

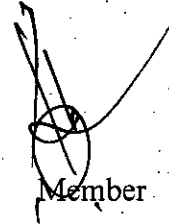
3.

06.03.2014

Appeal No. 132/2014.
Syed Mazhar Hussain Shah.

Counsel for the appellant present and submitted an application for early hearing as well as application for withdrawal of the instant appeal with permission to file a fresh one. Case file requisitioned. Application accepted and the instant appeal is dismissed as withdrawn with permission to file a fresh one. File be consigned to the record.

ANNOUNCED
06.03.2014





Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 132/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/01/2014	<p>The appeal of Syed Mazhar Hussain Shah resubmitted today by Mr. Khaled Rehman Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	6-2-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>19-3-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

This is an appeal filed by Syed Mazhar Hussain Shah today on 23/01/2014 against the order dated 22.10.2013 against which he preferred a department appeal on 26.10.2013 which is premature as laid down in an authority reported as 2005-SCMR-890.

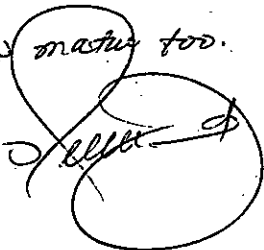
As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 106 /ST,
Dt. 23/01 /2014


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khaled Rehman Adv. Pesh.

The departmental Appeal was filed on 26.10.2013, the period of 90 days expires on 23.1.2014 hence appeal is within time. Be that as it may, on your calculation it is now mature too.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 132 /2014

Syed Mazhar Hussain Shah
.....Appellant

Versus

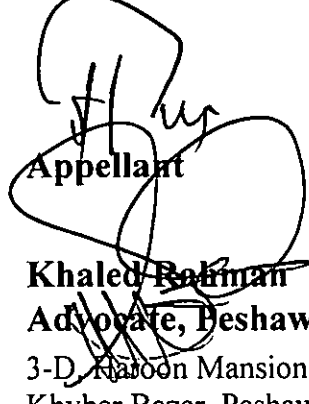
The Govt. and others
.....Respondents

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Through

Appellant


Khaled Rehman
Advocate, Peshawar
3-D, Haroon Mansion,
Khyber Bazar, Peshawar
Cell # 0345-9337312

Dated: 22 / 01/2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 132 /2014

104
23/01/2014

Syed Mazhar Hussain Shah
Ex-Naib Tehsildar, D.I.Khan.....Appellant

Versus

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary to Govt. of Khyber Pakhtunkhwa Revenue & Estate Department, Civil Secretariat, Peshawar.....Respondents

SERVICE APPEAL UNDER RULE-19 OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011 READ WITH SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 22.10.2013 WHEREBY MAJOR PENALTY OF COMPULSORY RETIREMENT WAS IMPOSED UPON THE APPELLANT AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL/REVIEW BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD.

23/1/2014

Re-submitted to ~~409~~ and filed.

30/1/2014

PRAYER:

On acceptance of the instant appeal, the impugned Notification dated 22.10.2013 may graciously be set

aside and consequently appellant be reinstated into service with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That while serving as Tehsildar Pahar Pur D.I.Khan, appellant was served with a Charge Sheet and Statement of allegations (*Annex:-A*) alleging therein misconduct and inefficiency against the appellant.
2. That appellant replied (*Annex:-B*) the Charge Sheet and Statement of allegations thereby denying the same and explaining his position. The reply to the Charge Sheet and Statement of allegations may be considered as an integral part of this appeal.
3. That thereafter the Enquiry Officer conducted an irregular inquiry wherein appellant was provided a questionnaire (*Annex:-C*) which was duly answered by the appellant vide answer sheet (*Annex:-D*) thereby explaining the position to the Enquiry Officer. Copy of the Enquiry Report was not provided to the appellant for which he submitted an application (*Annex:-E*) after which the same was provided to him vide Enquiry Report (*Annex:-F*).
4. That thereafter the competent authority issued to the appellant Final Show Cause Notice (*Annex:-G*) for inefficiency and misconduct. Appellant also replied (*Annex:-H*) the Show Cause Notice ibid

thereby denying the charges and also requested for the opportunity of personal hearing. The reply to the Show Cause Notice may also be read as a part of the instant appeal.

5. That vide impugned Notification dated 22.10.2013 (*Annex:-I*), appellant was imposed upon the major penalty of compulsory retirement against which appellant filed departmental appeal/review (*Annex:-J*) but the same was not disposed of within the statutory period, hence this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That no regular inquiry was contemplated which is the mandatory requirement of law. It is a settled legal principle that where a major penalty is to be imposed then regular inquiry must be conducted wherein the accused officer is to be associated with all stages of inquiry proceedings. Since the inquiry was not conducted as per the mandate of law, therefore, impugned Notification based upon such inquiry is unwarranted and is not sustainable.

- C. That it is also a trite law settled by superior fora that where the dispute involves controversial facts and cannot be resolved without holding a regular inquiry, then a full-fledged inquiry is a must. Since in the case in hand, the matter could have only be resolved by holding a regular inquiry by recording the statements of the witnesses and collecting the documents in presence of the appellant and providing him an opportunity for cross-examination which was not done, therefore, the entire proceedings of inquiry are against the law and as such not legally maintainable.
- D. That appellant was condemned unheard because he was not provided the opportunity of personal hearing neither by the competent authority nor by the Enquiry Officer nor the competent authority as an appellate/reviewing authority which is also a legal requirement thus the impugned Notification being violative of the principle of natural justice is void, arbitrary and thus not maintainable.
- E. That the appellant has at his credit longstanding unblemished 37 years service and was at the verge of his retirement. He has also been deprived of his promotion due to the impugned Notification. In peculiar facts and circumstances of the case, the extreme penalty of compulsory retirement does not commensurate with the guilt of the appellant.
- F. That other officials/officers who were actually involved in the matter and responsible for everything were burdened with minor penalties

vide Notifications dated 22.10.2013 (*Annex:-K*) whereas to the contrary, appellant whose role was non-existent in the matter was imposed upon the major penalty, which is highly discriminatory, coram non iudice, unjust and therefore, the impugned Notification is untenable under the law.

- G. That the subject Mutation No.913 was effected on the Decree passed by the competent Court of law in case No.219/1 decided on 09.06.2010, therefore, appellant has done no wrong inasmuch as he was bound under the law to give effect to The Court Decree as per the mandate of law as held by the Hon'ble Supreme Court of Pakistan in the case reported in 1972 SCMR 322, therefore the impugned Notification against the appellant is not legally competent.
- H. That the Patwari Halqa has entered the disputed mutation on 20.07.2010 upon which the Gushwara prepared by him was available and it was the responsibility of the Girdawar Circle to have examined/compared the same, therefore, appellant being Tehsildar was not responsible for the same because a Revenue Officer has to attest a large number of mutations at the same time and it is impossible for him to effect comparison of each and every mutation in Jalsa-i-Aam. It is the prime responsibility of Halqa Patwari and Girdawar Circle and not the Tehsildar.
- I. That the mutation was effected after the period of limitation for filing appeal was elapsed. The

Goshwara was prepared by Patwari Halqa on 16.12.2008 and the same was duly attested by Ahmad Bakhsh Girdawar on 17.12.2008 wherein the entire details of the property including Khasra Numbers, parcels/Pieces and measurement i.e. 1998-04 and nature of land were duly entered. It was on the basis of this Goshwara that mutation was attested by the appellant, therefore, appellant has done no wrong.

- J. That against the disputed mutation, appeal was preferred in the court of Additional District Judge-VII which was later on withdrawn by the then DOR/Deputy Land Commissioner Revenue namely Nazir Ahmad and in this respect he has recorded his statement in the Court being identified by Sajid Nawaz, Advocate due to which the matter attained finality and hence appellant could not be held responsible for the same.
- K. That it is pertinent to mention here that if any error or mistake occurs while attesting a mutation by a Revenue Officer, then under Section 163 of the Land Revenue Act, 1967 the Collector has got the authority to recall/review the same and even set aside the same but no such power/authority was exercised by the Collector rather the Collector himself was party in the case and he himself withdrew the appeal from the Court.
- L. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.


Appellant

Through

Khaled Rahman,
Advocate Peshawar.

Dated: 22 / 01/2014



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

NO.SO.E-II(ED) 2(586)/2012/K.C.
Dated Peshawar the November, 20.2012

To

Mr. Atif-ur-Rehman,
District Coordination Officer,
Bannu.

8
Amir A³

Subject:- INITIATION OF DISCIPLINARY PROCEEDINGS AGAINST OFFICERS
& OFFICIALS REVENUE STAFF OF D.I.KHAN DIVISION.

Dear Sir,

I am directed to refer to the captioned subject and to state that Chief Minister, Khyber Pakhtunkhwa (competent authority) has been pleased to approve initiation of disciplinary proceedings against the following officers/officials of Revenue Staff of D.I.Khan Division under Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011:-

- i. Syed Gulfam Abbas Shah, (BPS-17), the then DO(R&E)/Collector, DIK.
- ii. Mr. Qayum Nawaz(BPS-17), the then DO(R&E)/Collector, DIK.
- iii. Mr. Nazir Ahmad(BPS-17),Deputy District Officer(Revenue), DIK.
- iv. Syed Mazhar Hussain Shah Sherazi (BPS-14), the then Tehsildar (OPS), Paharpur.
- v. Mr. Aftab Hussain Shah (BPS-14) the then District Kanungo Tank.
- vi. Mr. Abdul Qadeem, Kanungo (BPS-11).
- vii. Mr. Mulazim Hussain, Patwari (BPS-09)

2. Consequently, the competent authority has further been pleased to appoint you as Inquiry Officer to investigate the charges/conduct a formal inquiry under the provision of the said Rules against the aforesaid officers/officials in light of the attached Charge Sheets/Statements of Allegations with the request to submit your findings/recommendations/report within a period of 30 days positively.

Yours Faithfully,

NAJ

(NAJ-MUS-SAHAR)
SECTION OFFICER(E-II)

فہم ۱۳۱۳
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ENDST: NO & DATE EVEN.

Copy forwarded to the:-

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa with the request to depute a departmental representative well conversant with the facts of the case alongwith relevant record to assist the Inquiry Officer during the enquiry proceedings.
2. Commissioner, D.I.Khan Division, D.I.Khan with the request to depute a departmental representative well conversant with the facts of the case alongwith relevant record to assist the Inquiry Officer during the enquiry proceedings.
3. Director, Land Records, Board of Revenue, Khyber Pakhtunkhwa, Peshawar for similar necessary action.
4. ✓ Officers/Officials concerned alongwith Charge Sheet and Statement of Allegations, with the direction to appear before the Inquiry Officer on the date, time and venue fixed by the Inquiry Officer for the purpose and submit their reply within stipulated time.
5. PS to Secretary Establishment.


SECTION OFFICER(E-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

9

CHARGE SHEET

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Syed Mazhar Hussain Shah Sherazi (BS-19), the then Tehsildar (OPS), Paharpur, D.I. Khan, as follows:-

That you, while posted as Tehsildar (OPS), Paharpur D.I. Khan, committed the following irregularities:

- (a) That District Officer (Revenue & Estates) was appellant in an appeal filed on 12.07.2010 in the Court of District Judge D.I. Khan. Just after eight days from the date of filing appeal Patwari Halqa without waiting for outcome of appeal entered three mutations in favour of decree holders/respondents against the Provincial Government. While processing these mutations, relevant provision of law were violated and not complied with whereby you were required to send a notice to the office of the concerned Secretary Union Council for general information to be exhibited in that office for one month and a just of the order should have been sent to the Union Council and to the person whose rights are to be transferred. You being custodian of State Property did not observe the said rules nor waited for final decision of the court.
- (b) That Patwari Halqa prepared goshwara which was not in accordance with the Jamabandi Zer-e-kar. In the said goshwara, 1598 kanals of land was shown as irrigated, 400 kanals Chair Mumkin jungle and 400 kanals Chair Mumkin. Which according to jamabandi Zer-e-kar is "Chair Mumkin Jungle". Moreover vide mutation No. 913, state land consisting of 200 kanal has been shown as irrigated while 1600 kanal has been shown "Chair Mumkin", whereas contents of said mutations of jamabandi Zer-e-kar do not tally with each other. This was done intentionally to increase area when converted from PIUs. Further a copy of each mutation should have been forwarded through DOR to Provincial Government, Commissioner D.I. Khan, DCO D.I. Khan, SMER and Secretary Agriculture as per law.
- (c) That units recorded in the mutations are not in accordance with the Land Reforms Regulations, 1972 wherein an acre irrigated land is equivalent to two acres un-irrigated land.

