

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 618/2016

Date of institution ... 23.06.2015

Date of judgment ... 16.01.2017

Ghulam Nabi, Ex. Superintendent,
Officer of the Director Land Records,
Khyber Pakhtunkhwa.

... (Appellant)

VERSUS

1. The Chief Secretary, Civil Secretariat KPK Peshawar.
2. The Secretary BOR, Civil Secretariat KPK Peshawar.
3. The Senior Member Board of Revenue & Estate Department,
Khyber Pakhtunkhwa, Peshawar.
4. The Director Land Record/Inspector General Registration,
Directorate of Record, Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 10.02.2016 WHEREIN, THE
APPELLANT HAS BEEN COMPULSORY RETIRED FROM THE
SERVICE AND NOT TAKING ACTION AGAINST THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
STATUTORY PERIOD OF 90 DAYS.

Mr. Muhammad Asif Yousafzai, Advocate.
Mr. Muhammad Jan, Government Pleader

.. For appellat.
.. For respondents.

MR. ASHFAQUE TAJ
MR. AHMAD HASSAN

.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

JUDGMENT

ASHFAQUE TAJ, MEMBER:- Ghulam Nabi, Ex-Superintendent, office of
the Director Land Records Khyber Pakhtunkhwa, hereinafter called appellant has preferred
this service appeal under under Section-4 of the Khyber Pakhtunkhwa Service Tribunal

Act, 1974 against the order dated 10.02.2016 wherein the appellant has been compulsory retired from service.

2. Facts in brief are that appellant joined Revenue Department as Junior Clerk in year 1985, promoted as Senior Clerk and Assistant in year 1990 and 1995 respectively and then was promoted to the present post of Superintendent in year 2003. That the charge sheet was served on appellant on 26.12.2011 under Khyber Pakhtunkhwa Government Servant (E&D) Rules 1973 inter-alia he had committed misconduct by forwarding the case of promotions of Moharrirs against rules and had not notified the approved rules. That one Ghullam Jillani was appointed as inquiry officer who was also a member of the Departmental Promotion Committee. The appellant moved a no confidence application to the effect that the inquiry officer has promoted his younger brother namely Muhammad Iqbal and was thus interested and biased and against the rights of appellant. The request of no confidence against inquiry officer was struck down on 04.01.2011. Inquiry officer Ghullam Jillani submitted detail inquiry report consisting on five pages, with findings that the charge against the appellant/accused official could not be established. That the inquiry committee against the appellant was ordered on 04.03.2012, wherein committee comprising of Chairman plus two Members gave their recommendations that appellant be directed to be careful in future. The SMBR did not agree with recommendation and again directed inquiry committee inquiry officer to summon the retired officers of Departmental Promotion Committee and competent authority and after summoning them and taking their statements the inquiry committee again gave recommendations of disciplinary action. On the basis of that recommendation final show-cause notice was issued to the appellant and vide impugned order dated 10.02.2016 appellant was compulsory retired from service. Appellant preferred departmental appeal but the same was not responded till the expiry of statutory period of 90 days and thus resulting into instant service appeal.

3. Learned counsel for appellant argued this service appeal on manifold grounds. His first objection was that the demeanour of respondent-department was in sheer violation of

17/01/2017

Article 4, 10-A, 25 and 38 of constitution of Islamic Republic of Pakistan. That no fair proceedings had been conducted in the inquiry. He further contended that three charges were leveled against the Superintendent i.e the appellant processed the case of 9 Registration Moharrirs against the post of Sub-Registrars in 2002 on the basis of draft services rules which had yet to be modified/notified. Secondly, the processing of working papers of 9 Registration Moharrirs was not recorded in writing on note part and that synopsis of the said Registration Moharrirs was also not annexed with working papers and in last the appellant did not process the advice letter dated 28.02.2009 received from Section Officer Establishment Department Khyber Pakhtunkhwa. On the basis of said charge sheet the appellant was departmentally proceeded and inquiry committee recommended that promotion orders of all the 9 Registration Moharrirs as Sub-Registrars are illegal, void might be withdrawn and they might be reverted to their original posts retrospectively. The learned counsel for appellant of the view that the charge was not proper and the appellant was not responsible for the wrong done by others. That it was not the duty of appellant to notify the draft rules. Further that no opportunity was accorded to appellant for cross examination of the witnesses and that no statement of witnesses and departmental representative were recorded in presence of appellant which was clear violation of Rule-9 sub-rule (4) of Khyber Pakhtunkhwa Government (Efficiency & Disciplinary) Rules, 2011. In last the learned counsel for appellant also argued that in the show-cause notice the penalty going to be imposed was not clearly mentioned and which is again in violation of the rules and so requested that appeal in hand might kindly be accepted and the appellant might be reinstated into service with all back benefits.

4. On the other hand, Learned Government Pleader resisted the contentions of appellant counsel by submitting that proper inquiry committee was constituted by the authority and the inquiry committee recommended to initiate disciplinary action against appellant and other concerned responsible officers of the Revenue Board. That proper show-cause notice was issued and served upon the appellant and after observing all codal

18.01.2017

formalities the appellant was compulsory retired from service by the competent authority. That a proper order of dismissal by competent authority had been issued which might not be disturbed and appeal in hand needs to be dismissed.

5. After going through the arguments of both the sides and perusal of record the Tribunal found that appellant been charged on three grounds. Before attending all the charges one by one we deem it apt to mention here that initially one Mr. Ghullam Jillani was appointed as inquiry officer who was also a member of Departmental Promotion Committee in which he allegedly promoted his younger brother namely Muhammad Iqbal and thus was biased. Appellant at the very outset on 29.12.2011 mentioned his no confidence over the said inquiry officer. His request was turned down on 01.20.2012 by the competent authority without any plausible reasons. Proprietary demands that when an objection is raised over impartiality of an inquiry officer then as per norms of justice the inquiry officer either himself or by the competent authority was required to have been disassociated from the inquiry.

6. Any how the inquiry Officer Mr. Ghullam Jillani submitted his detail inquiry report. In his findings he had not held the appellant directly responsible for illegal promotions except with the charge that the working paper was prepared by appellant and placed before the committee.

7. Re-inquiry was ordered and conducted by three members committee. The detail findings were furnished by the committee, the crux of which are that there were three members of Departmental Promotion Committee consisting upon

- | | | |
|----|--|----------|
| 1. | Mr. Khalid Saleem, DLR/IGR, Khyber Pakhtunkhwa | Chairman |
| 2. | Mr. Bakhtiar Khan (DS-II), Board of Revenue | Member |
| 3. | Mr. Ghulam Geelani (Assistant Secretary), Board of Revenue | Member |

All three of them were senior and experienced officers and it was the duty of departmental promotion committee members to securitize all the cases and to fulfill all the legal requirements and other criteria which were formulated for promotion of Sub-

RWY
16.01.2013

Registrars. All of the above mentioned officers were well experienced and matured due to their length of services. It was clearly mentioned that it was the duty of Departmental Promotion Committee to securitize all the cases and to fulfill all the legal requirements before their selection/promotions. It was also recorded in findings that all the three committee members have been retired from service and so no disciplinary action could be taken against them. It would not be out of context to mention that the three members committee also suggested that if all the Sub-Registrars are reverted to their original position i.e Registration Moharrirs then a flood gate of litigations would be opened as they are enjoying their positions since 20.09.2008. The committee has also suggested that the appellant and one other had suffered a lot and considering them guilty for promotion of Sub-Registrars would not be justified.

8. The competent authority did not agree with the recommendations. No reason for disagreement was extended by the competent authority. The committee again recommended disciplinary action against all. On the basis of inquiry report submitted by inquiry officer on 17.09.2015 the appellant was compulsory retired from service.

9. Before looking into the validity of the impugned order, we would like to bring up the work Distribution and Job Description of the Superintendent (appellant) according to Secretariat Instructions:

- 16.01.2017*
- (a) These instructions are issued in accordance with the provision of rule 5 (12) of the Government of North West Frontier Province Rules of Business 1985 and shall be called the "N.W.F.P Manual of Secretariat Instructions, 1989".
 - (ff) "Superintendent" means a Superintendent incharge of a Branch or Section and includes an Assistant Incharge;
 - (10) **Superintendent**
 - (a) A Superintendent who normally holds charge of a Branch under the control of a Section Officer shall be responsible for ensuring that the work is conducted properly and that there is tidiness and discipline in his Branch;
 - (b) The Superintendent of the Receipt and Issue Branch shall be personally responsible for the accurate sorting of Dak Section-wise, and shall further ensure that:-

- (i) the Receipt Clerk submits the receipts at least twice daily to the appropriate Section/Officer alongwith dairy;
 - (ii) letters are dispatched on the date of receipt and office copies returned promptly to the Section/Office concerned; and
 - (iii) that confidential/secret communications are treated in the manner prescribed in paragraph 67-76.
- (c) The Superintendent Receipt and Issue Branch or any other official assigned the job, should open all covers other than those sealed and addressed by name to any particular office/officer in the Department and to:-
- (i) make sure that each envelope is completely emptied;
 - (ii) check enclosure and make note of omissions, if any, in the margin of the communication;
 - (iii) separate receipts section-wise and place them in the labelled compartments; and
 - (iv) obtain, in case of disputed receipts, orders of the Administrative Secretary or of an officer authorized for the purpose.

VIII. RECEIPT AND DISTRIBUTION OF PAPERS.

29. Receipt and Issue Branch in each Department as far as possible, be centrally located. It should be responsible for receipt and distribution of all communications (Letters, Telegrams, Files, Papers, etc.) meant for the Department.

30. The Receipt Clerk shall receive all communications intended for the Department in the manner indicted in paragraph 29 and pass them on immediately to the Superintendent.

31. The Superintendent shall open all covers other than those sealed or addressed by name to any particular officer in the department. He Shall:-

- (a) make sure that each envelope is completely emptied;
- (b) check enclosures and make a note of omissions if any, in the margin of the communications; and
- (c) separate receipts section-wise and place them in labelled compartments.

10. The detail job description mentioned above nowhere reflect that all the three charges i.e notification of draft rules, recording of process of working paper on note part and not processing the advice letter, falls under his duties.

