

It is therefore requested that appeal may please be dismissed with costs .



Respondent No. 1 &2

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

In the matter of  
Appeal No. 98/2013

Pir Azam S/O Muhammad Hassan, EX- Assistant/ In-charge  
Record Room Office for the District (R&E) Peshawar.

*(Appellant)*

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber  
Pakhtunkhwa, Peshawar & others.

*(Respondents)*

**REJOINDER ON BEHALF OF THE APPELLANT**

Respectfully submitted:

**ON PRELIMINARY OBJECTIONS:**

1. Contents incorrect and misleading, the appeal being filed well in accordance with the prescribed rules and procedure hence maintainable in its present form and circumstances.
2. Contents incorrect and misleading, the appellant has illegally been awarded the penalty of Compulsory Retirement service hence he has got the necessary cause action to file the instant appeal.
3. Contents incorrect and misleading, all parties necessary for the disposal of the appeal are arrayed in the instant appeal.
4. Contents incorrect and misleading no rule of estoppel is applicable in the instant case.
5. Contents incorrect and misleading the appellant has come to the Honorable Tribunal with clean hands.
6. Contents incorrect and misleading the appeal is filed well within the prescribed period of limitation.

**ON FACTS**

1. Contents need no reply, however contents of para-1 of the appeal are true and correct.
2. Contents of Para-2 of the appeal are true and correct, the reply submitted to the para is incorrect, false and misleading.
3. Contents of Para-3 of the appeal are true and correct, the reply submitted to the para is incorrect, false and misleading.
4. Contents need no reply, however contents of para-4 of the appeal are true and correct.
5. Contents need no reply, however contents of para-5 of the appeal are true and correct.
6. Contents need no reply, however contents of para-6 of the appeal are true and correct.
7. Contents need no reply, however contents of para-7 of the appeal are true and correct.
8. Contents of Para-8 of the appeal are true and correct, the reply submitted to the para is incorrect false and misleading. Moreover the remand order of this Honorable Tribunal was only to the extent of those who were party to the previous proceedings before this Honorable Tribunal, while at the stage of Departmental proceedings at the relevant time the appellant was exonerated, therefore, his case should not have been opened subsequently and fresh enquiry should have been in respect of only those whose cases were remanded by the Tribunal, therefore, the Department gone on completely premises in proceeding a fresh against the appellant and punishing him.
9. Contents need no reply, however contents of para-9 of the appeal are true and correct.
10. Contents need no reply, however contents of para-10 of the appeal are true and correct.
11. Contents need no reply, however contents of para-11 of the appeal are true and correct.

12. Contents need no reply, however contents of para-12 of the appeal are true and correct.

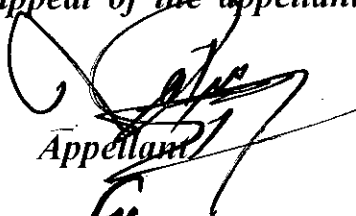
13. Contents of Para 13 of the appeal are correct the reply submitted to the Para is incorrect and false.

**GROUND**

The Grounds (A to O) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

*It is therefore humbly prayed that the appeal of the appellant may please be accepted as prayed for.*

Through

  
Appellant

IJAZ ANWAR

Advocate, Peshawar.

&  
  
SAJID AMIN

Advocate, Peshawar.

**AFFIDAVIT**

*I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.*

  
Deponent

ATTESTED