2 By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Khyber Pakhtunkhwa Government's Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule 4 of the rules said.

3. You are, therefore, required to submit your written defence within fifteen (15) days of the receipt of this Charge Sheet to the inquiry officer/ Committee, as the case may be.
4. Your written defence, if any, should reach the inquiry officer/ inquiry committee 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.

10

A. H.

CHIEF MINISTER
KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

SYED MAZHAR HUSSAIN
SHAH SHERAZI(BS-14),
THE THEN TEHSILDAR(OPS),
PAHARPUR, D.I.KHAN

A. H.



GOVERNMENT OF KHYBER PAKHTUNKHWA
-- ESTABLISHMENT DEPARTMENT

11

DISCIPLINARY ACTION

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Syed Mazhar Hussain Shah Sherazi (BS-14), the then Tehsildar(OPS), Paharpur, D.I.Khan has rendered himself liable to be proceeded against, as he committed the following acts/omissions with the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- (a) That District Officer (Revenue & Estate) was appellant in an appeal filed on 12.07.2010 in the Court of District Judge D.I.Khan. Just after eight days from the date of filing appeal Patwari Halqa without waiting for outcome of appeal entered three mutations in favour of decree holders/respondents against the Provincial Government. While processing these mutations, relevant provision of law were violated and not complied with whereby he was required to send a notice to the office of the concerned Secretary Union Council for general information to be exhibited in that office for one month should have been sent to the Union Council and to the person whose rights are to be transferred. He being custodian of State Property did not observe the said rules nor waited for final decision of the court.
- (b) That Patwari Halqa prepared goshwara which was not in accordance with the Jamabandi Zer-e-kar. In the said goshwara, 1598 kanals of land was shown as irrigated, 400 kanals Ghair Mumkin jungle and 400 kanals Ghair Mumkin. Which according to Jamabandi Zer-e-kar is "Ghair Mumkin Jungle". Moreover vide mutation No. 913, state land consisting of 200 kanal has been shown as irrigated while 1600 kanal has been shown "Ghair Mumkin", whereas contents of said mutations of Jamabandi Zer-e-kar do not tally with each other. This was done intentionally to increase area when converted from PIUs. Further a copy of each mutation should have been forwarded through DOR to Provincial Government, Commissioner DIKhan, DCO DIKhan, SMBR and Secretary Agriculture as per law.

Handwritten signature

(c) That units recorded in the mutations are not in accordance with the Land Reforms Regulations, 1972 wherein one acre irrigated land is equivalent to two acres un-irrigated land.

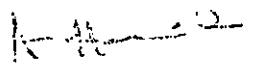
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2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee, consisting of the following, is constituted under rule 10 (1) (a) of the ibid rules:

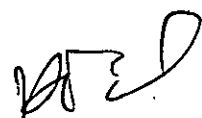
- i. Mr. Alif-Ur-Rehman, PAS (BS-19)
- ii. _____
- iii. _____

3. The inquiry officer/inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to the 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.


CHIEF MINISTER
KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

SYED MAZHAR HUSSAIN
SHAH SHERAZI (BS-14),
THE THEN TEHSILDAR (OPS),
PAHARPUR, D.I. KHAN



To,

The District Coordination Officer
District Bannu

13

Annex B

Subject; - REPLY TO CHARGE SHEET DATED 20-11-2012

Respected Sir.

Reference to your charge sheet dated 20-11-2012, wherein different charges are leveled against the under signee/ official and written reply was sought in this respect.

Sir,

My written reply to charge sheet is as under.

a- That charge is incorrect and hence not admitted. Furthermore, practice of sending copies of the mutation to Secretary Council is not in vague in the first instance. Moreover, union councils are not in existence, where I have to send the copies of mutation. It is pertinent to mention here that a Judgment and Decree of the competent Court in the nature of declaration was produced by the Muhammad Iqbal and others i.e. of Civil Judge-VI DIKhan and no status quo order or any order regarding suspension of that judgment and decree was in field in this respect. As per section 42(7) of the West Pakistan Land Revenue Act, the revenue officials are bound to enter and attest the mutation as per Judgment and decree regarding which no Jalsa Aam is required. The under signee committed no illegality. The mutation entered on 20-07-2010 and the under signee waited for the jalsa aam and was attested on 27-07-2010. In this respect reliance is placed on 2012 MLD page.35. (Copy of the same is attached for ready reference). As being custodian of state land and Government official I am also bound by the orders of the honorable courts to



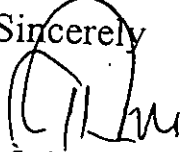
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which no exception could be taken. If compliance of the court orders is illegality then of course I am responsible.

- b- That Para No. b is incorrect hence not admitted. The Union Council are not in existence therefore, sending copies of the mutation to Provincial Government and other Official as mentioned in the charge are not necessary. Moreover, the Patwari Halqa prepared the Goshwara as per record. The Goshwara was not prepared intentionally and mala fidely but was prepared as per record available at that time. Record may kindly be summoned.
- c- That Para No. c is not correct because the units recorded in the mutation are correctly been applied for its conversion into ratio of land as different categories of land was involved.

In view of the above submissions, the instant inquiry may kindly be consigned to record room with out further proceedings.

Date: _____

Your Sincerely

Syed Mahzer Hussain Shah
Naib Tehsildar
Settlement Panyala
District DIKhan

Annex C (15)

سوال نمبر 1 سے 6 تک مظہر حسین شاہ تحصیلدار بہاؤ پور

1- ایک ایسا اہم مقدمہ جس میں حکومت کی سیکڑوں ایکڑ زمین کا مفاد Involve ہو اور جس میں حکومت نے اپیل بھی دائر کی ہو، آپ لوگوں نے تا تصدیق اپیل منظور کیوں نہیں کیا؟ اور اس کے حق میں Mutation کیوں Attest کی؟

2- کیا آپ نے انتقال Attest کرنے سے پہلے تمام ضابطے کی کارروائی مکمل کی تھی؟ اور کیا صوبائی حکومت اور محکمہ زراعت کو آپ نے مذکورہ انتقال Attest کرنے سے پہلے نوٹس بھیجا تھا؟ جو کہ اندوے قانون ضروری تھا۔

3- خانہ الام کے مطابق پٹواری حلقے سے جو گوشوارہ لیا گیا تھا وہ صحیح دبی زیر کار کے مطابق نہیں تھی تو کیا آپ نے Attest Mutation کرنے سے پہلے گوشوارے کو صحیح دبی زیر کار کے ساتھ Verify کیا تھا؟ اور اگر نہیں تو کیوں؟

4- کیا آپ Irrigated (زیر کاشت) زمین کو جان بوجھ کر غیر ممکن بنا کر کے کیا آپ نے یہ کوشش نہیں کی تاکہ جب زمین PIUs سے Convert ہو تو زیادہ علاقہ برقی ہو سکے؟

5- عداوت کی ڈگری 961 کنال زمین کے لیے تھی جس میں 42 کنال ضلع ناٹک میں پہلے حق سے برقی کر قبضے میں ہے جس کی رو سے آج 919 کنال زمین کا انتقال کرنا تھا جبکہ آپ لوگوں نے کل 1800 کنال زمین برقی کو منتقل کی ہے۔ کیا یہ برقی کے ساتھ گٹھ جوڑ کے مترادف نہیں؟ اور کیا یہ آپ کے فرائض منصبی میں بدترین کوتاہی نہیں؟

6- کیا جو پٹواری انتقال میں برکاری کو لگے ہیں وہ لینڈ ریوڑ اور سرکار کی لینڈیشن 1972 کے مطابق نہیں؟ جس میں ایک ایکٹر Irrigated Land اور ایکٹر Unirrigated Land کے برابر تصور کیا گیا ہے؟

اقوامی آفیسر ایڈیشن کیپٹن جنرل

16

عنوان سوال نمبر 1 لٹاٹ کا مچانہب انڈیا ایگری انفر
ٹاڈیٹی کنٹری ماب ضلع نون بری ٹی انڈیا ایگری

No: 145-48/DC/Reader Arma D تاریخ 23/1/2013 و 28/1/2013

جواب مچانہب سید مظہر حسین شاہ شیرازی تحصیلدار پٹنہ
فقہہ کی عدالت میں گذرے ہوں؟ حوالہ انتقال 913 تبدیلی ملکیت بری ٹی

عدالت جناب سورت سے چیج صاحب کا پٹنہ راجستان سے کی اور سے پوری حالت

اندراج انتقال مذکورہ درجہ 7/2010 جس کی پٹنہ مچانہب گرو اور سرکل

جس کی رقم سو فیصدی ہوتی ہے بمطابق ریکارڈ حال، بری ٹی عدالت

مثل مقدمہ نمبر 219/2010 مقدمہ درجہ 9/6/2010 گوشوارہ متب کمرہ پوری حالت

کا جواب درجہ 26/7/2010 کیا ہے۔ جبکہ بری ٹی انڈیا ایگری DR 07/2009 درجہ 10/2009

گوشوارہ بری ٹی انڈیا ایگری DR 1194/2008 درجہ 24/2008 شہادت دو اوراق

عدالت میں مرتبہ گوشوارہ از درجہ 18/12/2008 جناب آجمنش گرو اور سرکل درجہ 17/12/08

کو تعلق کی جو عدالت میں 2/2/2010 EX: P 11/14 VI EX: P 11/14 جناب پٹنہ راجستان

پٹنہ نمبر 45/48/DC/MISC Di. Kham No: 02/LC تاریخ 23/1/2013 کو

EX: P 11/15 جناب درجہ 2/2/2010 Di. Kham جناب (کروٹ)

ذبحی مدعی کا حکم تسلیم کیا جس کی رو سے عدالت مذکورہ ڈگری صادر فرمائی۔

بندہ نے جو ریکارڈ مندرجہ کیا۔ بعد انتقال 913 تبدیلی ملکیت مذکور و دیگر انتقال

کلی تلب برای 96 ورقہ سالم سرکل پٹنہ راجستان کے عدالت انتہا سے فیصلہ شدہ

کی سرسری بمطابق ریکارڈ حال پٹنہ کر کے بعد سام انتقال سے 913 مذکور تعلق کیا۔

اس بنا پر اپیل کی بنیاد تیس دن بھی گزر چکی تھی۔ اور کوئی اطلاع نہ کرنے تھی

ورق نمبر 2

16

انتقال نمبر 913 مذکور غائب متعلقہ افسران بالذکر / ملائی اتھارٹی سے زبانی یا تحریری / کتب
مدالت کی جانب سے پیش کردہ وغیرہ ذمہ لیں ہوا۔ جو کہ مدالت عظمیٰ کا حکم ہے۔

حدا کا نوالہ نمبر 322-50-MR-1972 کی سخت ہدایت ہے۔ کہ ریونیو افسر ذمہ دار ہے کہ
جو انتقال اس کے سامنے رکھا جاوے۔ فوراً تصدیق کرے۔ جبکہ قبل ازیں نمبر 2
چار شہرٹ میں وضاحت کی تھی۔ درجہ ذیل فتوے فریڈ اسٹیٹ لٹ ہے۔

فقہہ 2 کی بابت عرض گذر رہی ہے؟ جو کہ ضابطہ کی کارروائی دستور العمل کا نذرانہ زمین / ریونیو افسر
کی کو وسیع النشاء اللہ درست کمال کی گئی ہے۔ دراصل یہ کارروائی ہر وقت جاری رہا ہے۔
جہاں تک قلم زراعت صوبائی حکومت متعلق ہے۔ وہ ریونیو افسر کے کارڈ میں ملتا
نہیں ہے۔ جس کی وجہ سے صوبائی حکومت زراعت کونسل اور سال نہیں کیا ہے۔
جبکہ دستور العمل زمین میں اس قسم کی وضاحت ہرے سامنے نہیں آتی۔

فقہہ نمبر 3 کی بابت عرض گذر رہی ہے؟ جبکہ قبل ازیں فقہہ 2 میں وضاحت کر چکا ہوں۔
فقہہ نمبر 4 کی بابت عرض گذر رہی ہے؟ جبکہ فقہہ 2 میں وضاحت کی گئی ہے۔ کہ مرتب کردہ گورنر
ڈیوٹی مدالت کو ریونیو رکھتے ہوئے۔ بنیو نے انتقال نمبر 913 تبدیلی ملکیت کو تصدیق کیا۔
جس پر بوقت حکم تحریر میں قسم زمین، قبضہ میں کوئی کمی بلدی اور نہ ہی بلدی
تغیر و تبدیل نہیں کیا۔ مرتبہ کردہ انتقال مذکورہ کو تصدیق کیا۔