11. The crust of aforementioned discussion is that appellant on the basis of inquiry report submitted by the inquiry committee was compulsory retired from service on

16.01.2017

17.09.2015. On the following grounds the Tribunal deem it apt to declare the impugned order not sustainable.

I. The Recommendation of initial inquiry officer Mr. Ghulam Jillian completely exonerated appellant from the three charges leveled in statement of allegations and charge sheet.

II. The subsequent inquiry committee also recommended that the appellant and one another Mr. Anwar Zeb Officer Assistant of DLR officer had suffered a lot and considering them guilty of promotion of Sub-Registrars will not be justified and recommended warning to be careful in future. The recommendations were not honored.

III. Again the same committee on the direction of competent authority recommended disciplinary action against the appellant and other concerned. No reason is available on file that why inquiry committee changed stance from warning to holding him responsible for disciplinary action.

12. No reason by competent authority is available on record that why he was not in agreement with initial two inquiry reports. The job descriptions as mentioned above conspicuously reflect that appellant was not responsible for notifying the referred notifications. More-so, the inquiry committee in clear terms had narrated that it was the responsibility of the committee members to see all the rules regulations and all criteria formulated for the promotion of the Sub-Registrars. The appellant was never associated with the inquiry in terms of recording statement of witnesses before him and extending him opportunity of cross examination and defence which is a gross violation of settled down principles of audi alterm partum. So for what has been stated above this appeal in hand stands accepted. Appellant stands reinstated into service with all back benefits. Be that as it may the respondents are at liberty to conduct de-novo inquiry but it would be apt to conduct a fact finding inquiry prior to regular inquiry so as to have clear picture with regard to the job description and distribution of work and the transgressions and derelictions committed by the delinquent ones. In case the department opt to conduct fresh

1 June

16.01.2017

regular inquiry then full opportunity be accorded to appellant by associating the appellant with inquiry by way of cross examination and defence. Before parting with judgment the Tribunal also expect that department would take appropriate steps with regard to recommendation of inquiry committee against illegal promotions and reversions, Order accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

16.01.2017



(AHMAD HASSAN)
MEMBER



(ASHFAQUE TAJ)
MEMBER

16.01.2017

Counsel for appellant and Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Muhammad Jan, Government Pleader for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of eight pages placed on file, the appeal in hand stands accepted. Appellant stands reinstated into service with all back benefits. Be that as it may the respondents are at liberty to conduct de-novo inquiry but it would be apt to conduct a fact finding inquiry prior to regular inquiry so as to have clear picture with regard to the job description and distribution of work and the transgressions and derelictions committed by the delinquent ones. In case the department opt to conduct fresh regular inquiry then full opportunity be accorded to appellant by associating the appellant with inquiry by way of cross examination and defence. Before parting with judgment the Tribunal also ~~foresee~~ ^{expect} that department would take appropriate steps with regard to recommendation of inquiry committee against illegal promotions and reversions. Order accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

16.01.2017


(AHMAD HASSAN)
MEMBER


(ASHFAQUE TAJ)
MEMBER


03.10.2016

Since 3rd October, 2016 has been declared as public holiday on account of 1st Muharram therefore, case is adjourned for 10-11-16.


Reader

10.11.2016

Counsel for the appellant and Addl: AG for respondents present. Rejoinder submitted. To come up for arguments on 16.01.2017.


(MUHAMMAD AAMIR NAZIR)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

16.06.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Superintendent when compulsorily retired from service vide impugned order dated 10.02.2016 on the allegations of processing promotion case of 9 Registrars Moharrirs against the posts of Sub Registrar in the year 2008 on the basis of Draft Service Rules which were yet to be notified. Feeling aggrieved appellant preferred departmental appeal on 18.2.2016 which was not responded and hence the service appeal on 08.06.2016.

That the charges attributed to the appellant do not pertain to his responsibility and that the appellant was made scape-goat with an object to favour other responsible officers.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 25.08.2016 before S.B.

Appellant Deposited
Security & Process Fee

Chairman

25.08.2016



Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 3.10.2016.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 618/2016

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 08/06/2016 | <p>The appeal of Mr. Ghulam Nabi presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 8/6/2016</p> |
| 2- | 13-6-2016 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>16-6-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |

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

Appeal No. 618 /2016

Ghulam ~~NABI~~

V/S

Revenue Department.

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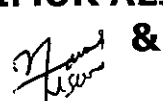
| S.No | Documents | Annexure | Page No. |
|------|--|----------|----------|
| 1. | Memo of Appeal | ----- | 01-05 |
| 2. | Copy of Appointment order | - A - | 06 |
| 3. | Copy of Promotion orders. | B,B1& B2 | 07-09 |
| 4. | Copy of Charge sheet and statement of allegation | - C&C1 - | 10-11 |
| 5. | Copy of reply | - D - | 12-13 |
| 6. | Copy of order dated 26.12.2011 and no confidence Application | - E&E1 - | 14-15 |
| 7. | Copy of order regards no-confidence application | - F - | 16 |
| 8. | Copy of inquiry report of Ghullam jillani | -G- | 17-21 |
| 9. | Copy of letter dated 4.3.2014 | H | 22 |
| 10 | Copy of Reply | -I- | 23 |
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| 12 | Copy of second recommendation | -K- | 28 |
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APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI),


(TAIMUR ALI KHAN),

 &
(SYED NOMAN ALI BUKHARI)
ADVOCATES, PESHAWAR.

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

Appeal No. 618 /2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 594

Dated 8-6-2016

Ghulam Nabi, Ex. Superintendent,
Office of the Director Land Records
Khyber Pakhtunkhwa.

APPELLANT

VERSUS

1. The Chief Secretary, Civil Secretariat KPK Peshawar.
2. The Secretary BOR, Civil Secretariat KPK Peshawar.
3. The Senior Member Board of Revenue & Estate Department,
Khyber Pakhtunkhwa, Peshawar.
4. The Director Land Record,/ Inspector General Registration,
Directorate of Record, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

.....

**APPEAL UNDER SECTION 4 OF THE SERVICE
TRIBUNAL ACT, 1974 AGAINST THE ORDER
DATED 10.2.2016 WHEREIN, THE APPELLANT
HAS BEEN COMPULSORY RETIRED FROM THE
SERVICE AND NOT TAKING ACTION AGAINST
THE DEPARTMENTAL APPEAL OF THE
APPELLANT WITH IN SATAUTARY PERIOD OF
90 DAYS.**

PRAYER:

**THAT THE ACCEPTANCE OF THIS APPEAL, THE
ORDER DATED 10.2.2016 MAY BE SET ASIDE
AND THE APPELLANT MAY BE REINSTATED
WITH ALL BACK AND CONSEQUENTIAL
BENEFITS. ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT AND
APPOPRIATE THAT MAY ALSO BE AWARADED IN
FAVOUR OF APPELLANT.**

Filed to-day

[Signature]
Registrar

8/6/16

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Junior Clerk vide order dated 24.6.1985 in Revenue Deptt: and due to best performance promoted as Senior Clerk and Assistant Vide order dated 06.12.1990 & 12.7.1995 respectively and then the appellant on dated 8.4.2003 promoted as Superintendent due to recognition of best performance and spotless service. **(Copies of appointment order and promotion orders are attached as Annexure-A & B, B1 & B2).**
2. That the Charge sheet was served upon the appellant on 26.12.2011 as per Khyber Pakhtunkhwa Government Servant (E&D) Rules 1973 and the appellant properly replied to the charge sheet and properly denied the entire allegation. **(Copies of charge sheet and reply are attached Annexure-C & D).**
3. That Ghulam Jilani appointed as inquiry officer who was also a member of departmental promotion committee and promoted his younger brother namely Muhammad Iqbal and was interested, biased and against the defense of appellant which was rightly objected by appellant in writing but the request was turned down vide order dated 4.1.2011 and the inquiry officer gave his arbitrary finding to save his own skin. **(Copy of the order 26.12.2011, no confidence application, order dated 4.1.2011 and inquiry report are attached as Annexure-E, E1, F & G).**
4. that the letter dated 4.3.2013 was issued to the appellant wherein ordered against the appellant to re-inquire the illegal promotion case of Registration Moharrirs to the post of Sub-Registrars made in the year 2008 and directed the appellant submitted his reply against the allegations level against you vide charge sheet dated 26.12.2011. The appellant submitted his reply and denied the allegations. **(Copy of the letter dated 4.3 2013 and reply are attached as Annexure-H & I).**
5. THAT the inquiry was conducted against the appellant wherein committee comprising of Chairman Plus Two member and the inquiry committee gave his recommendation that "*appellant be directed to be careful in future*" but the SMBR not agreeing with recommendation but despite that

matter was closed, the SMBR again directed the inquiry committee to summon the retired officers of Departmental Promotion committee and competent authority and after summoning them inquiry committee again gave his recommendation. **(Copy was of inquiry report and second recommendation is attached as Annexure-J & k).**

6. That the final show cause notice was served upon the appellant. The appellant replied to the show cause notice. **(Copy of the show cause and reply are attached as Annexure-L & M).**
7. That the impugned order dated 10.2.2016 was passed against the appellant wherein appellant was compulsory retired from the Service. Against which the appellant preferred departmental appeal but the same was un-responded till the expiry of statutory period of 90 days. **(Copy of order dated 10.2.2016 and departmental appeal are attached as Annexure-N & O).**
8. That now, the appellant comes to this august Honorable Tribunal on the following grounds amongst the others:

GROUND:

- A) That the impugned order dated 10.2.2016 is against the law, facts, norms of justice and principle of fair play and material on record.
- B) That the impugned order and attitude of respondent department is in sheer violation of Article 4, 10-A, 25 and 38 of the constitution.
- C) That the SMBR without Following the Recommendation of Inquiry Committee for fresh proceedings against all the responsible officials as per rules , directly issued show cause notice which is against the law and rules.
- D) That regarding the promotion of 09 Registration Moharrars, the appellant was neither member of the committee nor secretary of the Departmental Promotion Committee and also there is no evidence that appellant in any manner influenced or submitted any note part for promotion of 09 Sub-Registrar.