فقہہ نمبر 5 کی بابت عرض گذر رہی ہے؟ جبکہ فقہہ 2 میں وضاحت کر چکا ہوں

ابتداءً اہم بات تحریر کرنا اور جناب کے گوش گذار کرنا ضروری سمجھا ہوں۔
جن میں جبکہ گورنرٹ سہ کارہ صوبائی حکومت، پروڈکشن گورنرٹ / سٹریٹ گورنرٹ وغیرہ کے
رقبہ زیر نگہ رانی جناب ٹی۔ آر۔ اے صاحب علی ڈیوٹی مل رہا ہوا ہے۔

جس کی کمی بلدی کا ذمہ دار ہے۔ جبکہ جناب قدرت اللہ خان انچارج ٹی۔ آر۔ اے۔

تاریخ 26/5/2015
2015

فقہہ 2 ورق نمبر 3

یگیل ایڈوائسز رٹیرنگ شدہ زیر دستخطی مثبت گوشوارہ مرتب کردہ پوری حلقہ
و تعلق کردہ گوارا سرکل لبرارات مناب سول بیج پیپ سز کا طرز اٹکل خان پیش کیا

عن نمبر 2: حباب کی خدمت میں عرض گزار ہوں کہ حباب قدرت اللہ خان ڈی۔ آر۔ ا۔

ڈیو ایٹل خان ز گوشوارہ مرتب کردہ پورے کا کوئی اعتراض نہیں کیا۔ جو کہ اس کے
فرائض منصبی میں شامل ہے۔ کہ پوری کا گوشوارہ بمطابق ریکارڈ ملد خٹہ کرنا بدلتی

کا خدمت گوشوارہ لبرارات میں شامل کاوشاں کرتا۔ مگر یہ کارروائی بلدو حباب پورے والی کارکن کی

کہونکہ ڈی۔ آر۔ ا۔ گورنمنٹ رقبہ کا اپنا رتبہ جازہ ہوتا ہے۔ اور رقبہ سرکاری

ناجانز تفسیر تبدیل کی انواریشن رپورٹ تعلقہ افسر کو بروقت مطلع کرنا ان کے فرائض منصبی

جہاں تک انتقال سرقہ 9 میں برگوشوارہ رینٹ آپاش رینیر آپاش پوری حلقہ تعلقہ گروانہ

کو مد نظر رکھے ہوئے انتقال مذکور کو مدبرائی ہے۔ مندرجہ اپنی قلم سے کسی قسم کی کوئی

جان بوجھ کر ناجانز تفسیر تبدیل قسم ادا نہیں کی۔ نقولت فوٹو سٹریٹ لف

فقہہ سرک کی مابت عرض گزار ہوں۔

جبکہ یونٹ اینڈ ریفرم ریگولیشن 1972ء کا تعلق آباد کاری کلرک ڈیو ایٹل خان یا

یونڈ ریفرم آفس کے متعلق ہے۔

اہم بات یہ ہے۔ کہ مثل مقدمہ سمر 219 ملد خٹہ کرنے سے معلوم ہوا۔ کہ یہ کیس

یونڈ ریفرم کانٹے۔ جس کا متعلقہ کلرک بناب سردار ہدایت اللہ خان بلوچ اپنا رتبہ ہے۔

جس نے مرتب کردہ گوشوارہ پوری حلقہ و تعلقہ گوارا سرکل جس کا ذکر فقہہ نمبر 1 میں کرنا ہے

ڈیو ایٹل گوشوارہ لبرارات میں 2010-2-2 ورق ایک پیش کیا۔

بیان میں درست تسلیم کرتا ہے۔ دراصل زیر کارروائی مقدمہ ہدایت اللہ کلرک

کی زیر کاری بنتی تھی۔ کہ پوری کا گوشوارہ بمطابق ریکارڈ فعال کرانہت رتبہ کرنا جس میں یونٹ

ورق نمبر 4

Ad

اور بقعہ کی قسم زمین کی صحیح وضاحت ہوتی۔ اور گورنمنٹ پریوینٹ کا تعین ہوتا۔
 مگر افسوس سے قسم سر کرنا پڑتا ہے۔ سر بندر نظام کا کیس کی پیروی بلا لیتے خان
 ملک خلیج کو زمین رکھنے سے چشم پوشی کا اظہار کیا ہے۔ جو کہ کارس کارس میں دیر پورہ کا
 کیونکہ عدالت کی ڈگری کو مدنظر رکھتے ہوئے۔ بندہ نے حورہ انتقال پر 913 تبدیلی ملکیت
 عدالت عظمیٰ کے حکم جو درجہ 1972-SC.MR322 کی رو سے انتقال مذکور

کو بیل عام روز 27/7 تصدیق کیا۔
 (2010)

جناب والد القاسم گندر میں بندہ نے کارس کارس کی قسم کی کوئی لہ پر وائی نہیں کی
 کیونکہ لہذا جناب سول جج صاحب نے کا خلیج ڈیو ایبل ضلع قتل مقدمہ 219/11
 ڈگری فیصلہ 9/6/2010 کی تعلیم بوجہ قبوری حکم عدالت عظمیٰ مذکور کو مدنظر
 رکھتے ہوئے۔ انتقال پر 913 تبدیلی ملکیت تصدیق کیا۔

سزا بندہ نے قصور سے۔ درگزر کیا جا کر معاف فرمایا جاوے۔

فقط نوٹس 29/1/2013

S. N. T. P.

نائب کمیشنر سول جج صاحب
 تحصیل بہاولپور ضلع دیوبند

Handwritten signature

To,

7848
25/10/13

the worthy Secretary Establishment
Govt. of K.P.R.

Annex E'

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Re:- provision of enquiry-report

Respected Sir,

1. That the applicant was being as Tehsildar Pakarpan Di Khan and was proceeded against under the E.S.D Rules and now after finalization of enquiry proceedings was imposed upon major penalty of compulsory retirement.
2. That the applicant has not been provided enquiry report as yet which is necessary so that the applicant can prepare his defence.

(Signature)

Sir, therefore requested to kindly provide me the enquiry report.

(Signature)
HEC
24/10/13

24/10/13

Syed Mazhar Hussain Saad
Ex - Tehsildar / HEC to DC Sherazi
Pakarpan Di Khan Dikhan

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**OFFICE OF THE
DEPUTY COMMISSIONER, BANNU**



ENQUIRY REPORT

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Amx F³

**REGARDING INITIATION OF DISCIPLINARY PROCEEDINGS
AGAINST OFFICER & OFFICIALS REVENUE STAFF OF
D.I. KHAN DIVISION**

ORDER OF ENQUIRY:

The undersigned was appointed as Enquiry Officer by the Chief Minister Khyber Pakhtunkhwa to probe into the allegations under the provision of Khyber Pakhtunkhwa E&D Rules 2011 against the following officers/officials (Revenue Staff D.I. Khan Division) vide Section Officer (E-II) Government of Khyber Pakhtunkhwa Establishment Department letter No. SOE-II(ED)2(586)/2012/KC dated 20-11-2012:-

1. Syed Gulfam Abbas Shah, (BPS-17), the then DO(R&E)/Collector D.I. Khan.
2. Mr. Qayum Nawaz (BPS-17), the then DO(R&E)/Collector, D.I. Khan.
3. Mr. Nazir Ahmad (BPS-17), Deputy District Officer (Revenue), D.I. Khan.
4. Syed Mazhar Hussain Shah Sherazi (BPS-14), the then Tehsildar (OPS) Paharpur.
5. Mr. Aftab Hussain Shah (BPS-14), the then District Kanungo Tank.
6. Mr. Abdul Qadeem, Kanungo (BPS-11).
7. Mr. Mulazim Hussain, Patwari (BPS-09).

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BRIEF FACTS OF THE CASE:

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- a. Mr. Sardar Muhammad Hashim Khan Kundi (Deceased) (declarant) was holding total land measuring 1118 Acre 3 Kanal & 9 Marlas equivalent to the value of 19412 PIUs (Produced Index Units). Under the order of then Deputy Land Commissioner D.I. Khan vide order No. **125/LR-II** dated **10-03-1973** annexed as "A", his land measuring 482 Acre 6 Kanal & 2 Marla of the value of 7147 PIUs stood resumed in favour of Land Commission in light of MLR No. **115** of Land Reform Regulation 1972,
- b. Whereas the declarant was allowed to retain an area measuring 649 Acre 6 Kanal & 15 Marla of the value of 12000 PIUs as per choice. The declarant was also provided the opportunity/choice for interchanging the land of his family members with the resumed land of 7147 PIUs. The said opportunity was availed of by declarant and land owned by his wife Mst. Ameer Begum measuring 120 Acre 1 Kanal & zero Marla of the same value of 1936 PIUs was offered for interchange in lieu of equivalent portion of resumed land of Sardar Muhammad Hashim. The offer of declarant was accepted for interchanging his excess area measuring 143 Acre 2 Kanal & 10 Marla of the value of 1936 PIUs with that of his wife Mst. Ameer Begum's area measuring 120 Acre 1 Kanal and zero Marla of the same value of 1936 PIUs which is equivalent to 961 Kanal, but the Revenue field staff misconstrued the order of Deputy Land Commission D. I. Khan issued vide No. **125/LR-II** dated **10-03-1973** annexed as above and both the interchanged area of the declarant plus offered area of his wife were resumed in favour of Land Commission. As per

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report of DOR Tank contained in his letter No. 754 dated 25-06-2007 addressed to Deputy Secretary Land Commission, only 42 Kanal & 10 Marla land situated in Moza Daraki stood transferred in the name of Mst. Ameer Begum whereas the remaining interchanged land (choice land) was not mutated in the name of declarant's wife but resumed in favour of Land Commission.

- c. The legal heirs of declarant Sardar Muhammad Hashim Khan Kundi and his wife Mst. Ameer Begum approached the Provincial Land Commission in the year of 2007 requesting that the order of Deputy Secretary Land Commission was wrongly interpreted by Revenue Staff and the land of Mst. Ameer Begum up to the extent of 1936 PIUs equivalent to 120 Acre & 1 Kanal was erroneously resumed.
- d. The Provincial Land Commission then sought report from District Officer Revenue Tank regarding the request of legal heirs of Sardar Muhammad Hashim Kundi (declarant) and Mst: Ameer Begum vide letter No. 291/LC dated 02-06-2007 annexed as "B". The District Officer Revenue Tank furnished report to Deputy Land Commission vide No. 754 dated 25-06-2007 annexed as "C".
- e. The Deputy Secretary Land Commission then asked DOR D.I. Khan regarding availability of land of Provincial Land Commission vide letter No. 51/LC dated 18-04-2008 annexed as "D". DOR D.I. Khan submitted report of non availability of commission land vide letter No. 47 dated 31-07-2008 annexed as "E".

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f. The Deputy Secretary Land Commission again asked the DOR D.I. Khan regarding detail of State Land vide letter No. 7448/LC dated 19-11-2008 annexed as "F". The DOR D.I. Khan submitted report vide letter No. 7/DRA dated 10-01-2009 annexed as "G" along with Goshwara showing detail of State Land annexed as "H". Upon the report of DOR D.I. Khan, the Deputy Secretary Land Commission advised the legal heirs of the declarant to seek remedy at proper judicial forum vide letter No. 2/C dated 23-01-2009 annexed as "I".

g. The legal heirs of Muhammad Hashim Kundi and Mst. Ameer Begum i.e. Muhammad Iqbal and others filed a declaratory suit against the State under the title "Muhammad Iqbal etc Versus Deputy Secretary Provincial Land Commission etc" in the Civil Court for restoration of land resumed in excess equivalent to 1936 PIUs (120 Acre & 1 Kanal) which comes to about 961 Kanal. Copy of the declaratory suit annexed as "J".

h. The representative of respondent No. 2 (DOR/Collector Tank) submitted written replies/comments in the court on behalf of DOR/Collector Tank annexed as "K" which was signed by his representative (the then District Kanungo Tank Aftab Hussain Shah) without vetting it by Govt. Pleader, in which he admitted and supported all points raised by the petitioners. The court later on decided the suit in favour of petitioners (Plaintiff) on the basis of the said comments/written reply vide court order dated 09-06-2010 annexed as "L".