- E) That the inquiry committee gave recommendation to conduct regular proceedings/inquiry under E&D Rules, 2011 and also issued letter to the Assistant Secretary (Admin) by the Deputy Commissioner Kohistan but despite that no regular inquiry was conducted and recommendation of inquiry committees for conducting regular proceeding/inquiry was flouted for no valid plausible reason. **(copy of Letter is attached as Annexure-P).**
- F) That there is no recommendation against the appellant regarding guilty of allegations but despite that major penalty of "Compulsory Retired from Service" is imposed upon the appellant. This clearly shows the malafide intention of the SMBR and against the law and rules.
- G) That the during departmental proceedings that appellant has neither been given any opportunity of cross examination nor any witness cross examined in the presence of the appellant which is against the law and rules.
- H) That the appellant has been condemned unheard and not treated according to law and rules because being a civil servant of the province, the appellant has not been dealt with E&D Rules 2011 and compulsory retired from service in a slipshod manner.
- I) That the appellant cannot be held responsible for the lapse/irregularities committed by the department and in such cases the Hon'ble Supreme Court of Pakistan has held the department responsible.
- J) That according to recommendation of inquiry committee that action under E&AD rules 2011 be initiated against all those who did not notify rules, furthermore the notification is duty of the Board of Revenue/Administrative Authority in consultation with the Establishment/Law as per rules 26 of Khyber Pakhtunkhwa Civil Servant Act, 1973 and Khyber Pakhtunkhwa Rules of business 1985 not the duty of the office of the Director Land Records as visible from note sheet of Assistant Secretary (Admn), Board of Revenue. Moreover, there is no law under which Director Land Record office, being subordinate to Frame/notify the rules.
- K) That the seniority given to 09 Sub-Registrar duly approved by the Senior Member of Board of Revenue, KPK. More over none of the sub registrar has been reverted which proves that

the said promotion was right and according to law. (**Copy of the seniority list is attached as Annexure-Q**).

- L) That the punishment given to the appellant is too harsh being a good service record holder and there is no allegation proved on the part of appellant .
- M) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT
Ghulam **NABI**

THROUGH:


(M. ASIF YOUSAFZAI)


(TAIMUR ALI KHAN),


&
(SYED NOMAN ALI BUKHARI)
ADVOCATES, PESHAWAR.

TESTED

BOARD OF EXAMINERS, NEW YORK

EXAMINER

[Handwritten signature]

OFFICE ORDER BOOK

17

FORWARD FILE

18

WILL ADVISE, BOARD OF EXAMINERS, NEW YORK

19

EXAMINER FILE, BOARD OF EXAMINERS, NEW YORK

20

EXAMINER FILE, BOARD OF EXAMINERS, NEW YORK

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⑨

As

ATTESTED

(NAZAR HUSSAIN)
DIRECTOR LAND RECORDS,
N.M.F.P.

[Signature]

[Handwritten initials]

- 1. Accountant General, N.M.F.P.
- 2. Bill Assistant, Land Records.
- 3. Officials concerned.
- 4. Office order file.

Copy forwarded to the:-

No. 3457-61 /DIR.Estds:

(NAZAR HUSSAIN)
DIRECTOR LAND RECORDS,
N.M.F.P.

[Signature]

They will remain on probation for a period of one year.
effect.

NWP, are hereby promoted as Senior Clerks in BPS-7 with immediate
Hussain, Junior Clerks BPS-5, office of the Director Land Records
Departmental Promotion Committee M/S Ghulam Nabi and Iftikhar

No. _____ /DIR.Estds: On the recommendation of the

OFFICE ORDER.

Peshawar dated the 6/12/1990

OFFICE OF THE
DIRECTOR LAND RECORDS, N.M.F.P.

①

[Handwritten signature]

Amerees - B1

8

OFFICE OF THE
DIRECTOR LAND RECORDS, N.W.F.P.
PESHAWAR DATED THE 12 /07/1995.

OFFICE ORDER.

No. _____ /DLR/Estb: On the recommendation of the Departmental Promotion Committee Mr. Ghulam Nabi, senior clerk BPS-9, office of the Director Land records, NWFP, is hereby promoted as Assistant in BPS-11, with immediate effect.

He will remain on probation for a period of one year.

MHR
(MUHAMMAD RAHIM ORAKZAI)
DIRECTOR,
LAND RECORDS, N.W.F.P.

Endst: No. 1963-66 /DLR/Estb;

Copy forwarded to the:-

1. accountant General, NWFP, Peshawar.
2. Bill Assistant, Land records, NWFP.
3. *X* Official concerned.
4. Office order file.
5. *v* Personal file.

MHR
(MUHAMMAD RAHIM ORAKZAI)
DIRECTOR,
LAND RECORDS, N.W.F.P.

ATTESTED

[Signature]

Annex - B2

9

GOVERNMENT OF N.W.F.P.
REVENUE AND WEALTH DEPARTMENT.

PESHAWAR DATED 28/04/2003.

NOTIFICATION.

No. _____ /Admn:II/Promotion. On the recommendations of the Departmental Promotion/Selection Committee, Board of Revenue, NWFP, Mr. Ghulam Nabi, Assistant, of the office of Director Land Records NWFP, is hereby promoted as Superintendent (BPS-16) with immediate effect.

Senior Member,
Board of Revenue, NWFP.

Dist: No. 5095-97 /Admn:II/Promotion.

Copy forwarded to:-

- 1- The Director Land Records, NWFP.
- 2- Accountant General, N.W.F.P. Peshawar.
- 3- ✓ Official concerned.
- 4- Personal File.

Produce
SECRETARY,
BOARD OF REVENUE, NWFP.

ATTESTED

A

10

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 26/12/2011

CHARGE SHEET

I, Waqar Ayub Senior Member Board of Revenue as Competent Authority, hereby charge you Mr. Ghulam Nabi, Superintendent Land Records on account of the following acts of omissions / commission.

- i. That the Law Department vetted and approved the draft Notification on 17.08.2006 pertaining to Sub Registrar Service Rules but the same were not notified by the Department and you being a responsible official of the branch processed the case of promotion of 09 Registration Moharrirs against the post of Sub Registrars in 2008 on the basis of draft service rules which had yet to be notified.
- ii. That the processing of working paper for promotion of above said 09 Registration Moharrirs has not been recorded in writing on Note part. Furthermore synopsis of the said Registration Moharrirs also not annexed with working paper.
- iii. That you did not process the advice / letter No. SOR.II(E&AD)2(22)/99(Vol:II), dated 28.02.2009 received from Section Officer (R-II), Establishment Department (Regulation Wing), Khyber Pakhtunkhwa Peshawar.

By reason of the above you appear to be guilty of misconduct under Rule - 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules - 1973 and have rendered yourself liable to all or any of the penalties specified in Rule - 4 of the said Rule.

You are therefore required to reply in your defence in writing within 14 days of the receipt of this charge sheet, as to why disciplinary action should not be taken against you and whether you desire to be heard in person.

Your written defence, if any, should reach Mr. Ghulam Iqbal Asst. Secretary the Enquiry Officer within the specified period failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

Waqar Ayub
Senior Member 26/12/2011

ATTESTED

STATEMENT OF ALLEGATION

- i. That the Law Department vetted and approved the draft Notification on 17.08.2006 pertaining to Sub Registrar Service Rules but the same were not notified by the Department and you being a responsible official of the branch processed the case of promotion of 09 Registration Moharrirs against the post of Sub Registrars in 2008 on the basis of draft service rules which had yet to be notified.
- ii. That the processing of working paper for promotion of above said 09 Registration Moharrirs has not been recorded in writing on Note part. Furthermore synopsis of the said Registration Moharrirs also not annexed with working paper.
- iii. That you did not processed the advice / letter No. SOR.II(E&AD)2(22)/99(Vol:II), dated 28.02.2009 received from Section Officer (R-II), Establishment Department (Regulation Wing), Khyber Pakhtunkhwa Pehsawar.

ATTESTED

A

To,

The Assistant Secretary (Receipts)/
Enquiry Officer.

Subject:- REPLY TO THE CHARGE SHEET/STATEMENT OF ALLEGATION.

Kindly refer to Assistant Secretary (Esstt:) Board of Revenue Khyber Pakhtunkhwa memo:No.Esstt:I/31076-77/ dated 26/12/2011 wherein I the undersigned was served with a charge sheet. In reply to the charge sheet I hereby submit the following:-

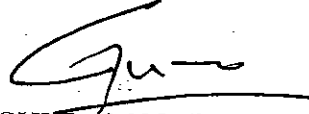
- i) The Charge that the Law Department vetted/approved the draft Notification on 17-8-2006 pertaining to Sub-Registrar Service Rules, but the same were not notified by the Department (**Board of Revenue**) and you processed the case of promotion of 09 Registration Muharrirs against the post of Sub-Registrar in 2008 on draft rules which had yet to be notified is baseless, mechanical and factitious because as a routine the Board of Revenue Khyber Pakhtunkhwa is authorized/responsible to notify the said rules as vetted by the Law Department. Neither Inspector General Registration/Director Land Records, Khyber Pakhtunkhwa nor I was responsible to notify the same. From the above it is evident that notifying rules was no part of my job/duty, rather Board of Revenue was duty bound to notify the rules being rules framing authority. Since the rules of 1993 was still intact and promotion on un-notified rules were illegal/unjustified.. The case was neither initiated nor processed by me. I neither was D.P.C Member nor Chaired the D.P.C. rather other Officers who made promotions may be held responsible.
- ii) The charge that the processing of working papers for promotions of above 09 Registration Muharrirs has not been recorded in writing reasons to be unjustified that I was directed by Competent Authority to prepare working paper for the said promotions. It is on record that I have prepared that working paper in shape of an information note that rules pertaining to the promotion of Registration Muharrir are not cleared/notified.. So I could not process the case being illegal. I was unaware of the D.P.C meeting only I was directed by the Competent Authority to prepare working paper. It was only after the D.P.C meeting that the relevant minutes handed over to lower formation and was directed to issue the orders. These orders were issued under the signatures of Inspector General Registration/Director Land Records, Khyber Pakhtunkhwa being Appointing Authority. Hence the charge is baseless.
- iii) The charge that you did not process the advice/letter No.SOR.II(E&AD)2(22)/99 (Vol.II), dated 28-2-2009 (**Copy attached vide Annexure-A**) is totally against reason and common sense, is the received letter of Regulation Wing of Establishment Department which no where bears my initial but of Senior Member of Board of Revenue and Inspector General Registration, Khyber Pakhtunkhwa while (**Copy attached at Annexure-B**) is the note part prepared directly by Director Land Records to Senior Member of Board of Revenue and was placed before the worthy Senior Member of Board of Revenue for approval. The Senior Member of Board of Revenue was pleased to record his orders vide (**Copy attached at Annexure-C**). Secretary Board of Revenue was directed to refer the case to Law Department for advice. The case was handed over to Assistant Secretary (Admn) which clearly shows his initial and was directed by the Secretary Board of Revenue to "put up DFA". Hence the charge is baseless.

ATTESTED

In view of the above charges leveled against me nothing has been proved on record against me. I may please be exonerated from the above charges and obliged. Personal hearing is solicited please

Dated:- 7/1/12

Yours Obediently



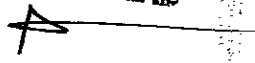
(GHULAM NABI)

Assistant Supdt:

Directorate of Land Records.

(Presently working as Supdt: in the Budget Branch, Board of Revenue Khyber Pakhtunkhwa)

ATTESTED



14

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 26/12/2011

ORDER

No. Estt: I/ _____ In exercise of the powers conferred by rule 5 (2) of the NWFP Government Servants (Efficiency and Disciplinary) Rules, 1973, Mr. Ghulam Jeelani Assistant Secretary (Receipt) Board of Revenue is hereby appointed as Enquiry Officer to conduct enquiry in connection with the charges mentioned in the enclosed charge sheet against Mr. Ghulam Nabi, the then Superintendent (DLR Office) after observing the procedure laid down in rule 6 of the above quoted rules.

By order of
Senior Member

No. Estt: I/ 31076-77

Copy to the:-

1. Mr. Ghulam Jeelani Assistant Secretary (Receipt) Board of Revenue. He is requested to submit his findings within 15 days of the receipt of this order. *Charge sheet & statement of allegations are enclosed.*
- ✓ 2. Mr. Ghulam Nabi, Superintendent (Budget) Board of Revenue. He is directed to attend the office of Enquiry Officer as and when called. Charge Sheet and Statement of allegations are enclosed.


Assistant Secretary (Estt)

ATTESTED

ANWAR ZEB
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C

To,

The Senior Member of Board of Revenue,
Khyber Pakhtunkhwa.

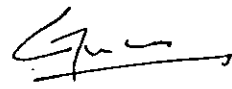
SUBJECT: NO CONFIDENCE.

R/ Sir,

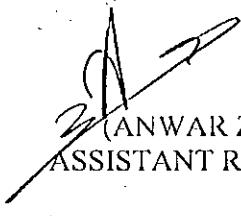
It is requested that Mr. Ghulam Jeelani Assistant Secretary (Receipts) Board of Revenue has been appointed as Enquiry Officer vide Board of Revenue letter No. EST/E/ 31079-80^{d 3/076-77} dated 26-12-2011 whereby the undersigned have been charge sheeted and served with statement of allegation. In this regard, it is stated that we have no confidence over the above said Enquiry Officer.

It is therefore requested that another Enquiry Officer out of Board of Revenue may kindly be appointed for the purpose.

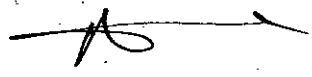
Yours obedient Servants,

o/c

(GHULAM NABI)
Superintendent B.O.R

Dated:- 29.12.2011.

o/c

(ANWAR ZEB)
ASSISTANT REVENUE-I

ATTESTED



' F ' (16)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT**

No.AS (RT)/Enquiry/2011-12/ 79-80

Dated: 05/01/2012

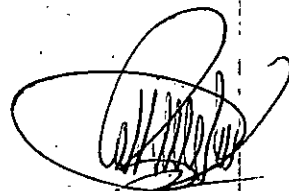
To,

1. Mr. Ghulam Nabi,
Superintendent,
Board of Revenue.
2. Mr. Anwar Zeb,
Assistant, Board of Revenue.

SUBJECT: NO CONFIDENCE-ACTS OF OMISSION/COMMISSION

Please refer to your letter dated 0201.2012 whereby no confidence against the undersigned as Enquiry Officer for holding enquiry against both of you was shown. In this context the matter was submitted for appointment of another officer but the Competent Authority has ordered me to continue with the subject enquiry.

Therefore in continuation of letter No. AS(RT)/Enquiry/2011-12/31093-94, dated 27.12.2011, you are advised to provide your reply in defense and appear before the undersigned if you desire to be heard on 07.01.2012.



**Assistant Secretary (Receipt),
Enquiry Officer**

ATTESTED



Annexure "G" (17)

~~Annexure - M~~

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

SUBJECT: INQUIRY REPORT IN RESPECT OF MR. ANWAR ZEB,
ASSISTANT, BOARD OF REVENUE

Kindly refer to ORDER No. 31079-80/Estt-I, dated 26.12.2011 issued by Board of Revenue, whereby the undersigned has been ordered by the Competent Authority to conduct inquiry against Mr. Anwar Zeb, Assistant of the office of Director Land Records presently posted in Board of Revenue, in light of Charge Sheet/Statement of allegations already served upon him (Annexure-A).

BACKGROUND OF THE CASE

2. While going through the statement of allegations, it is observed vide charges No.(i), (ii) and (iii) the accused has been asked to explain that though the Law Department had vetted/approved the draft Notification dated 17.08.2006 in respect of Sub Registrar Service Rules but the same were not notified and he processed the case of promotion of Registration Moharrirs against the post of Sub Registrars in 2008 on the basis of draft service rules which were not notified. Further, Working Paper for promotion of above said Registration Moharris was not recorded in writing on Note Part. Synopsis were also not annexed with the Working Paper. And he did not process the advice dated 28.02.2009 received from Section Officer (R.II) Establishment Department.

REPLY TO CHARGES

3. In light of above order, the accused was asked on 27.12.2011 to appear before the undersigned on 02.01.2012 and provide his reply in defense. So on 09.01.2012, he presented the reply and a chance of personal hearing was also afforded (Annexure-B). While going through the reply it is noticed that the accused straight away denied his involvement in the case. According to him neither he was responsible to deal with the draft Rules nor DLR was supposed for the purpose. He also stated that through a Note he pointed out that rules in respect of appointment are not clear. Replying to charge-ii, he explained that he was not aware about holding of DPC and only on the directions of seniors he handed over the relevant record. Furthermore, minutes alongwith appointment orders were handed over to him for issuance. So as to reply to charge-iii is concerned he stated that he did not deal with the case as it was processed by the DLR himself and subsequently Senior Member, Board of Revenue was pleased to order for seeking advice from Law Department.

FACTS

4. A perusal of Note part from Para: 1-4 annexed by the accused with his reply to Charge Sheet (Annexure-C), would reveal that he processed application of a Sub Registrar and judgment of Service Tribunal and suggested that case may be forwarded to Law Department for legal opinion. Though the said Note was marked to Superintendent but it went straight away

ATTESTED

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to IGR. In this context, IGR vide Para-5 advised the Superintendent to put up relevant promotion rules and draft rules which have not yet been notified. Though the said direction was for Superintendent but again it reached to the hands of Assistant who vide Para: 6-8 again by-passing Superintendent marked it to Superintendent/DLR (Annexure-D). In defense the accused stated that in fact it can be ascertained from the files of other Assistants of the Section that at some occasions they marked the files direct to DLR in absence of Superintendent who always remained absent from the office. While going through original Note obtained from the office of DLR, it is seen that the said Note did not reach to the table of SLR/IGR. This act of the accused establishes that in fact he did not submit Note to DLR, otherwise he would have not drawn cross lines on the blank space. In his support the accused says that the note in question was submitted to DLR for his perusal but the same after passing sufficient time was returned to him without recording any remarks/order (original copy enclosed). So as to his this contention that he was not aware about holding of DPC, but on other hands he confesses that he was directed by his seniors to hand over the relevant record. Relevant record mean the file containing No. of vacant posts, seniority list, ACRs in original OR synopsis and Working Paper therein.

5. Further perusal of photocopy of Note Part (Annexure-E) reveal that at Para-1-2, Assistant (Estt-V) stated that DLR forwarded requisition for recruitment of 9 Sub-Registrars through Public Service Commission. While going through the file it is also noted that alongwith the requisition an original Notification bearing No. 10373/Admn:VII/KC 12-A, dated 09.06.2006 allegedly signed by ex-Senior Member, Board of Revenue was also annexed with the requisition. It is presumed that when walks and talks surfaced, assessing the time, the said original Notification has been encircled in the neck of Estt: Section of Board of Revenue proving that it never remained in DLR's office. The undersigned discussed in length the landing of this particular Notification in Estt: Section with the following officers/official of Estt: Section who straight away denied its existence earlier in their Section and disclosed that it was already annexed with the forwarding letter with which requisition for Public Service Commission was enclosed.

- i. Mr. Muhammad Zarif, AS(Estt).
- ii. Mr. Muhammad Ajmal, Superintendent (Estt).
- iii. Mr. Muhammad Imaran, Assistant (Estt).

6. According to Mr. Imran, after a day or two, Assistant LR-IV visited his Section and requested him not to take any action on the requisition as according to him it contained some mistakes and deficiencies like pay scale of Sub Registrar which was mentioned as (16) instead of (14) and working out Zone wise quota. Thus he did not take further action and waited for its return duly corrected/completed. In the meanwhile Assistant LR-IV was transferred from DLR office to Board of Revenue, thus the matter remained unattended till 17.10.2011 when the issue of requisition and promotion of Registration Moharrirs was discussed on higher level, so in light of DLR's office earlier request, the same was returned to him in writing on 01.11.2011 for thorough examination/correction. According to Estt: Section, till now, no response has been heard from that end. To know the genuinness of the above said statements, the undersigned

(8)

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file did not reach to his hands as the subject matter was related to Admn:VII who at that time was dealing with the said case. So in light of his statement, Mr. Samad who was working as Record Keeper against the seat of Assistant (Admn:VII) was shown the said case. He stated that Mr. Anwar Zeb, Assistant of the office of DLR came to him with a file without Note Part and tried to hand over that file but he refused to accept it as the same was without Note Part, so he took away that file with him (Annexure-II). According to him till his transfer from that seat, he did not receive back that file. It is also strange to note that when Note of DLR which was submitted by DLR to Senior Member, Board of Revenue who directed that case be referred to Law Department and which at last was marked to Assistant (Admn-V) for putting draft letter then how this Note alongwith file was reached to the hands of those officials who were interested in its retrieval when the file was in custody of Establishment Section. And the accused after passing three years annexed it with his reply in defense. It is worth mentioning that being housed in one building the concerned staff of DLR's office always took advantage by using Dispatch Register of BOR for issuance of those letters which were to be issued for ulterior motives by quoting Admn:V and Admn:VII.