- i. The Govt. filed appeal against the said order in the court of ADJ-III D.I. Khan on *12-07-2010* annexed as "M". The decree holders submitted an application to DOR/Collector D.I. Khan for withdrawal of appeal on the basis of commitment/certificate submitted by the then DOR/Collector D.I. Khan (Qayyum Nawaz) in the court of Civil Judge to the effect that he will honor and implement the decision of the court vide application of the decree holder dated *20-12-2010* annexed as "N" and commitment of Mr. Qayyum Nawaz (former DOR D.I. Khan) dated *22-02-2010* annexed as "O".
- j. The said application was marked by DOR to Legal Advisor Revenue and Estate Department D.I. Khan (Sajjid Nawaz) who later on opined and recommended the appeal to be withdrawn on the basis of commitment/assurance of former DOR. Report of Legal Advisor dated *14-01-2011* annexed as "P".
- k. Meanwhile the DOR D.I. Khan was engaged in Peshawar in connection with his departmental examination w.e.f. *16-01-2011* to *26-01-2011* and DDOR (Nazir Ahmad) was entrusted to look after the duties of DO(R). The DDOR on the basis of recommendation of Legal Advisor recorded his statement in the court for withdrawal of the said appeal vide his statement dated *19-01-2011* annexed as "Q". The court accordingly declared the appeal dismissed as withdrawn on the basis of statement of DDOR (Nazir Ahmad) vide Additional District Judge-III D.I. Khan order dated *04-02-2011* annexed as "R".
- l. Then the DDOR (Nazir Ahmad) informed the DOR (Syed Gulfam) after lapse of about **forty days** that the former had

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withdrawn the appeal from the court during the latter's leave period of examination, whereas he (the former) was not legally competent to withdraw the said appeal, hence he insisted to file Review Petition in the court vide letter No. 86 dated 16-03-2011 annexed as "S".

m. The DOR D.I. Khan submitted a detailed report to Commissioner D.I. Khan vide No. 554 dated 29-03-2011 annexed as "T" explaining therein all the pros & cons of the case with the request to approach Provincial Land Commission for guidance or to file Review Petition. Hence, the Commissioner D.I. Khan Division appointed the Additional Commissioner D.I. Khan Division on 05-04-2011 to conduct preliminary enquiry in the case.

n. In the meanwhile, the District Officer Revenue/Collector D.I. Khan filed a Review Petition in the court of Additional District & Session Judge-III D.I. Khan on 21-05-2011 annexed as "U" which was admitted for regular hearing on 27-05-2011 vide order sheet dated 27-05-2011 annexed as "V".

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CHARGES/ALLEGATIONS:

There are various charges against the above named officers/officials of Revenue Staff D.I. Khan Division, which are mentioned against each one by one as under:-

1. Allegations against Syed Gulfam Abbas Shah the then DOR/Collector D.I. Khan:-

- a. That on 17-03-2011, Nazir Ahmad, the then DDOR, D.I. Khan informed him in writing that he had withdrawn appeal titled "Govt. of Khyber Pakhtunkhwa Versus Muhammad Iqbal etc" from the court of Additional District Judge-VII, D.I. Khan, whereas he was not authorized to withdraw the same. In this respect he did not act against the said DDOR D.I. Khan nor did he bring the matter into the notice of his supervisory officers.
- b. That on coming to know of the withdrawal of appeal, he failed to approach the relevant courts for review/revision of the order, thus causing loss of 225 Acres of State Land.

2. Allegations against Mr. Qayum Nawaz the then DO(R&E)/Collector, D.I. Khan:-

- a. During his posting as DOR/Collector D.I. Khan, he gave a certificate/commitment to the court in civil suit titled "Govt. of Khyber Pakhtunkhwa Versus Muhammad Iqbal etc", that he will implement the order/decision of the court. On the basis of his said commitment, the appeal was withdrawn by DDO (R) D I Khan his successor later on. Under the law, he was not supposed to furnish such certificate,

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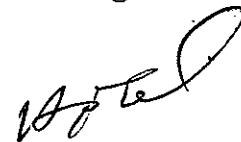
having done so he had tried to stop the Provincial Govt. from filing appeal against the decision of Civil Court.

3. Allegations against Mr. Nazir Ahmad (BPS-17), Deputy District Officer (Revenue), D.I. Khan:-

- a. That during leave period w.e.f. 16-01-2011 to 25-01-2011 of the then District Officer (R&E)/Collector D.I. Khan, when he was looking after the work of District Officer (R&E)/Collector, D.I. Khan, he without any permission or authority, withdrew appeal titled "Govt. of Khyber Pakhtunkhwa Versus Muhammad Iqbal etc" from the court of Additional District Judge-VII, D.I. Khan whereby the appeal was dismissed as withdrawn causing irreparable loss of 225 Acres of land to the State.
- b. That he did not have the authority nor was authorized by any Departmental Authority to withdraw the said appeal. Albeit, he was required to defend the case being public functionary.

4. Allegations against Syed Mazhar Hussain Shah Sherazi the then Tehsildar (OPS) Paharpur:

- a. That District Officer (R&E) was appellant in an appeal filed on 12-07-2010 in the court of District Judge D.I. Khan. Just after eight days from the date of filing appeal, Patwari Halqa without waiting for outcome of appeal, entered three mutations in favour of decree holders/respondents against the Provincial Government. While processing these mutations, relevant provisions of law were violated and not complied with whereby he was required to send a notice to the office of the concerned Secretary Union Council for general information to be exhibited in that office for one month and gist of the order should have been sent to the Union Council and to the person whose rights are to be transferred. He, being custodian of State



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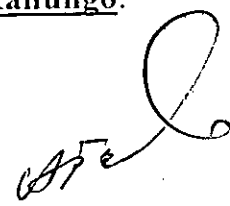
Property, did not observe the said rules nor waited for final decision of the court.

- b. The Patwari Halqa prepared goshwara which was not in accordance with Jamabandi Zer-e-kar. In the said goshwara, 1198 kanal of land was shown as irrigated, 400 kanal Ghair Mumkin jungle and 400 kanal Ghair Mumkin, which according to Jamabandi Zer-e-kar is "Ghair Mumkin Jungle", moreover vide mutation No. 913, State Land consisting of 200 kanal has been shown as irrigated while 1600 kanal has been shown "Ghair Mumkin" whereas contents of the said mutations of Jamabandi Zer-e-kar do not tally with each other. This was done intentionally to increase area when converted from PIUs. Further a copy of each mutation should have been forwarded through DOR to Provincial Government, Commissioner D.I. Khan, DCO D.I. Khan, SMBR and Secretary Agriculture as per law.
- c. That units recorded in the mutations are not in accordance with the Land Reforms Regulations, 1972, wherein one acre irrigated land is equivalent to two acres un-irrigated land.

5. Allegations against Mr. Aftab Hussain Shah the then District Kanungo Tank:

- a. That on 17-10-2009, he attended the court of civil judge, D.I. Khan and submitted written reply on behalf of the DOR Tank. In the court he admitted all the contentions of the plaintiff/decree holder as correct and signed the same without lawful authority which were not even approved by the Government Pleader or Legal Advisor of the Department.

6. Allegations against Mr. Abdul Qadeem, Kanungo:



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- a. That he was well aware regarding pendency of Govt. appeal before District Judge D.I. Khan. During the entry of mutation neither he recorded any remarks in column No. 15 of the mutation that whether appeal has been filed or not. He also did not record remarks as to whether the decree had got its finality or not.

7. Allegations against Mr. Mulazim Hussain, Patwari:

- a. That he was well aware that Govt. appeal titled "Muhammad Iqbal Versus Govt. of Khyber Pakhtunkhwa etc" through Deputy Secretary Provincial Land Commission and others was pending in the court of District Judge-VII, D.I. Khan but he entered mutations in favour of the decree holder.
- b. That he prepared goshwara of the disputed land which was not in accordance with Jamabandi Zer-e-kar. In the said goshwara, 1198 kanal land was shown as irrigated, 400 kanal Ghair Mumkin jungle and 400 kanal Ghair Mumkin which according to the Jamabandi Zer-e-kar is Ghair Mumkin jungle. Moreover vide mutation No. 913, State Land of 200 kanal has been shown as irrigated while 1600 kanal has been shown "Ghair Mumkin", whereas contents of said mutations and Jamabandi Zer-e-kar do not tally.

PROCEEDINGS/PROCEDURES:

The Departmental Representative (Malik Mansoor Qaiser) (Assistant to Commissioner Revenue D.I. Khan Division) was summoned who briefed the undersigned in depth. All the accused officers/officials (Revenue Staff of D.I. Khan Division) were summoned and all relevant record of the case was requisitioned. Detail of proceedings is given below:-

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1. Charge sheet/statement of allegations were handed over to Mr. Syed Gulfam Shah former DOR/Collector D.I. Khan annexed as "A1". He submitted written statement/reply to charge sheet and statement of allegations annexed as "A2". Furthermore, separate questionnaire was prepared and handed over to him annexed as "A3", and his reply to questionnaire annexed as "A4".

He was given the opportunity of personal hearing which he availed of and attended the office of undersigned. He totally denied the charges leveled against him and vehemently defended his stance. He contended that the disciplinary action against DDOR (Nazir Ahmad) an officer of BPS-17 was beyond his competency, hence he informed the supervisory officer i.e. Commissioner D.I. Khan Division and Secretary Land Commission Khyber Pakhtunkhwa.

He also denied the allegation regarding his failure to approach the relevant court for revision of the order as according to his contention he had proceeded to Peshawar on 16-01-2011 to 25-01-2011 in connection with Departmental Examination and rejoined the office on 27-01-2011 but the DDOR informed him regarding withdrawal of the appeal on 16-03-2011 vide his letter No. 86 dated 16-03-2011 annexed as "A5" whereas the appeal was withdrawn by DDOR on 04-02-2011 viz he was informed after a lapse of forty days (Approx) when prescribed time limit for revision application was over. However, he added, that as per next/most appropriate remedy to safeguard the interest of Govt., proper application under Section 12 (2) CPC was lodged in the court. He was cross questioned in presence of Departmental Representative deputed in the case as to why did he neither recommend any disciplinary action to Commissioner to be taken against DDOR (Nazir Ahmad) nor did he himself (as appointing

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authority) initiate any disciplinary action against lower staff who did not inform him regarding withdrawal of appeal just after he resumed office. But he could not give any satisfactory reply in this regard.

He was also asked as to why he did not rectify the mistake/difference occurred in the goshwara exhibited in the court, Fard jamabandi, Zer-e-kar and mutation No. 13. He defended his case and stated that since the matter was sub-Judice in the court hence he considered it expedient not to interfere in the said documents at that stage.

During the cross questioning, he was asked as to why he marked the application of plaintiff/deGREE holder regarding withdrawal of appeal to the Legal Advisor. He stated that since it was a legal matter, hence it was necessary to take the legal opinion of Legal Advisor. When he was cross questioned that filing of appeal in the court is legal right of any aggrieved party and in the said appeal the interest of 1800 kanal state/public land was involved hence why he preferred to get the opinion of Legal Advisor which later on became a base cause for withdrawal of appeal. But he could not convey any satisfactory reply to this question.

2. Charge sheet/statement of allegations were handed over to Mr. Qayyum Nawaz the then DOR/Collector D.I. Khan annexed as "B1", written statement/reply to charge sheet/statement of allegations from the said accused is annexed as "B2", questionnaire annexed as "B3", and reply to questionnaire annexed as "B4".

He was provided the opportunity of personal hearing in presence of Departmental Representative (Assistant to Commissioner Revenue

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D.I. Khan Division). He defended his case and denied all the allegations leveled against him. Main allegation against him is that he had submitted a certificate in the court of Civil Judge that he will implement the order/decision of the court. His subject commitment/certificate later on became a main cause for withdrawal of appeal. However, he could neither give satisfactory reply in his written statement nor in reply to questionnaire to the said main allegation.

During the process of cross questioning, when he was asked as to why and under which circumstance he was compelled to submit such certificate/commitment in the court, he informed that he had erroneously signed the said certificate. He also blamed that due to conspiracy of one Junior Clerk namely Muhammad Rafiq of DOR office D.I. Khan, the said document got signed by him in routine dak fraudulently. When he was asked as to whether he had initiated any disciplinary action against the said clerk, he could not come up with any tenable response in rebuttal of said allegation. He contended that though he had given the said certificate to the court but he had also lodged appeal in the court of Additional District Judge well in time.

3. Charge sheet/statement of allegations were handed over to Mr. Nazir Ahmad the then DDOR D.I. Khan which are annexed as "C1", written statement/reply to charge sheet/statement of allegations annexed as "C2", questionnaire annexed as "C3", and reply to questionnaire annexed as "C4".

He was personally heard in presence of Departmental Representative. He totally refused and rejected the allegations leveled against him. He told that he had withdrawn the appeal on the opinion of Legal Advisor. Since the case was fixed in the court for **22-01-2011**

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whereas he was summoned by Additional District Judge-III on 19-01-2011 (Three days before the date fixed for hearing) hence he could not consult the DCO, Commissioner or Provincial Land Commission regarding withdrawal of appeal. He added that he trusted the Legal Advisor who was already present in the court and the legal advisor enticed and compelled him to record the said statement in the court on the ground that the then DOR (Qayyum Nawaz) had already given commitment to the Civil Court that he will honor the decision/order of the Civil Court.

When he was asked during the process of cross questioning as to why he has withdrawn the appeal in haste and putting the valuable hundred acres public land at stake without any legal authority. He responded that although he had withdrawn the appeal inadvertently from the court but he had also informed the DOR to file review application in the court of Additional District Judge as he was legally not authorized to withdraw the said appeal vide his letter No. 86 dated 16-03-2011 annexed as "C5". He was asked that why he informed the DOR at belated stage when the legal time limit for filing appeal was over. In response, he contended that he had also informed the DOR verbally several times but he did not pay any heed, therefore, eventually he wrote the said letter.

4. Charge sheet/statement of allegations were handed over to Mr. Syed Mazhar Hussain Shah Sherazi the then Tehsildar Paharpur which are annexed as "D1", written statement/reply to charge sheet/statement of allegations annexed as "D2", questionnaire annexed as "D3", and reply to questionnaire annexed as "D4".

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He was provided the opportunity of personal hearing in presence of Departmental Representative. He denied the allegations leveled against him. He, in support of his contention, stated that he was neither informed by any Government official regarding appeal against the order of Civil Judge nor any stay order was presented to him, hence he attested the mutation on the production of decree of the court by the decree holder in light of SCMR MLD 2012 according to which the Revenue Officer is bound to attest the mutation whenever produced before him for such purpose annexed as "D5".

He contended that so far difference/variation amongst goshwara, Jamabandi and mutation is concerned, it is the duty of DRA to maintain and correct such record as the goshwara which was exhibited in the court, prepared by Halqa Patwari and after due verification, were submitted in the court through Mr. Hidayat Ullah Khan Clerk Land Reform Section DOR office as such there is no role of Revenue Officer in the above functions. He further added that as regards the units recorded in mutation which are not in accordance with the Land Reform Regulation 1972, it was the duty of Mr. Hidayat Ullah Khan Incharge Land Reforms Section.

He further told that notice was exhibited for general information while practice of sending notice to the concerned Secretary Union Council was no more in vogue and had been given up for the last 30-35 years. He defended his cause and fully tried to prove himself as innocent.

During cross questioning, he was asked that if there was clear cut difference/variation between the area shown in Jamabandi, mutation and goshwara, was it not his responsibility to rectify the discrepancies

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by consulting original record as well as to carry spot inspection to dig out factual position of the said land or at least to bring it into the notice of DOR/Collector D.I. Khan but he had no solid proof in support of his plea-except he admitted his mistake. Moreover, he could also not give any plausible reply as to whether 42 kanal land had been mutated in excess in the names of decree holders as they had already in possession of 42 kanal land in District Tank.

5. The charge sheet/statement of allegations were handed over to Mr. Aftab Hussain Shah the then District Kanungo Tank which are annexed as "E1", written statement/reply to charge sheet/statement of allegations are annexed as "E2", questionnaire annexed as "E3", and reply to questionnaire annexed as "E4".

He was given the opportunity of personal hearing which he availed of in presence of Departmental Representative. He defended his case and declared all the charges leveled against him as baseless. He blamed Habib Ullah Khan Wazir the then DOR/Collector Tank that he was very lenient and friendly towards the claimants/plaintiff. He added that the written reply/comments were prepared by Habib Ullah Wazir who directed him to sign and submit the written reply/comments in the court of Civil Judge D.I. Khan. He further informed that State land was available in District Tank at Village Band Pero Tank but even then the said Collector recommended suitable land to be given to the plaintiff as replacement/compensation at D.I. Khan. During the course of personal hearing when he was asked as to why he failed to exercise vigilance/circumspection in submitting such significant statement without approval/vetting of Government Pleader. He admitted his mistake and argued that he had no previous experience of such cases.

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6. The charge sheet/statement of allegations were handed over to **Mr. Abdul Qadeem Khan Kanungo** which are annexed as "F1", written statement/reply to charge sheet/statement of allegations are annexed as "F2", questionnaire annexed as "F3", and reply to questionnaire annexed as "F4".

He personally attended the proceedings of enquiry in presence of Departmental Representative. He recorded his statement stating therein that he was quite ignorant regarding submission of appeal against the decree passed by the court of Civil Judge. Moreover, he further stated that no one brought this fact into his notice; hence he could not record any remarks in column No. 15 of the mutation. He added that had anyone informed him in this regard he would have recorded his remarks in column No. 15 and would have brought the matter into the notice of his superiors. During the process of personal hearing, he admitted the mistake of discrepancies/difference amongst goshwara, Jamabandi and mutation, which were required to be tallying each other.

7. The charge sheet/statement of allegations were handed over to **Mr. Mulazim Hussain Patwari** which are annexed as "G1", written statement/reply to charge sheet/statement of allegations are annexed as "G2", questionnaire annexed as "G3", reply to questionnaire annexed as "G4".

He was personally heard in presence of Departmental Representative. He contended regarding the allegations of entering mutations in favour of the decree holder while appeal was pending in the court, that he had entered the said mutations on the order of Tehsildar Paharpur (Mazhar Hussain Shah) vide his order/remarks

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recorded at the face of written application of the decree holders annexed as "G5".

Moreover, he argued that no one had informed him regarding the pendency of Govt. appeal in the court. While defending his case regarding allegations of difference amongst goshwara, mutation and Jamabandi Zer-e-kar, he contended that the said goshwara was prepared in the year of 2008, hence the said land despite irrigated could not be brought under cultivation due to water-logging/seepage and considered uncultivated due to wild plants and bushes. This contention was also adopted by him in his written statement annexed above. Whereas he adopted quite different contention in reply to questionnaire stating therein that entering the mutation and the goshwara shown therein were dictated by Tehsildar Paharpur, hence due to the pressure of superior officers, he could not take care of the discrepancies/difference occurred in the mutation, goshwara exhibited in the court and Jamabandi Zer-e-kar. He stated at the bar during the course of cross questioning that being un-experienced hand the said mistake was committed by him, and as such, admitted his fault.

GENERAL:

All the record was brought through the office of District Collector D.I. Khan along with the record of court cases i.e. first petition (declaratory suit) lodged by the plaintiff in the court of Civil Judge, appeal lodged by the Government in the court of Additional District Judge-III D.I. Khan against the order of Civil Judge and petition/application filed by Government for review in the court of ADJ-III D.I. Khan vide this office letter No. 1277 dated 20-12-2012 and No. 103/DC/Reader dated 21-01-2013 annexed as "H1" & "H2".

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Since there is a clear deviation in the mutation No. 13 and Jamabandi Zer-e-Kar from the goshwara exhibited in the court as the mutation No. 13 shows 200 kanal land as irrigated (Nehri) and 1600 kanal land as uncultivated (Ghair Mumkin), whereas the goshwara which was exhibited in the court depicts 1198 kanal as irrigated (Nehri) and 800 kanal as uncultivated (Ghair Mumkin) while the Jamabandi Zer-e-kar shows quite different picture i.e. total 1800 kanal land as Ghair Mumkin in the same Khata & Khasra. Therefore, the Deputy Commissioner/Collector D.I. Khan was asked to carry out spot inspection of the said land in light of above record and to report factual position of the said land to confirm as to how much land is actually irrigated (Nehri) and how much unirrigated (Ghair Mumkin) vide this office letter No.145-48/DC/PA dated 30-01-2013 annexed as "H3".

The Deputy Commissioner D.I. Khan deputed Tehsildar D.I. Khan to investigate and inspect the spot and dig out the factual position/actual status of the said land and submit report accordingly. The Tehsildar D.I. Khan after inspection of the area submitted detail report along with photograph of the spot received through Deputy Commissioner D.I. Khan vide annexed as "H4".

According to the said report the whole area i.e. 1800 kanal of the said Khata & Khasra are irrigated (Nehri) which are being well cultivated since long. According to the report, the Jamabandi (Register Haqdaran) for the year 2002-2003, 1600 kanal land is irrigated while only 200 kanal is unirrigated (Ghair Mumkin Jungle). The Tehsildar D.I. Khan also confirmed that in fact the 200 kanal land shown as unirrigated is also in fact being cultivated even before 2002. In support of this contention, copy of registered Khasra Girdawri for 2002 to 2006 is annexed as "H5".

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The spot report of Tehsildar D.I. Khan also depicts that due to intentional interference in the record of the year 2006-2007, all the said area i.e. 1800 kanal was converted from irrigated (Nehri) into unirrigated (Ghair Mumkin Jungle) vide Jamabandi Zer-e-kar (Register Haqdarar) for the year 2006-2007 annexed as "H6". Moreover, the said area was also shown unirrigated in the Jamabandi 2010-2011 annexed as "H7" which is incorrect as the register Khasra Girdawri for 2006 to 2010 depicts all the area as well irrigated annexed as "H8".

It is added that photographs of the spot also show that whole the area is irrigated/cultivated which are annexed as "H9" (6 Nos. photographs).

FINDINGS:

From the perusal of the record, preliminary enquiry, briefing of the Departmental Representative, written statement/replies from the accused officers/officials to the statement of allegations/charge sheet and questionnaire as well as report of Deputy Commissioner/Collector D.I. Khan regarding actual status of the land, we may conclude the following points:-

1. The land of Mst: Ameer Begum up to the extent of 1936 PIUs equivalent to 120 Acre and 1 kanal was erroneously resumed by the Revenue Staff in 1973, the declarant (Sardar Muhammad Hashim) or his family members failed to agitate their grievance before the Land Reform authority at appropriate/prescribed time limit and slept over it for about 36 years.
 - a. It is quite astonishing that the legal heirs of Sardar Muhammad Hashim and Mst. Ameer Begum approached the Provincial Land Commission in the year of 2007 for reversal/compensation of their land erroneously resumed by Revenue Staff in 1973, then instead of

rejecting their petition straight on the grounds of limitation as the petition was badly time barred, the Provincial Land Commission asked reports from District Collector D.I. Khan and Tank. When he succeeded to get report from DOR D.I. Khan regarding availability of state land which paved way for petitioner to get fruitful result, at that time he declared the application of petitioners as belated and advised them to seek their remedy at proper judicial forum, which clearly shows his leniency and friendly conduct towards the petitioners.

2. a. **Mr. Syed Gulfam Shah** the then DOR/Collector D.I. Khan neither recommended any legal proceedings to Commissioner against DDOR Nazir Ahmad for withdrawal of appeal from the court of ADJ-III D.I. Khan illegally and without any authority nor did he take any disciplinary action against the lower staff who did not inform him well in time regarding withdrawal of appeal from the court.
- b. He also failed to file review application on time even after he was informed by the DDOR on 16-03-2011 as the review application was filed in the court on 21-05-2011 while the appeal was withdrawn on 04-02-2011.
- c. He also unnecessarily marked the application of plaintiff regarding withdrawal of appeal to Legal Advisor for opinion which was later on used as bridge for withdrawal of appeal.
3. **Mr. Qayyum Nawaz** the then DOR/Collector D.I. Khan submitted certificate/commitment in the court of Civil Judge that he will implement the order/judgment of the court, without any lawful justification/need. This act later on became the basis for withdrawal of appeal.

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4. a. **Mr. Nazir Ahmad DDOR D.I. Khan** unlawfully authorized the Legal Advisor and Clerk of Land Commission Branch to withdraw the appeal from the court and later on without any legal authority he recorded statement in the court for withdrawal of appeal without consulting any Government Pleader, DCO, Commissioner or Provincial Land Commission.
- b. He also informed the DOR very late/at belated stage i.e. after a lapse of about 40 days which is gross lethargy on his part.
5. a. **Mr. Syed Mazhar Hussain Shah Sherazi** the then Tehsildar Paharpur attested the mutation just after Eight (8) days of filing of appeal. He also compelled the Patwari to enter mutation in favour of decree holder as evident from his remarks recorded on application submitted by decree holders.
- b. Despite clear cut difference amongst Jamabandi, goshwara and entries quoted in mutation, he did not try to rectify the said blunder from actual record/spot inspection, nor informed the superior officers but blindly attested the mutation which deprived the government/public from 1800 kanal precious land.
- c. He also did not exclude the 42 kanal land from the said units already in possession of decree holders in Tank.
- d. He also failed to inform the Provincial Government through DOR D.I. Khan and Provincial Land Commission whose land was transferred in the name of decree holders under the existing rules.