FINDINGS

9. While going through the files and correspondence though it cannot be established that the accused was practically involved with charges as mentioned in the Charge Sheet but it has been established that:

- i. Someone belonging to staff of DLR's office was very much active behind holding of DPC-2008 and had a pivotal role in getting things in their favour.
- ii. Though the concerned staff of Establishment Section of Board of Revenue stated that the Notification-2006 allegedly signed by Ex-SMBR (Shah Wali Khan) was already annexed with the acquisition but it cannot be proved that the accused certainly enclosed the said notification with the requisition as the concerned staff of Estt. Section when received the requisition did not pin-point its landing in their Section at that time.
- iii. Also there is no material available in the files which could establish that such and such proposals against the rules were recommended by the accused except that correspondence which the accused made with DLR by passing the Superintendent.
- iv. Though the accused is denying that he did not know about proceedings of DPC held in 2008 but it is also a fact that without presence of custodian of relevant record and the Superintendent of Section, a meeting cannot be held.

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v. Though the Working Paper and other material required for holding of DPC-2008 is not available on record but it can safely be opined that these documents in fact were prepared and placed before the Committee and after obtaining the Pency with malafide intentions, these were removed from the scene by unforeseen hands.

Under Section 6(5) of NWFP Government Servants (E&D) Rules, 1973, the Inquiry Officer has been made bound to submit his findings and ground thereof, accordingly report is submitted for perusal/orders of the Competent Authority.

(Ghulam Jeclani)
Assistant Secretary (Receipt),
Enquiry Officer.

ATTESTED

'H' (22) 1/

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT.**

Dated, 4/03/2013.

To.

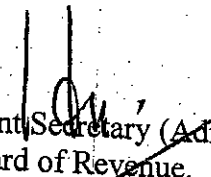
1. Mr. Ghulam Nabi
Superintendent DLR's Office.
2. Mr. Anwar Zeb,
Assistant DLR's Office.

Subject:

ENQUIRY.

An enquiry Committee against you has been ordered by the Competent Authority to re-inquire the illegal promotion case (s) of Registration Muharrirs to the post of Sub-Registrars in the year 2008.

You are directed to submit your written replies to the statement of allegations leveled against you vide charge sheets dated 26.12.2011, to the undersigned within two days positively.


Assistant Secretary (Admn)
Board of Revenue.

ATTESTED


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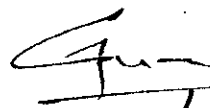
(2/3)

To,

The Enquiry Officer

Subject: Reply

Kindly refer to the subject noted above, with the Humble request that the requisite reply has already been communicated to the Enquiry Officer on 07/07/2012 (copy enclose) is still stand please.


6/3/13
(GHULAM NABI)

SUPERINTENDENT,
LAND RECORDS, KHYBER
PAKHTUNKHWA.

ATTESTED



17th A. K. @ 9th ANNEXURE - J

24

INQUIRY REPORT IN RESPECT OF MR. ANWARZEB OFFICE ASSISTANT, DIRECTORATE OF LAND RECORDS AND ALL OTHER ACCUSED OFFICIALS INVOLVED IN THE ILLEGAL PROMOTION CASE(S) OF REGISTRATION MUHARRIRS TO THE POST OF SUB-REGISTRAR IN THE YEAR 2008.

It refer to order No: Admn-VII/Est: BOR/2013/2322-27 dated 18.02.2013 whereby the undersigned: have been ordered by the Competent Authority to probe into allegations against Mr. Anwarzeb working as Assistant in Director Land Record's Office and all other accused officials involved in the illegal promotion case (s) of Registration Muharrirs to the post of Sub-Registrars in the year 2008.

FACTS

1. Facts of the case are that in compliance with to obey orders of Competent Authority the files on the subject were obtained from Superintendent (Establishment) of Board of Revenue. After perusal of files it reveals that charge sheets dated 06.02.2011 and 26.12.2011 were issued to M/S. Ghulam Nabi Superintendent and Anwarzeb Assistant of Director Land Record's Office whereby the following allegations/charges were leveled against them:-

- i. That the Law Department vetted and approved the draft Notification on 17.08.2006 pertaining to Sub-Registrar Service Rules but the same were not notified by the Department and they being responsible officials of the branch processed the case of promotion of 09 Registration Moharrirs to the post of Sub-Registrars in 2008 on the basis of draft service rules which had yet to be notified.
- ii. That processing of working paper for promotion of above said 09 Registration Moharrirs has not been initiated in writing on Note part. Furthermore synopsis of the said Registration Moharrirs also not annexed with working paper.
- iii. That they did not process the advice/letter No.SOR.II(E&AD)2(22)/99 (Vol:II), dated 28.02.2009 received from Section Officer (R-II), Establishment Department (Regulation wing), Khyber Pakhtunkhwa Peshawar.

2. In the instant case an enquiry has already been conducted by Mr. Ghulam Jeelani retired Assistant Secretary Board of Revenue vide (Annexure-A). However, M/S Ghulam Nabi Superintendent and Anwarzeb Assistant Director Land Record's Office, were directed to submit their written defence in response to the charges leveled against them. The accused officials have submitted the same which may be perused vide (Annexure-B & C) respectively. The said written statements show that both the accused officials have totally denied their involvement/relevancy in the case.

A. STATEMENT OF MR. GHULAM NABI SUPERINTENDENT.

Mr. Ghulam Nabi Superintendent stated that the Board of Revenue is the authority to notify the draft notification and it is not his job to notify it. Further stated that Sub-Registrar Rules, 1993 are still intact therefore, promotion under rules which has to be notified was illegal. He admitted in his statement that he has prepared Working Paper on the directions of Competent Authority (i.e. Director Land Records) mentioned in the Working Paper that rules are not cleared/notified. Further stated that he was unaware of the Departmental Promotion Committee. He also

[Handwritten signature]

Noted as per

These rules are not cleared/notified. Further stated that he was unaware of the Departmental Promotion Committee. He also

17 FEB 2013

denied his involvement in Establishment Department's letter dated 28.02.2009.

B.

STATEMENT OF MR. ANWARZEB ASSISTANT.

(36) (25)

Mr. Anwarzeb stated that he has already submitted detail reply and he was transferred to Board of Revenue on 01.08.2011 while the charge sheet was reached by him on 26.12.2011. He also stated that he had submitted an application for replacement of Enquiry Officer as the brother of Enquiry Officer was also promoted to the post of Sub-Registrar in the said Departmental Promotion Committee but his request was not given due consideration. He further stated that minutes of the Departmental Promotion Committee were tempered and he could not process the letter of Establishment Department dated 28.09.2009 and the relevant file was routed/processed through Mr. Ghulam Jeelani as his brother was a candidate for promotion as Sub-Registrar therefore, the file was disappeared/concealed.

OBSERVATIONS.

3. It has been observed that the original file regarding promotion and Service Rules is missing and still have not been found in the concerned record to produce before the enquiry committee, however after deep study of the case file (in hand) and other relevant documents connected to the case, the following points are worth consideration:-

- i. So far as the preparation of working paper for the said Departmental Promotion Committee is concerned, the Superintendent In charge has clearly mentioned that the required rules, in the said promotion case for the time since from 1993 had become rescinded and latest amendment brought up in the year 2006 which though got vetted through Law Department had not yet been notified up till dates due to the unknown reasons. The concerned Superintendent further mentioned in the Working Paper that the Departmental Promotion Committee may determine the suitability for promotion to relevant record, signed the said Working Paper without producing any cogent reasons in wake of non availability of relevant Sub-Registrar Rules.
- ii. Why the promotion orders which were issued have not been cancelled/withdrawn so far by the Director Land Record.
- iii. Can it possible that the Superintendent and dealing Assistant were out of reach/inaccessible to communicate/ contact in the promotion case.
- iv. Mr. Anwarzeb Assistant clearly stated in his statement that he did not process the Establishment Department letter dated 28.02.2009.
- v. Mr. Ghulam Nabi stated in his statement that Sub-Registrar Rules, 1993 is still intact whereas in the Working Paper these rules were not for worth consideration, he further added that the Departmental Promotion Committee was supposed to determine the fitness for promotion to the post of Sub-Registrars amongst the qualified Registration Staff strictly in accordance with the provision and policy on the subject, however there has been no details of such policy in the said Working Paper. Now the question is how, the Departmental Promotion Committee determined the criteria for the said promotion without having relevant rules/policy to workout allocation of vacancy and quotas/shares of promotion posts

ATTESTED



related zone wise allocation etc. against the total 9 vacant post of Sub-Registrar as shown in the said working paper.

FINDINGS.

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This is revised enquiry which was initially conducted by Mr. Ghulam Jeelani, the then Assistant Secretary, Board of Revenue against Mr. Ghulam Nabi, Superintendent, Director Land Records and Mr. Anwar zeb, Office Assistant, Director Land Record's office and no other official of the said Directorate has been involved in this enquiry. No fresh Charge Sheets/Statement of allegations have been served upon them. Previous Charge Sheets, Statement of allegations, their replies and all other relevant available records have been examined. From the perusal of Charge Sheets/Statement of allegations, it reveals that the above officials had processed the promotion case of nine Registration Moharris to the post of Sub Registrars without having cogent/valid rules and DPC have cleared them and promoted as Sub Registrars from 20.09.2008.

5. So far as the illegal promotion of Registration Moharris is concerned, they were promoted by the Departmental Promotion Committee consisted upon the following senior and experienced officers:

- | | |
|---|----------|
| 1. Mr. Khalid Saleem DLR/IGR, Khyber Pakhtunkhwa. | Chairman |
| 2. Mr. Bakhtiar-Khan (DS-II), Board of Revenue | Member |
| 3. Mr. Ghulam Jeelani (Assistant Secretary), Board of Revenue | Member. |

6. It was the responsibility of the Committee's members to see all rules/regulations and other criteria which has been formulated for the promotion of Sub Registrars because all the above mentioned officers are well experienced and matured due to their length of services as all of them have now been retired from service.