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6. a. **Mr. Aftab Hussain Shah** the then Kanungo Tank signed written reply/comments without any legal authority on behalf of DOR/Collector Tank and submitted in the court of Civil Judge without getting it vetted by Government Pleader.
- b. He admitted all the contention of the plaintiff as correct in the written reply submitted in the court of Civil Judge which later on became the main cause of declaration of the suit in favour of plaintiff.
- c. He confessed the mistake of not taking due care in such an important case in which large interest of public was involved. He also blamed the DOR Tank (Habib Ullah Wazir) that he had done every thing under his pressure.
7. a. **Mr. Abdul Qadeem** Kanungo did not try to get information regarding filing of appeal against the decree passed by the Civil Judge and did not record any remarks in column No. 15 of the mutation, whereas he was supposed to get himself informed regarding such appeals on the part of government.
- c. He admitted the mistake during the course of cross questioning in presence of Departmental Representative that the goshwara, mutation and Jamabandi were required to be tallying.
8. a. **Mulazim Hussain** Patwari had entered mutation in favour of the decree holder in haste just after Eight (8) days of filing of appeal by Government in the court of ADJ-III D.I. Khan.
- b. He entered the mutation in favour of plaintiff/decree holder without taking due care as there was gross difference in the land shown in goshwara exhibited in the court, mutation No. 13 and

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Jamabandi Zer-e-kar. He was supposed to tally all the records of Jamabandi, goshwara and mutation No. 13 with "Register Girdawri" wherein the whole area shown as irrigated which are being cultivated since long.

c. Due to his negligence, the precious valuable irrigated land was considered un-irrigated and mutated to the decree holders. He himself admitted his mistake in this regard in presence of Departmental Representative during the course of his personal hearing.

9. a. **Habib Ullah Khan Wazir Ex-DOR Tank** remained very lenient and friendly towards the plaintiff as evident from his letters addressed to Deputy Secretary Land Commission. This has also been highlighted in the written statement and reply to questionnaire submitted by Aftab Hussain Shah District Kanungo Tank.

b. His representative (Aftab Hussain Shah District Kanungo Tank) signed and submitted written reply/comments on his behalf in the court of Civil Judge D.I. Khan in which he admitted all contentions raised by the plaintiff in his suit without any legal authority/consultation with Government Pleader. But he did not initiate any legal action against him which clearly shows that his representative had acted with his full support.

10. **Mr. Sajjid Nawaz Legal Advisor Revenue Department D.I. Khan** submitted his opinion in favour of plaintiff for withdrawal of appeal which is quite illegal and shows his full leniency and friendly attitude towards the plaintiff which tantamounts to misconduct and dishonesty with his job.

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11. a. **Staff of Provincial Land Commission** also remained lenient and friendly toward the petitioners as instead of rejecting the application of petitioners on the grounds of limitation, in the first instance they asked DOR/Collector Tank regarding availability of land and then asked DOR/Collector D.I. Khan. When Collector D.I. Khan informed regarding availability of State Land, then the Provincial Land Commission declared the said application as belated and by giving ray of sweet hope to the petitioners, directed them to seek their remedy at proper judicial forum.

12. **Revenue Field Staff D.I. Khan:**

- a. From circumstantial evidence it appears that various Revenue Field Staff at D.I. Khan District were involved in the subject case. They had tried their best for ulterior motives to give benefit to the legal heirs of declarant in one way or the other in a systematic way. For instance, the goshwara exhibited in the court shows 1198 kanal land as irrigated while 800 kanal land as un-irrigated whereas Register Khasra Girdawri 2002 to 2006 shows all the area/land as well irrigated/cultivable as also evident from the report of Tehsildar D.I. Khan.
- b. Moreover, the said staff have also interfered in actual revenue record (Fard Jamabandi), as the entries made in Register Haqdarani 2006-2007 and 2010-2011 show all the area as un-irrigated (Ghair Mumkin Jungle) whereas Register Khasra Girdawri for the said period show all the area as well irrigated and duly cultivated as evident from the report of Tehsildar D.I. Khan and the photographs.

increments may be withheld with accumulative effect along with promotion for three years.

7. **Mr. Mulazim Hussain Patwari** has committed misconduct which is prejudicial to service discipline as well as public property hence he may be removed from service.
8. **Habib Ullah Wazir Ex-DOR/Collector Tank** conduct was contrary to Khyber Pakhtunkhwa Province Conduct Rules, 1987 hence proper Departmental proceedings may also be initiated against him under E&D Rules, 2011.
9. **Mr. Sajjid Nawaz Legal Advisor** has also acted as prejudicial to good order and professional ethics hence legal proceeding under relevant law may also be initiated against him.
10. **Staff of Provincial Land Commission** who acted in favour of plaintiff against the public/government interest, may also be dealt with under proper/relevant law.
11. **Revenue Field Staff D.I. Khan** have interfered in Jamabandi Zer-e-kar and made wrong entries therein in the year 2006-2007 and 2010-2011 hence proper Departmental & Legal proceedings may be initiated against all those involved in preparation of the said record.
12. The case should be vigorously pursued in Courts by the relevant Authorities.
13. Since actually irrigated area has been shown as un-irrigated land in tampered record, the claimants have been transferred more than their due share, as for the same produce Index Units(PIUs) they

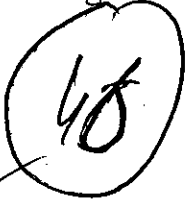
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RECOMMENDATIONS:

1. Since **Mr. Syed Gulfam Shah** the then DOR/Collector D.I. Khan is guilty of gross negligence, hence he may be **reduced to a lower post**. It is further recommended that the accused officer may ~~not be~~ given field posting for **five years**.
2. **Mr. Qayyum Nawaz** the then DOR/Collector D.I. Khan may be awarded the penalty of withholding his **three increments with accumulative effect** along with **promotion for three years**.
3. Since **Mr. Nazir Ahmad** DDO (Revenue), D.I. Khan had transgressed and deviated from his power, hence he may be **reduced to a lower pay scale**. He may also not be given field duty for at least **three years**.
4. **Syed Mazhar Hussain Shah Sherazi** the then Tehsildar (OPS) Paharpur acted as an inefficient officer. As a result of his inefficiency and collusion the declarants were transferred more land than their due share causing loss to Govt. Hence he may be **retired compulsorily**.
5. **Mr. Aftab Hussain Shah** the then Kanungo Tank had misused his official authority/function, and deviated from laid down rules/procedure, therefore, his **two increments may be withheld with accumulative effect**. He may also be **declared as unfit for promotion**.
6. **Mr. Abdul Qadeem** Kanungo has also committed negligence/lethargy/laxity in his official duties, hence his **two**

have been given more land fraudulently at the cost of the state. Therefore, it is recommended that Deputy Commissioner DI Khan may cancel the mutation, or atleast modify it to the extent due to the claimants as this will not have any bearing on the case being subjudice.



Enquiry Officer/

Deputy Commissioner Bannu



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PREVIOUS RECOMMENDATIONS:	AMENDED RECOMMENDATIONS
<p>1. Since Mr. Syed Gulfam Shah the then DOR/Collector D.I. Khan is guilty of gross negligence, hence he may be reduced to a lower post. It is further recommended that the accused officer may not be given field posting for five years.</p>	<p>Since Mr. Syed Gulfam Shah the then DOR/Collector D.I. Khan is guilty of gross negligence, hence he may be reduced to a lower post for a period of three years.</p>
<p>2. Mr. Qayyum Nawaz the then DOR/Collector D.I. Khan may be awarded the penalty of withholding his three increments with accumulative effect along with promotion for three years.</p>	<p>Mr. Qayyum Nawaz the then DOR/Collector D.I. Khan may be awarded the penalty of withholding his three increments along with promotion for three years.</p>
<p>3. Since Mr. Nazir Ahmad DDO (Revenue), D.I. Khan had transgressed and deviated from his power, hence he may be reduced to a lower pay scale. He may also not be given field duty for at least three years.</p>	<p>Since Mr. Nazir Ahmad DDO (Revenue), D.I. Khan had transgressed and deviated from his power, hence he may be reduced to a lower pay scale for a period of three years.</p>
<p>4. Syed Mazhar Hussain Shah Sherazi the then Tehsildar (OPS) Paharpur acted as an inefficient officer. As a result of his inefficiency and collusion the declarants were transferred more land than their due share causing loss to Govt. Hence he may be retired compulsorily.</p>	<p>Syed Mazhar Hussain Shah Sherazi the then Tehsildar (OPS) Paharpur acted as an inefficient officer. As a result of his inefficiency and collusion the declarants were transferred more land than their due share causing loss to Govt. Hence he may be retired compulsorily.</p>
<p>5. Mr. Aftab Hussain Shah the then Kanungo Tank had misused his official authority/function, and deviated from laid down rules/procedure, therefore,</p>	<p>Mr. Aftab Hussain Shah the then Kanungo Tank had misused his official authority/function, and deviated from laid down rules/procedure, therefore, his two increments may be withheld. He</p>

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his two increments may be withheld with accumulative effect. He may also be declared as unfit for promotion.	may also be declared as unfit for promotion for a period of three years.
6. Mr. Abdul Qadeem Kanungo has also committed negligence/lethargy/laxity in his official duties, hence his two increments may be withheld with accumulative effect along with promotion for three years.	Mr. Abdul Qadeem Kanungo has also committed negligence/lethargy/laxity in his official duties, hence his two increments may be withheld along with promotion for three years.
7. Mr. Mulazim Hussain Patwari has committed misconduct which is prejudicial to service discipline as well as public property hence he may be removed from service.	Mr. Mulazim Hussain Patwari has committed misconduct which is prejudicial to service discipline as well as public property hence he may be removed from service.
8. Habib Ullah Wazir Ex-DOR/Collector Tank conduct was contrary to Khyber Pakhtunkhwa Province Conduct Rules, 1987 hence proper Departmental proceedings may also be initiated against him under E&D Rules, 2011.	Habib Ullah Wazir Ex-DOR/Collector Tank conduct was contrary to Khyber Pakhtunkhwa Province Conduct Rules, 1987 hence proper Departmental proceedings may also be initiated against him under E&D Rules, 2011.
9. Mr. Sajjid Nawaz Legal Advisor has also acted as prejudicial to good order and service discipline hence a legal proceeding under relevant law may also be initiated against him.	Mr. Sajjid Nawaz Legal Advisor has also acted as prejudicial to good order and service discipline hence a legal proceeding under relevant law may also be initiated against him.
10. Staff of Provincial Land Commission who acted in favour of plaintiff against the public/government interest, may also be dealt with under proper/relevant law.	Staff of Provincial Land Commission who acted in favour of plaintiff against the public/government interest, may also be dealt with under proper/relevant law.

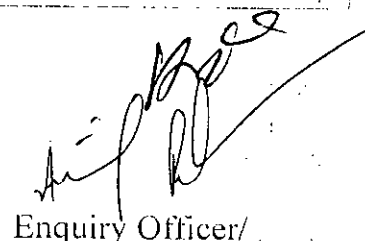
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<p>11. Revenue Field Staff D.I. Khan have interfered in Jamabandi Zer-e-kar and made wrong entries therein in the year 2006-2007 and 2010-2011 hence proper Departmental & Legal proceedings may be initiated against all those involved in preparation of the said record.</p>	<p>Revenue Field Staff D.I. Khan have interfered in Jamabandi Zer-e-kar and made wrong entries therein in the year 2006-2007 and 2010-2011 hence proper Departmental & Legal proceedings may be initiated against all those involved in preparation of the said record.</p>
<p>12. The case should be vigorously pursued in Courts by the relevant Authorities.</p>	<p>The case should be vigorously pursued in Courts by the relevant Authorities.</p>
<p>13. Since actually irrigated area has been shown as un-irrigated land in tampered record, the claimants have been transferred more than their due share, as for the same produce Index Units(PIUs) they have been given more land fraudulently at the cost of the state. Therefore, it is recommended that Deputy Commissioner DI Khan may cancel the mutation, or atleast modify it to the extent due to the claimants as this will not have any bearing on the case being subjudice.</p>	<p>Since actually irrigated area has been shown as un-irrigated land in tampered record, the claimants have been transferred more than their due share, as for the same produce Index Units(PIUs) they have been given more land fraudulently at the cost of the state. Therefore, it is recommended that Deputy Commissioner DI Khan may cancel the mutation, or atleast modify it to the extent due to the claimants as this will not have any bearing on the case being subjudice.</p>



Enquiry Officer/

Deputy Commissioner Bannu



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

NO.SOE-II(ED) 2(586)/2009
Dated Peshawar the August, 22. 2013

To

Syed Mahzar Hussain Shah Sherazi,
Tehsildar(OPS) Pharpur,
C/O Deputy Commissioner,
D.I.Khan

50

Subject:- SHOW CAUSE

[Handwritten signature]

I am directed to refer to the captioned subject and to enclose Show Cause Notice dated 19.08.2013(in original) duly signed by the competent authority i.e. Chief Minister, Khyber Pakhtunkhwa with the direction to furnish your written reply within seven 07 days or not more than 15 days of the receipt of this communication.

ADC

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(TABASSUM)
SECTION OFFICER (E-II)

[Handwritten notes]
Wagah 28/8
28/8/13
PS
AD

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No/154/100
29/08/2013

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آج تک 02/09/2013
کاپی آفس

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02/09/2013
H.C.R. - Dile

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

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SHOW CAUSE NOTICE

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Syed Mazhar Hussain Shah Sherazi, the then Tehsildar (OPS) BS-14, Paharpur, D.I.Khan as follows:-

1. (i) that consequent upon completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide communication No.SOE-II(ED)2(586)/2012/KC dated 20.11.2012 and No.145-48/DC/Reader dated 23.01.2013; and
- (ii) On going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defence before the inquiry officer,-

I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

- a) Inefficiency;
- b) Misconduct;

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Compulsory Retirement under rule 4 of the said rules.

[Handwritten Signature]

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
Opportunity of hearing vide
2012/KC dated 20.11.2012 and
and

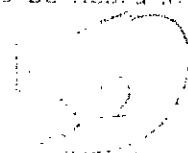
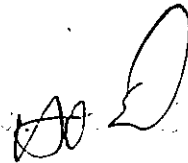
3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

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

Peroos Hussain
(COMPETENT AUTHORITY)
19.08.2013.

Syed Mazhar Hussain Shah Sherazi,
the then Tehsildar (OPS), Paharpur, D.I.Khan.



بخدمت جناب چیف منسٹر صاحب خیبر پختونخواہ پشاور

Amna H
جواب منجانب سید مظہر حسین شیرازی تحصیلدار (بابت شوکار نوٹس)

جناب عالی!

- (1) گزارش ہے کہ انتقال نمبر 913 تبدیلی ملکیت بروئے ڈگری عدالت جناب سول جج صاحب نمبر 6 ڈیرہ اسماعیل خان۔
- (2) یہ کہ پٹواری حلقہ نے مذکورہ انتقال کا اندراج مورخہ 20/07/2010 کو کیا جس پر گوشوارہ تیار شدہ پٹواری موجود ہے۔ جس کی پڑتال گردآور سرکل جس کی ذمہ داری ہوتی ہے نے کی۔ انتقال مذکورہ پر ڈگری عدالت کا حوالہ موجود ہے۔ جس کی رو سے انتقال نمبر 913 مورخہ 27/07/2010 کو حسب ضابطہ تصدیق کیا گیا۔
- (3) یہ کہ انتقال مذکورہ بعد گزرنے میعاد اپیل تصدیق کیا گیا۔ کیونکہ جس وقت ڈگری عدالت برائے اندراج و تصدیق انتقال ریونیو اتھارٹی کو پیش کی جاتی ہے تو ریونیو اتھارٹی Duty bound ہوتی ہے کہ ڈگری کی تعمیل کرے۔ دریں نسبت کارروائی انتقال کیلئے ضابطہ کی کارروائی مکمل کی گئی ہے۔
- (4) گوشوارہ تیار کردہ پٹواری حلقہ مورخہ 16/12/2008 جس کی حسب ضابطہ تصدیق احمد بخش گردآور نے مورخہ 17/12/2008 کو کی۔ جس میں اراضی زیر بحث کی نسبت تمام خسرہ نمبرات و قطعہ 10 رقبہ تعدادی 1998-04 اقسام اراضی درج ہے۔ جو کہ لف ہے اور قابل ملاحظہ ہے۔
- (5) یہ کہ قبل ازیں انکواری میں تفصیلی جواب داخل کیا گیا ہے۔
- (6) یہ کہ ڈگری مذکورہ جس کی رو سے انتقال درج و تصدیق کیا گیا کے برخلاف اپیل دائر ہوئی بعدہ اپیل نذیر احمد ڈسٹرکٹ آفیسر ریونیو اڈپٹی لینڈ کمشنر ریونیو نے اپیل With draw کر لی۔ اس نسبت عدالت جناب ایڈیشنل ڈسٹرکٹ جج صاحب VII میں اپنا بیان ریکارڈ کرایا۔ جس کو ساجد نواز ایڈووکیٹ نے Identified کیا۔ جسکے مطابق قانون یہ واضح ہو گیا ہے کہ ڈگری عدالت جس کی رو سے انتقال مذکورہ درج و تصدیق کیا گیا۔ فائل ہو چکی ہے بیان DOR مورخہ 19/01/2011 لف ہے۔

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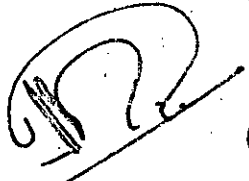
(7) یہ کہ من سائل نے ہمیشہ کارسز کار اور اپنے فرائض منصبی نیک نیتی اور ایمانداری سے سرانجام دیتے ہیں۔ کبھی کسی کی حق تلفی یا زیادتی نہیں کی ہے۔ اور کبھی بھی افسران بالا کو شکایت کا موقع نہیں دیا۔ من سائل کو ایمانداری سے کام کرنے کی بدولت ترقی دی گئی۔

(8) یہ کہ اگر انتقال مذکورہ میں کوئی غلطی یا رقبہ کی کمی پیشی ہو جائے تو لینڈ ریونیو ایکٹ کی دفعہ 163 میں کلکٹر کو اختیارات حاصل ہیں کہ وہ انتقال کو بذریعہ نظر ثانی خارج یا درستگی کا حکم دے سکتا تھا۔ جو کہ کلکٹر نے اس قسم کوئی کارروائی نہیں کی۔ کلکٹر فریڈریق مقدمہ تھا۔ اور اپیل بھی کلکٹر نے خود بغیر اجازت افسران بالا With draw کر لی ہے۔

(9) لہذا استدعا ہے کہ من سائل کو شنوائی کا موقع دیا جائے تاکہ عائد کردہ الزامات کا جواب دیکر اپنا دفاع کر سکے۔

مورخہ: 06/09/2013

ارض




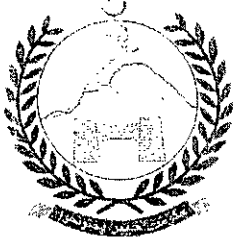
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سید مظہر حسین شاہ شیرازی

HCR TO Deputy Commissioner D.I.Khan





GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the October,

NOTIFICATION

NO.SOE-II(ED) 2(586)/2009:- WHEREAS, Syed Mazhar Hussain Shah, Tehsildar(OPS), Paharpur, D.I.Khan, now HCR to Deputy Commissioner, D.I. proceeded against under the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheet & Statement of Affairs dated 20.11.2012;

AND WHEREAS, Atif-ur-Rehman, PAS BS-19, the then DCO, Bannu, appointed as Inquiry Officer to conduct enquiry against the said officer;

AND WHEREAS, the Inquiry Officer after having examined the charges and evidence on record and explanation of the accused officer, submitted his report, where the charges levelled against the accused officer stand proved;

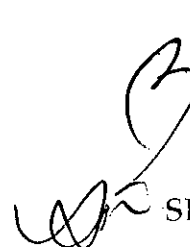
NOW THEREFORE, the competent authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges, evidence on record, the explanation of the accused officer, findings of the Inquiry Officer, and exercising his powers under rule 11 of Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011 has been pleased to impose the major penalty of 'compulsory retirement' upon Syed Mazhar Hussain Shah, HCR to Deputy Commissioner, D.I.Khan.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN.

A copy is forwarded to:-

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Commissioner, D.I.Khan Division, D.I.Khan.
4. Deputy Commissioner, D.I.Khan.
5. Accountant General, Khyber Pakhtunkhwa.
6. District Accounts Officer, D.I.Khan.
7. SO(Secret)/EO/Librarian, Establishment Department.
8. Official concerned.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary Establishment.
11. PA to Addl: Secretary (Estt)/ Dy. Secretary (Estt), Establishment Department.
12. Office order file.
13. Personal file.


(TABASSUM)
SECTION OFFICER (ESTT)

To

The Worthy Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

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Subject: Departmental appeal/review against the impugned Notification dated 22/10/2013 whereby major penalty of compulsory retirement was imposed upon the appellant.

Respected Sir,

With due respect I have the honour to submit this departmental appeal/review for your kind consideration and favourable action on the following facts and grounds:-

1. That while serving as Tehsildar (OPS) Paharpur, D.I. Khan, appellant was served with a charge sheet and statement of allegations alleging therein misconduct and inefficiency.
2. That appellant replied the charge sheet and statement of allegation thereby denying the allegation and explaining his position. The reply to the charge sheet and statement of allegations may be considered as an integral part of this appeal.
3. That thereafter the Inquiry Officer conducted an irregular inquiry wherein appellant was provided a questionnaire which was duly answered by the appellant vide answer sheet thereby explaining the position to the Inquiry Officer.
4. That at the close of inquiry, copy of which has not been given to the appellant as yet inspite of application, the competent authority issued final show cause notice to the appellant for inefficiency and misconduct. The appellant also replied the show cause notice ibid thereby denying the charges and also requested the opportunity of personal hearing.

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5. That vide impugned Notification dated 22/10/2013, appellant was imposed upon the major penalty of compulsory retirement, hence, this departmental appeal/review inter-alia on the following grounds:-

SB

GROUNDS:-

- A. That the impugned Notification dated 22/10/2013 is against the law, rules on the subject matter and, therefore, is liable to be reviewed/set-aside in the interest of justice.
- B. That no regular inquiry was contemplated which is the mandatory requirement of law. It is a settled legal principle that where a major penalty is to be imposed then regular inquiry must be conducted wherein the accused officer is to be associated with all stages of inquiry proceedings. Since the Inquiry was not conducted as per the mandate of law, therefore, impugned Notification based upon such inquiry is unwarranted and is not sustainable.
- C. That it is also a trite law settled by superior fora that where the dispute involving controversial facts cannot be resolved without holding a regular inquiry, then a full-fledged inquiry is a must. Since in the case in hand, the matter could only be resolved by holding a regular inquiry by recording the statements of the witnesses and collecting the documents in presence of the appellant and providing him an opportunity for cross-examination which was not done, therefore, the entire proceedings are liable to be struck down.

VAZ

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- D. That appellant was also condemned unheard because he was not provided opportunity of personal hearing which is also a legal requirement, thus, the impugned Notification is against the principle of natural justice.
- E. That the appellant has at his credit long standing unblemished 37 years service and is at the verge of his retirement. He has also been deprived from his promotion due to the instant matter. In peculiar facts and circumstances of the case, the extreme penalty of compulsory retirement does not commensurate with the guilt of appellant and is unjust.
- F. That other officials/officers who were actually involved in the matter and responsible for every thing were burdened with lesser punishment as is evident from the Notifications dated 22/10/2013, therefore, appellant was highly discriminated.
- G. That the subject mutation No. 913 was effected on the Decree passed by the competent court of law in case No. 219/1 decided on 9/6/2010, therefore, appellant has done no wrong inas much as he was bound under the law to give effect to the court Decree as per the mandate of law as held by the Honourable Supreme Court of Pakistan in 1972 SCMR 322, therefore, the impugned Notification against the appellant is not legally competent.
- H. That the Patwari Halqa has entered the disputed mutation on 20/7/2010 upon which the Goshwara prepared by him was available and it was the

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responsibility of Girdawar Circle to examine/compare the same, therefore, appellant being Tehsildar was not responsible for the same because a Revenue Officer has to attest a large number of mutations at the same time and it is impossible for him to effect comparison each and every mutation in Jalsa-e-Aaam. Therefore, it is the prime responsibility of Halqa Patwari and Girdawar Circle and not the Tehsildar.

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- I. That the mutation was effected after the period of limitation for filing appeal was elapsed. The Goshwara was prepared by Patwari Halqa on 16/12/2008 and the same was duly attested by Ahmad Baksh Girdawar on 17/12/2008 wherein the entire details of the property including Khasra Nos, parcels/pieces and measurement i.e. 1998-04 and nature of land were duly entered. It was on the basis of this Goshwara that the mutation was attested by the appellant, therefore, appellant has done no wrong.
- J. That against the disputed mutation, appeal was preferred in the court of Additional District Judge-VII which was later on withdrawn by the then DOR/Deputy Land Commissioner Revenue namely Nazeer Ahmad and in this respect he has recorded his statement in the court being identified by Sajid Nawaz, Advocate due to which the matter attained finality and hence, appellant could not be held responsible for the same.
- K. That it is also pertinent to mention here that if any error or mistake occurs while attesting a mutation by a Revenue Officer, then under section 163 of Land

A&D

Revenue Act, the Collector has the authority to recall/review the same and even set-aside the same but no such power/authority was exercised by the Collector rather the Collector himself was party in the case and he himself withdrew the appeal from the Court.