7. As the above mentioned officers have been retired from service and no disciplinary actions could be taken against them. As it was the duty of the Departmental Promotion Committee to scrutinize all the cases and to fulfill all the legal requirements before their selection/promotion and the committee has also violated these rules. This fact has also been admitted by the then Inspector General Registration (namely Mr. Khan Bakhsh) in an office note which was submitted to the then Senior Member, Board of Revenue (Annexure-D).

8. If all the Sub Registrars are reverted to their original positions i.e Registration Moharris in light of the letter of Establishment Department vide (Annexure-E) then a flood gate of litigations will be opened as they are enjoying their positions since 20.09.2008. On the other hand both the officials namely Ghulam Nabi (Superintendent) and Mr. Anwarzeb (Office Assistant) of the DLR office have suffered a lot for the last one and a half year and only considering them guilty for the promotion of Sub Registrars will not be the justice.

ATTESTED

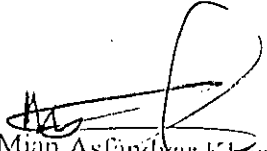
RECOMMENDATIONS.

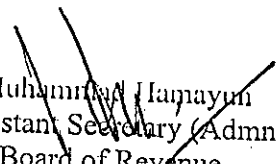
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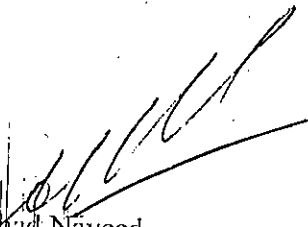
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9. In light of the above mentioned facts/discussion and perusal of available records, Committee recommends that both the above named officials may be warned to be careful in future.


Mian Asfandyar Khan
Director Land Records


Muhammad Hamayun
Assistant Secretary (Admn)
Board of Revenue


Arshad Naveed
Secretary-II
Board of Revenue

↖ letter
for not agreeing
with recommendations.

ATTESTED

Amman - F K

28
39

In compliance with the directions of the then Senior Member Board of Revenue vide para-4/N all the three retired officers were summoned and they have submitted their joint written statement vide (Flag-1). Their statement has been examined and it has been observed that, according to the statement of Director land Record, the working paper which is available in file no. L.R.IV/Registration Moharrir/2008 was not submitted to him for his approval, rather it has been changed and the working paper which was submitted to him for his approval, it was mentioned that 40% posts of sub Registrars will be filled up by initial recruitment to be made through Public service Commission and 60 % by promotion from amongst the Registration Moharrir.

After completion of DPC's proceedings all the Registration Moharrirs were promoted on regular basis by the Director land Records/IGR which is clearly violation of the rules and they have failed to defend their case.

It is further pointed out that after the receipt of draft Service Rules of Sub Registrars from the Law Department by the Administration Department i.e. (Board of Revenue) for examination/notifying and issuance vide Law Department letter No. Reg:1 (6)1973/2115-16 dated 17.08.2006 (Flag-G) but the said rules were not notified by the Board of Revenue, for un-known reasons even till now (2013) and in the meantime another rules on the same subject have been framed and also notified which are in-vogue now.

So far as response of Establishment Department is concerned, it is very much clear and which was supposed to be implemented in letter and spirit but it could not done due to unknown reason. In light of the joint statement of three retired officers and above mentioned facts, only superintendent and concerned office Assistant of Director land Record are not responsible, rather the officers/officials of the concerned branch of Board of Revenue, and Members of the DPC are equally responsible. As all the three Members/Chairman of the DPC have been retired, and no disciplinary action could be taken against them.

RECOMMENDATIONS

It is, therefore, recommended by the committee that the promotion orders of all the nine Moharrirs as Sub Registrars, being illegal and unjustified may be withdrawn and they may be reverted to their original post retrospectively.

2. Disciplinary action may be initiated against ^{not} ~~all~~ ^{part} concerned officers/officials in the Board of Revenue as well as Director land Record's office under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 who have shown negligence in notifying the draft Service Rules as desired in the Establishment Department letter No. SOR.II(E&AD)2(22)99 (Vol.II) dated 28.02.2009 (Flag-E).

(Mian Asfandyar Khan)
Director land Records

(Muhammad Mamayun)
Assistant Secretary (Admin)
Board of Revenue

(Arshad Naveed)
Secretary-II
Board of Revenue

ATTESTED

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

SHOW CAUSE NOTICE

I, Muhammad Humayun Khan, Senior Member, Board of Revenue, as Competent Authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, serve you Mr. Ghulam Nabi, Superintendent office of the Director Land Records, show cause notice that an enquiry was conducted against you, wherein an opportunity was given to you to be heard in person and furnish written defense. The Enquiry Officer has submitted his report on 17.09.2015.

2. After going through the findings of the Enquiry Officer, material on record and your written defense before the Enquiry Officer, I am satisfied that you have committed misconduct on the following account:

- i) That the Law Department vetted and approved the draft Notification on 17.08.2006 pertaining to Sub-Registrar Service Rules but the same were not notified by the Department and you being a responsible official of the branch processed the case of promotion of 09 Registration Muharrirs against the post of Sub-Registrars in 2008 on the basis of draft service rules which had yet to be notified.
- ii) That the processing of working paper for promotion of above said 09 Registration Muharrirs has not been recorded in writing on Note part. Furthermore synopsis of the said Registration Muharrirs were also not annexed with working paper.
- iii) That you did not process the advice/letter No. SOR.II(E&AD)2(22)/99(Vol:II), dated 28.02.2009 received from Section Officer (R-II), Establishment Department (Regulation Wing), Khyber Pakhtunkhwa Peshawar.


3. As a result thereof, I, as Competent Authority, am of the view to impose major penalty as indicated in Rule-4 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

no specific

4. You are therefore required to show cause as to why the aforesaid penalty should not be imposed upon you. Furthermore, you are directed to appear on 19.10.2015 at 10:00 a.m before the undersigned for personal hearing.

5. If no reply to this Notice is received within 07 days of its delivery, it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

ATTESTED


Senior Member

No.Esst:I/ 21799
Peshawar, dated 09/10/2015

Mr. Ghulam Nabi, Superintendent office of the Director Land Records.

Annexure No. 1/11 50 30

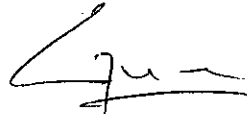
To,

The Assistant Secretary (Estab:)
Board of Revenue, Khyber Pakhtunkhwa.

SUBJECT: REPLY TO THE SHOW CAUSE NOTICE DATED 09/10/2015.

Kindly refer to the subject and to request in your honour that reply has already been submitted to the Enquiry Officer on 07/01/2012 and 06/03/2013 respectively which may be sympathetically considered as the reply to the show cause notice dated 09/10/2015 please.

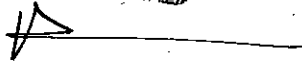
YOURS SEINCERELY



(GHULAM NABI)

SUPDT: OFFICE OF THE
DIRECTOR LAND RECORDS.

ATTESTED



Answer "NO"

(31)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 10/02/2016.

NOTIFICATION

No.Estt:I:/PF/Ghulam Nabi/_____ WHEREAS; Mr. Ghulam Nabi Superintendant office of the Director Land Record was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges, mentioned in the Charge Sheet & Statement of Allegations.

AND WHEREAS; Mr. Arshad Naveed, the then Secretary-II Mian Asfandyar the then Director Land Record and Muhammad Hamayun Assistant Secretary Admn Board of Revenue were appointed as Inquiry Committee to probe charges leveled against the said officials and submit findings and recommendations.

AND WHEREAS the Inquiry Committee after having examined the charges, evidence produced before them and statement of accused official, submitted their report whereby the charges against the accused official stands proved.

AND THEREFORE I, Muhammad Humayun Khan, Senior Member, Board of Revenue after having examined the charges, evidence produced, statement of accused official, findings of Inquiry Committee and after personal hearing of the accused official concur with the findings and recommendations of the Inquiry Committee.

NOW THEREFORE I as Competent Authority in exercise of powers conferred by Rule-4 (b) (ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 impose major penalty of Compulsory Retirement from service upon Mr. Ghulam Nabi Superintendant, Director Land Record's Office with immediate effect.

Sd/--
Senior Member

No.Estt:I:/PF/Anwar Zaib/ 4283-87

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Director Land Record Khyber Pakhtunkhwa.
3. PS to Senior Member Board of Revenue
- ✓ 4. Official Concerned.
5. Personal File.

ATTESTED

1626

Secretary - I

Annexure 'O'

(3B)

18-2-16
M/R

To

The Chief Secretary,
Civil Secretariat, Khyber Pakhtunkhwa.
Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 10.2.2016, PASSED BY THE SENIOR MEMBER, BOARD OF REVENUE, KHYBER PAKHTUNKHWA WHEREBY APPELLANT IS COMPULSORILY RETIRED FROM SERVICE WHICH IS ILLEGAL AGAINST THE LAW AND FACTS.**

PRAYER: **ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 10.2.016 MAY PLEASE BE SET-ASIDE AND APPELLANT MAY PLEASE BE RE-INSTATED IN SERVICE WITH ALL BACK BENEFITS.**

Sir,

Appellant humbly submits as under:-

1. That Appellant was appointed as Junior Clerk vide order dated 24.6.1984 (**Annexure-A**).
2. That Appellant was promoted as Senior Clerk and Assistant due to his best performance vide order dated 06.12.1990 & 12.7.1995 respectively (**Annexure-B & C**).
3. That appellant in recognition of his best performance and spotless Service is promoted as Superintendent vide order dated 08.4.2003 (**Annexure-D**).
4. That appellant is charge sheeted on 26.12.2011 as per Khyber Pakhtunkhwa Government Servants (E&AD) Rules 1973 (**Annexure-E**). The charges are as follows:-
 - a. That the Law Department vetted and approved the draft Notification on 17.08.2006 pertaining to Sub-Registrar Service Rules but the same were not notified by the Department and you being a responsible official of the branch processed the case of promotion of 09 Registration Moharrirs against the post of Sub-Registrars in 2008 on the basis of draft service rules which had yet to be notified.
 - b. That the processing of working paper for promotion of above said 09 Registration Moharrirs has not been recorded in writing on Note part. Furthermore, synopsis of the said Registration Moharrirs were also not annexed with working paper.
 - c. That you did not process the advice/letter No.SOR.II/(E&AD)2(22)/99(Vol:II) dated 28.2.2009 received from Section Officer (R-II), Establishment Department (Regulation Wing), Khyber Pakhtunkhwa Peshawar.
5. That appellant properly replied the same on 07.01.2012 (**Annexure-F**) wherein main defence of the appellant is that appellant has neither member of the committee nor Secretary of the Departmental Promotion Committee with respect to promotion of 09 Sub-Registrars.
6. That Ghulam Jilani, the then Assistant Secretary (Receipt), Board of Revenue was appointed as Inquiry Officer who was a member of Departmental Promotion Committee and promoted his younger brother namely Muhammad Iqbal and was interested, Biased and against the defence of appellant which was rightly objected by appellant in writing (**Annexure-G**) but the request was turned down vide order

ATTESTED

dated 04.01.2011 (**Annexure-H**) and the Inquiry Officer gave has arbitrary findings to save his own skin. (**Annexure-I**).