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- L. That appellant requests for personal hearing before your goodself.
- M. That appellant also begs to submit other grounds at the time of arguments.

It is, therefore, humbly requested that on acceptance of this departmental appeal/review, the impugned Notification dated 22/10/2013 may kindly be reviewed and consequently set-aside by reinstating the appellant with all back benefits.

Yours faithfully

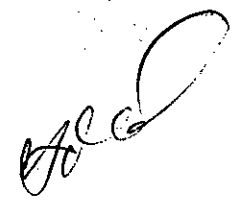


SYED MAZHAR HUSSIN SHAH,

Ex-Tehsildar OPS, Pahar Pur,

D.I. Khan

Dated: 25/10 /2013



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT



Dated Peshawar the October, 22. 2013

NOTIFICATION

NO.SOE-II(ED) 2(586)/2009:- WHEREAS, Mr. Abdul Qadeem, Kanungo(BS-11), the D.I.Khan, now Girdawar D.I.Khan was proceeded against under the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheet & Statement of Allegations dated 20.11.2012;

AND WHEREAS, Atif-ur-Rehman, PAS BS-19, the then DCO, Bannu was appointed as Inquiry Officer to conduct enquiry against the said officer;

AND WHEREAS, the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused officer, submitted his report, whereby the charges levelled against the accused officer stand proved;

NOW THEREFORE, the competent authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges, evidence on record, the explanation of the accused officer, findings of the Inquiry Officer, and exercising his powers under rule 4 of Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011 has been pleased to impose the minor penalty of 'with holding of two increments alongwith stoppage of promotion for three years' upon Mr. Abdul Qadeem, Girdawar, D.I.Khan.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN.

A copy is forwarded to:-

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Commissioner, D.I.Khan Division, D.I.Khan.
4. Deputy Commissioner, D.I.Khan.
5. Accountant General, Khyber Pakhtunkhwa.
6. District Accounts Officer, D.I.Khan.
7. SO(Secret)/EO/Librarian, Establishment Department.
8. Official concerned.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary Establishment.
11. PA to Addl: Secretary (Estt)/ Dy. Secretary (Estt), Establishment Department.
12. Office order file.
13. Personal file.

(TABASSUM)
SECTION OFFICER (ESTT)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT



Dated Peshawar the October, 22. 2013

63

NOTIFICATION

NO.SOE-II(ED) 2(586)/2009:- WHEREAS, Syed Gulfam Abbas Shah, PMS BS-17, the then DO(Rev)/Collector, D.I.Khan, now Additional Assistant Commissioner(Rev), D.I.Khan was proceeded against under the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheet & Statement of Allegations dated 20.11.2012;

AND WHEREAS, Atif-ur-Rehman, PAS BS-19, the then DCO, Bannu was appointed as Inquiry Officer to conduct enquiry against the said officer;

AND WHEREAS, the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused officer, submitted his report, whereby the charges levelled against the accused officer stand proved;

NOW THEREFFORE, the competent authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges, evidence on record, the explanation of the accused officer, findings of the Inquiry Officer, and exercising his powers under rule 4 of Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011 has been pleased to impose the major penalty of 'Reduction to Lower post for a period of three years' upon Syed Gulfam Abbas Shah, PMS BS-17, AAC (Rev), D.I.Khan.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

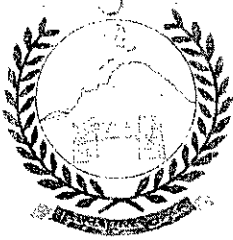
ENDST: NO. & DATE EVEN.

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1. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Commissioner, D.I.Khan Division, D.I.Khan.
4. Deputy Commissioner, D.I.Khan.
5. Accountant General, Khyber Pakhtunkhwa.
6. District Accounts Officer, D.I.Khan.
7. SO(Secret)/BO/Librarian, Establishment Department.
8. Officer concerned.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary Establishment.
11. PA to Addl: Secretary (Listt) / Dy. Secretary (Estt), Establishment Department.
12. Office order file.
13. Personal file.

(TABASSUM)
SECTION OFFICER (ESTT)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT



Dated Peshawar the October, 22, 2013

64

NOTIFICATION

NO.SOE-II(ED) 2(586)/2009:- WHEREAS, Mr. Aftab Hussain Shah, the then Kanungo(BS-14) Tank, now Naib Tehsildar, Daraban, D.I.Khan was proceeded against under the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheet & Statement of Allegations dated 20.11.2012;

AND WHEREAS, Atif-ur-Rehman, PAS BS-19, the then DCO, Bannu was appointed as Inquiry Officer to conduct enquiry against the said officer;

AND WHEREAS, the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused officer, submitted his report, whereby the charges levelled against the accused officer stand proved;

NOW THEREFFORE, the competent authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges, evidence on record, the explanation of the accused officer, findings of the Inquiry Officer, and exercising his powers under rule 4 of Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011 has been pleased to impose the minor penalty of 'with holding of two increments and declaring him unfit for promotion for a period of three years' upon Mr. Aftab Hussain Shah, Naib Tehsildar, Daraban, D.I.Khan.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN.

A copy is forwarded to:-

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Commissioner, D.I.Khan Division, D.I.Khan.
4. Deputy Commissioners, D.I.Khan/Tank.
5. Accountant General, Khyber Pakhtunkhwa.
6. District Accounts Officer, D.I.Khan.
7. SO(Secret)/EO/Librarian, Establishment Department.
8. Official concerned.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary Establishment.
11. PA to Addl: Secretary (Estt) / Dy. Secretary (Estt), Establishment Department.
12. Office order file.
13. Personal file.


(TABASSUM)
SECTION OFFICER (ESTT)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the October, 22, 2013

65

NOTIFICATION

NO.SO.E-II(ED) 2(586)/2009:- WHEREAS, Qayyum Nawaz, PMS BS-17, the then DO(Rev)/Collector, D.I.Khan, now awaiting posting in E&AD was proceeded against under the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheet & Statement of Allegations dated 20.11.2012;

AND WHEREAS, Atif-ur-Rehman, PAS BS-19, the then DCO, Bannu was appointed as Inquiry Officer to conduct enquiry against the said officer;

AND WHEREAS, the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused officer, submitted his report, whereby the charges levelled against the accused officer stand proved;

NOW THEREFFORE, the competent authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges, evidence on record, the explanation of the accused officer, findings of the Inquiry Officer, and exercising his powers under rule 4 of Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules 2011 has been pleased to impose the minor penalty of **'with holding of three increments alongwith promotion for three years'** upon Mr. Qayyum Nawaz, PMS BS-17, awaiting posting in E&AD.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDS: NO. & DATE EVEN.

A copy is forwarded to:-

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Commissioner, D.I.Khan Division, D.I.Khan.
4. Deputy Commissioner, D.I.Khan.
5. Accountant General, Khyber Pakhtunkhwa.
6. District Accounts Officer, D.I.Khan.
7. SO(Secret)/EO/Librarian, Establishment Department.
8. Officer concerned.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary Establishment.
11. PA to Addl: Secretary (Estt) / Dy. Secretary (Estt), Establishment Department.
12. Office order file.
13. Personal file.

(TABASSUM)
SECTION OFFICER (ESTT)

WAKALAT NAMA

IN THE COURT OF

K.P.K. Service Tribunal

Syed Masrur Hussain Appellant(s)/Petitioner(s)

Govt etc VERSUS

Respondent(s)

I/We _____ do hereby appoint
Mr. Khaled Rehman, Advocate in the above mentioned case, to do all or
any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by

Khaled Rehman,
Advocate, Peshawar.

9-B, Haroon Mansion
Khyber Bazar, Peshawar

[Signature]
Signature of Executants

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**Service Appeal No. 132 /2014**

Syed Mazhar Hussain Shah.....Applicant/Appellant.

Versus

The Govt. and others.....Respondents

Application for withdrawal of the instant appeal with permission to file fresh one.

Respectfully Sheweth,

1. That the above titled service appeal is pending before the Hon'ble Tribunal, fixed for hearing on 19.03.2014.
2. That the appellant has filed departmental appeal/ review before the competent authority which was pending but in the meanwhile the instant appeal was filed on completion of the statutory period. However, the competent authority, vide Notification dated 17.02.2014 (*Annex:-A*) accepted the departmental appeal/review of the appellant and reduced the penalty of compulsory retirement into withholding of two increments alongwith stoppage of promotion for three years.
3. That due to the acceptance of the departmental appeal/review, the instant appeal has become anfractuous and therefore, needs withdrawal with

permission to file fresh one.

It is, therefore, humbly prayed that on acceptance of this application, the titled appeal, may graciously be allowed to be withdrawn with permission to file fresh one.



Applicant

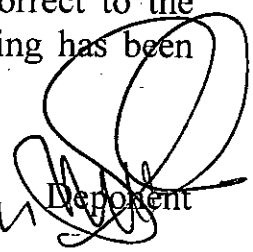
Through

Khaled Rahman,
Advocate, Peshawar.

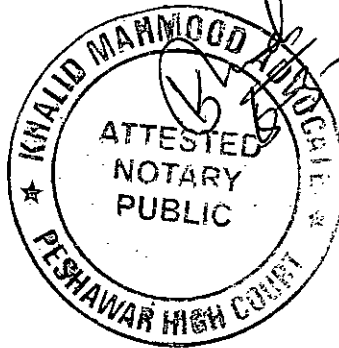
Dated: 6 / 03/ 2014

Affidavit

I, Khaled Rahman, Advocate, as per instructions of my client, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent





GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

3

ANNEX A

Dated Peshawar the February, 17. 2014

NOTIFICATION

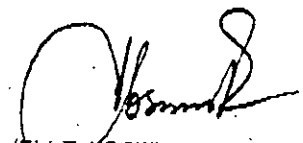
NO.SOE-II(ED) 2(586)/2009:- On consideration of the Review Petition of Syed Mazhar Hussain Shah, Ex-HCR to Deputy Commissioner, D.I.Khan against the major penalty of "compulsory retirement" imposed upon him vide the Establishment Department Khyber Pakhtunkhwa Notification of even number dated 22.10.2013, the competent authority i.e. Chief Minister, Khyber Pakhtunkhwa after affording an opportunity of personal hearing (held on 21.01.2014 1330 hours) and perusal of the relevant record, has been pleased to reduce his penalty from "compulsory retirement" to "with holding of two increments alongwith stoppage of promotion for three years".

SECRETARY ESTABLISHMENT

ENDST: NO. & DATE EVEN.

A copy is forwarded to:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Commissioner, D.I.Khan Division, D.I.Khan.
4. Deputy Commissioner, D.I.Khan.
5. District Accounts Officer, D.I.Khan
6. SO (Secret) / EO/Librarian, E&A Department.
7. Official concerned.
8. PS to Chief Secretary, Khyber Pakhtunkhwa.
9. PS to Secretary Establishment.
10. PS to Special Secretary (Estt), Establishment Department.
11. PA to Addl: Secretary (Estt) / Dy. Secretary (Estt), Establishment Department.
12. Office order file.
13. Personal file.


(TABASSUM)
SECTION OFFICER (E-II)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 132 /2014

Syed Mazhar Hussain Shah.....Applicant/Appellant.

Versus

The Govt. and others.....Respondents

APPLICATION FOR EARLY HEARING.

Respectfully Sheweth,

1. That the above titled service appeal is pending before the Hon'ble Tribunal, fixed for hearing on 19.03.2014.
2. That the instant appeal has become anfractuious due to acceptance of the departmental appeal/ review and therefore separate application for withdrawal of the appeal has been filed.
3. That since fresh appeal will be filed within stipulated period of one month for which the withdrawal of the instant appeal is necessary, therefore, the acceleration of the date of hearing is necessary.

It is, therefore, humbly prayed that on acceptance of this application, the titled appeal may graciously be fixed as early as possible.

Through

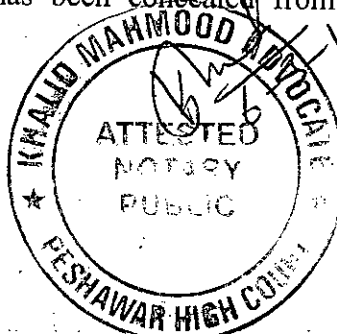
Applicant

Khaled Rahman,
Advocate, Peshawar.

Dated: 6 / 03/ 2014

Affidavit

I, Khaled Rahman, Advocate, as per instructions of my client, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deposent