7. That appellant received a letter dated 04.03.2013 (**Annexure-J**) for inquiry wherein a committee comprising of Chairman plus two members was convened and another written reply on 06.3.2013 (**Annexure-K**) was received from appellant.
8. That the Inquiry Committee recommended that appellant be directed to be careful in future (**Annexure-L**).
9. That the matter should have been closed but the SMBR again directed the Inquiry committee to summon the retired officers of Departmental Promotion Committee and competent authority and after summoning them, Inquiry Committee recommended that action under E&AD Rules 2011 be initiated against all those who did not notify the rules (**Annexure-M**) whereas rules notification is the duty of Board of Revenue and not office of Director Land Records as visible from note sheet of Assistant Secretary (Admn), Board of Revenue (**Annexure-N**).
10. That chairman was forced to submit specific recommendation (**Annexure-O**) and the SMBR threatened chairman of Inquiry Committee to explain to send your case to Establishment Department which is coercively obtaining of different opinion (**Annexure-P**).
11. That Chairman vide letter dated 17.9.2015 (**Annexure-Q**) submitted that his earlier report is final wherein recommendations are for initiating of regular proceedings/Inquiry under E&AD Rules 2011.
12. That the SMBR without following the recommendations of Inquiry Committee for fresh proceedings as per rules issued show cause notice dated 8.10.2015 (**Annexure-R**) which is properly replied (**Annexure-S**).
13. That order dated 10.2.2016 of compulsory retirement is illegal against the law and facts on following grounds:-

GROUND:

- A. Because no regular inquiry as per rules has been conducted.
- B. Because appellant has neither been given any opportunity of cross examination nor any witness examined in presence of appellant.
- C. Because the recommendations of Inquiry Committee for conducting regular proceedings is flouted for no valid plausible reasons.
- D. Because there is no recommendation/finding regarding guilty of appellant
- E. Because there is no evidence that appellant in any manner influenced or submitted any note part for promotion of 09 Sub-Registrars.
- F. Because appellant is not reflected to be present in he Departmental Promotion Committee meeting.
- G. Because the notification of Rules is the duty of Board of Revenue/Administrative Authority in consultation with Establishment/Law as per rule 26 of Khyber Pakhtunkhwa Civil Servant Act, 1973 and Khyber Pakhtunkhwa Rules of Business 1985.

[Handwritten signature]

- H. Because there is no law under which Director Land Record office, being subordinate is to frame/notify the rules.
- I. Because the officers are let free who were member of Departmental Promotion Committee and the Competent Authority.
- J. Because the promotees are performing duties to the satisfaction of their superior and even granted seniority to them duly approved by the Senior Member, Board of Revenue, Khyber Pakhtunkhwa. (Annexure-T).
- K. Because after impugned promotion of 2008, many other Sub-Registrars have been promoted.
- L. Because the punishment is too harsh.

It is therefore prayed that on acceptance of this appeal, impugned order dated 10.2.2016 may please be set aside and appellant may please be reinstated in Service with all back benefits.

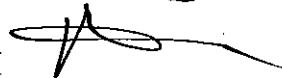
Yours obediently,



(Ghulam Nabi)
S/O Ghulam Akbar
R/O Village Mashogagar P.O Babbher,
Tehsil & District Peshawar

Dated: 18 /02/2016

ATTESTED



Anwar F.P. (85)

Attention:- Ajmal Sub
Assistant Secy, BAR (49)

OFFICE OF THE
DEPUTY COMMISSIONER KOHISTAN
LOWER AT PATTAN
NO. 1547A /Estab DATED 2 /10/2014

Amir
Amir
Amir

To:

The Assistant Secretary (Admin),
Board of Revenue,
Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar

Subject:

INQUIRY REPORT IN RESPECT OF MR. ANWAR ZEB OFFICE ASSISTANT
DIRECTORATE OF LAND RECORDS AND ALL OTHER ACCUSED OFFICIAL
INVOLVED IN THE ILLEGAL PROMOTION CASES (S) OF REGISTRATION
MUHARRIRS TO THE POST OF SUB-REGISTRAR IN THE YEAR, 2008

Kindly refer: to your letter No. E.Q/Anwar Zeb/DLR/8987, dated 22/04/2014 on
the subject noted above

Specific recommendations on the points mentioned in the charge sheet are as
under:-

• CHARGE NO.1

So far, this charge is concerned, being dealing hand accused official is responsible
but in my opinion only he is not responsible for this negligence, while Incharge of
the DLR office is equally responsible for this negligence as well as other DPC
members.

• CHARGE NO.2

So far charge is concerned that processing of working paper for promotion of 09
Registration Muharirs has not recommended in writing on note part. Furthermore
synopsis of the said Registration Muharir have also not annexed with working
paper. Being dealing hand, it was his responsibility to complete all requirements
before its submission to the DPC. He committed this negligence.

• CHARGE NO.3

So far, this charge is concerned, the accused official again shows very casual
attitude and committed negligence with regard to process the advice/letter No.
SOR-II (E&AD) 2(22)/99 (Vol: II), dated 28/02/2009 received from Section
Officer (R-II) Establishment Deptt: (Regulation Wing), Khyber Pakhtunkhwa
Peshawar.

• RECOMMENDATIONS

Proceedings may be initiated against the accused official under Khyber
Pakhtunkhwa servants Efficiency & Disciplinary Rules, 2011.

Amir

DEPUTY COMMISSIONER KOHISTAN
LOWER AT PATTAN

ATTESTED
Amir

OFFICE OF THE
INSPECTOR GENERAL OF REGISTRATION,
KHYBER PAKHTUNKHWA.

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No. LR-IV/SR/Seniority 1973-1997
Peshawar dated the 10 / 09 / 2012.

To,

Sub Registrars,
Khyber Pakhtunkhwa.

**PROVISORY SENIORITY LIST OF SUB REGISTRARS IN THE
SUBJECT REGISTRATION OFFICE, KHYBER PAKHTUNKHWA AS IT STOOD
ON 31-08-2012.**

Me

Enclosed please find herewith a copy of seniority of Sub Registrars as stood on
August, 2012.

You are directed to submit your objections to the seniority if any within one
month.

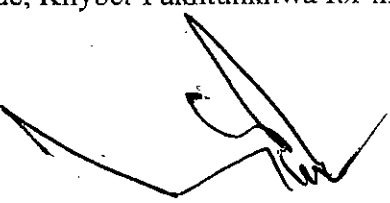
In case no objection is received within the stipulated period, it will be
presumed that you are satisfied with the position assigned to you in the seniority list and no
objection will be entertained after expiry of the stipulated period.



INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHWA.

Endost No. LR-IV/SR/Seniority 1998-2027.

Copy forwarded to the: -

1. Secretary-I, Board of Revenue, Khyber Pakhtunkhwa.
2. All District Officers, (R&E) in Khyber Pakhtunkhwa.
3. Assistant Secretary (Admn:), Board of Revenue, Khyber Pakhtunkhwa.
4. PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa for information.
5. Office order file.


INSPECTOR GENERAL REGISTRATION,
KHYBER PAKHTUNKHWA.

ATTESTED


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INITIATIVE SENIORITY LIST OF SUB REGISTRARS IN THE REGISTRATION OFFICE, KHYBER PAKHTUNKHWA AS IT STOOD ON 31-08-2012.

| Sl. No. | Name of Officials with Academic Qualification. | Date of birth and Domicile. | Date of 1 st Entry into Government Service. | Date of Regular Promotion as Sub Registrar. | | | Remarks. |
|---------|--|-----------------------------|--|---|-------|-------------------------------------|------------------------------------|
| | | | | Date | (BPS) | Method of Recruitment/ Appointment. | |
| 1 | X Misri Khan (Metric). | 10/04/1954 (Mardan). | 31/08/1972 | 03/01/2001 | (14) | Promotee | Recruited as Tehsil Dar |
| 2 | Muhammad Aslam (Metric). | 01/04/1956 (D.I.Khan) | 04/09/1976 | 04/10/2001 | (14) | Promotee | - do - |
| 3 | X Mushtaq Ahmad (Metric). | 05/03/1954 (Bannu). | 07/06/1979 | 27/02/2002 | (14) | Promotee | - do - |
| 4 | X Liaqat Ali (Metric). | 15/02/1955 (Charsadda). | 09/07/1977 | 27/02/2002 | (14) | Promotee | - do - |
| 5 | X Mujahid Ali (Metric) | 10/04/1958 (Kohat). | 12/01/1980 | 29/05/2002 | (14) | Promotee | - do - |
| 6 | X Muhammad Hamayun (F.A). | 16/03/1969 (Charsadda). | 16/03/1987 | 24/05/2002 | (14) | Promotee | Penalty of |
| 7 | X Gul Said (B.A). | 04/09/1962 (Charsadda). | 19/11/1981 | 19/09/2007 | (14) | Promotee | "Reduction to lower post imposed". |
| 8 | X Jehanzeb (B.A). | 11/03/1965 (Mardan). | 11/09/1991 | 19/05/2008 | (14) | Promotee | - do - |
| 9 | Afsar Kahn (Metric). | 10/04/1964 (Swabi). | 04/12/1989 | 15/08/2008 | (14) | Promotee | |
| 10 | Iqbal Ahmad (Metric). | 25/04/1959 (Peshawar). | 14/01/1987 | 15/08/2008 | (14) | Promotee | |
| 11 | Khalid Raffique (F.A). | 10/03/1958 (Abbottabad). | 01/07/1984 | 15/08/2008 | (14) | Promotee | |
| 12 | Muhammad Iqbal (B.A). | 06/02/1965 (Mardan). | 19/11/1990 | 15/08/2008 | (14) | Promotee | |
| 13 | Abdul Qayyum (F.A). | 20/02/1965 (Kohat). | 20/03/1988 | 15/08/2008 | (14) | Promotee | |
| 14 | Aurang Zeb (Metric). | 28/12/1960 (Mardan). | 01/01/1980. | 15/08/2008 | (14) | Promotee | |
| 15 | Muhammad Azam Khan (B.A). | 08/12/1959 (Kohat). | 14/07/1982 | 15/08/2008 | (14) | Promotee | |
| 16 | Qazi Ejaz Ahmad (B.A). | 06/06/1958 (Mansehra). | 09/12/1978 | 15/08/2008 | (14) | Promotee | |
| 17 | Waheedullah (M.A). | 10-02-1973 (Dir). | 20/09/1995 | 15/10/2008 | (14) | Promotee | |
| 18 | Rab Nawaz (B.A). | 12/02/1964 (Chitral). | 27/12/1983 | 29/04/2009 | (14) | Promotee | |
| 19 | Muhammad Riaz (B.A). | 01/11/1955 (Mansehra). | 18/03/1979 | 08/02/2010 | (14) | Promotee | |
| 20 | Shoukat Ali Khan (B.A). | 01/01/1964 (Swat). | 10/03/1986 | 12/08/2010 | (14) | Promotee | |

ATTESTED

INSPECTOR GENERAL OF REGISTRATION,
KHYBER PAKHTUNKHWA

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KPK Service Tribunal, Peshawar

Ghulam Nabi

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Revenue Deptt

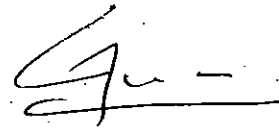
(Respondent)
(Defendant)

I/We Ghulam Nabi

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 8-6/2016



(CLIENT)

ACCEPTED



M. ASIF YOUSAFZAI
Advocate

Ee

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 618//2016.

Ghulam Nabi Ex-Superintendent Office of the Director Land Records KPK.

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and others

PRELIMINARY OBJECTIONS.

1. The Appellant has got no cause of action.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the Appellant has been estopped by his own conduct to file the appeal.
4. That appeal is time barred.
5. That the appeal is not maintainable in its present form.

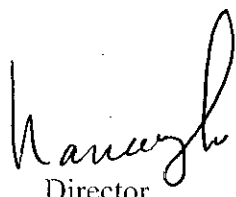
JOINT PARAWISE COMMENTS ARE AS UNDER.

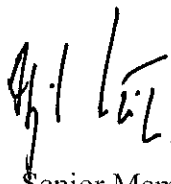
1. Pertains to record.
2. Correct.
3. No comments.
4. Correct to the extent that an Inquiry Committee was constituted by the Competent Authority for de-novo enquiry.
5. Incorrect. The Inquiry Committee recommended to initiate disciplinary action against the appellant as well as the concerned responsible officer/official of the Board of Revenue /Director Land Record Office.
6. Correct. Show Cause Notice was properly issued to the appellant according to rules.
7. Incorrect. The Committee recommended disciplinary action against the appellant on the basis of which Show Cause Notice was served and after completion of all codal formalities, the appellant was compulsory retired from Service by the Competent Authority. (Copy of the Inquiry Report alongwith statements are Annexed)
8. Incorrect. The appeal of the appellant is not maintainable.

GROUND.

- A. Incorrect. The impugned order was issued after conducting proper enquiry under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011 against the appellant.
- B. Incorrect. No violation of any article of the constitution violated.
- C. Incorrect. Respondent acted as per law & rules.
- D. Incorrect. An enquiry against the 9 Moharrars is under process in the Department. However appellant was found guilty of the charges.
- E. Incorrect. The Inquiry Committee has given Proper recommendations and in light of the recommendation of Inquiry Committee.
- F. Incorrect. The Enquiry Committee has given proper recommendations on the basis of which the appellant has been retired compulsorily from service.
- G. Incorrect. Proper opportunity of cross examination was given to the appellant.
- H. As in Para-G above.
- I. Incorrect. Being a supervisory official, the appellant was responsible to the lapses occurred due to his negligence.
- J. Incorrect. The office of Director Land Records without consultation with Revenue Department has issued service rules with a fake signature of the then Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
- K. A separate enquiry against Sub Registrars are under process.
- L. Incorrect. Penalty has been imposed on the recommendation of Inquiry Committee.
- M. The respondents will also seek permission to advance additional grounds at the time of arguments.

It is therefore requested that the appeal having no weight may be dismissed with cost.


Director
Land Records KPK
(Respondent No.4)


Senior Member
(Respondent No.1,2 &3)
14/7/2016.

INQUIRY REPORT IN RESPECT OF MR. ANWARZEB OFFICE ASSISTANT, DIRECTORATE OF LAND RECORDS AND ALL OTHER ACCUSED OFFICIALS INVOLVED IN THE ILLEGAL PROMOTION CASE(S) OF REGISTRATION MUHARRIRS TO THE POST OF SUB-REGISTRAR IN THE YEAR 2008.

It refer to order No. Admn-VII/Est: BOR/2013/2322-27 dated 18.02.2013 whereby the undersigneds have been ordered by the Competent Authority to probe into allegations against Mr. Anwarzeb working as Assistant in Director Land Record's Office and all other accused officials involved in the illegal promotion case (s) of Registration Muharrirs to the post of Sub-Registrars in the year 2008.

FACTS

1. Facts of the case are that in compliance with to obey orders of Competent Authority the files on the subject were obtained from Superintendent (Establishment) of Board of Revenue. After perusal of files it reveals that charge sheets, dated 06.02.2011 and 26.12.2011 were issued to M/S. Ghulam Nabi Superintendent and Anwarzeb Assistant of Director Land Record's Office whereby the following allegations/charges were leveled against them:-

- i. That the Law Department vetted and approved the draft Notification on 17.08.2006 pertaining to Sub-Registrar Service Rules but the same were not notified by the Department and they being responsible officials of the branch processed the case of promotion of 09 Registration Moharrirs to the post of Sub-Registrars in 2008 on the basis of draft service rules which had yet to be notified.
- ii. That processing of working paper for promotion of above said 09 Registration Moharrirs has not been initiated in writing on Note part. Furthermore synopsis of the said Registration Moharrirs also not annexed with working paper.
- iii. That they did not process the advice/letter No.SOR.II(E&AD)2(22)/99 (Vol:II), dated 28.02.2009 received from Section Officer (R-II), Establishment Department (Regulation wing), Khyber Pakhtunkhwa Peshawar.

2. In the instant case an enquiry has already been conducted by Mr. Ghulam Jeelani retired Assistant Secretary Board of Revenue vide **(Annexure-A)**. However, M/S Ghulam Nabi Superintendent and Anwarzeb Assistant Director Land Record's Office, were directed to submit their written defence in response to the charges leveled against them. The accused officials have submitted the same which may be perused vide **(Annexure-B & C)** respectively. The said written statements show that both the accused officials have totally denied their involvement/relevancy in the case.

A.

STATEMENT OF MR. GHULAM NABI SUPERINTENDENT.

Mr. Ghulam Nabi Superintendent stated that the Board of Revenue is the authority to notify the draft notification and it is not his job to notify it. Further stated that Sub-Registrar Rules, 1993 are still intact therefore promotion under rules which has to be notified was illegal. He admitted in his statement that he has prepared Working Paper on the directions of Competent Authority (i.e. Director Land Records) mentioned in the Working Paper that rules are not cleared/notified. Further stated that he was unaware of the Departmental Promotion Committee. He also

denied his involvement in Establishment Department's letter dated 28.02.2009.

B.

STATEMENT OF MR. ANWARZEB ASSISTANT.

Mr. Anwarzeb stated that he has already submitted detail reply and he was transferred to Board of Revenue on 01.08.2011 while the charge sheet was reached by him on 26.12.2011. He also stated that he had submitted an application for replacement of Enquiry Officer as the brother of Enquiry Officer was also promoted to the post of Sub-Registrar in the said Departmental Promotion Committee but his request was not given due consideration. He further stated that minutes of the Departmental Promotion Committee were tampered and he could not process the letter of Establishment Department dated 28.09.2009 and the relevant file was routed/processed through Mr. Ghulam Jeelani as his brother was a candidate for promotion as Sub-Registrar therefore, the file was disappeared/concealed.

OBSERVATIONS.

3. It has been observed that the original file regarding promotion and Service Rules is missing and still have not been found in the concerned record to produce before the enquiry committee, however after deep study of the case file (in hand) and other relevant documents connected to the case, the following points are worth consideration:-

- i. So far as the preparation of working paper for the said Departmental Promotion Committee is concerned, the Superintendent In charge has clearly mentioned that the required rules, in the said promotion case for the time since from 1993 had become rescinded and latest amendment brought up in the year 2006 which though got vetted through Law Department had not yet been notified up till dates due to the unknown reasons. The concerned Superintendent further mentioned in the Working Paper that the Departmental Promotion Committee may determine the suitability for promotion to relevant record, signed the said Working Paper without producing any cogent reasons in wake of non availability of relevant Sub-Registrar Rules.
- ii. Why the promotion orders which were issued have not been cancelled/withdrawn so far by the Director Land Record.
- iii. Can it possible that the Superintendent and dealing Assistant were out of reach/inaccessible to communicate/ contact in the promotion case.
- iv. Mr. Anwarzeb Assistant clearly stated in his statement that he did not process the Establishment Department letter dated 28.02.2009.
- v. Mr. Ghulam Nabi stated in his statement that Sub-Registrar Rules, 1993 is still intact whereas in the Working Paper these rules were not for worth consideration, he further added that the Departmental Promotion Committee was supposed to determine the fitness for promotion to the post of Sub-Registrars amongst the qualified Registration Staff strictly in accordance with the provision and policy on the subject, however there has been no details of such policy in the said Working Paper. Now the question is how, the Departmental Promotion Committee determined the criteria for the said promotion without having relevant rules/policy to workout allocation of vacancy and quotas/shares of promotion, posts

related zone wise allocation etc. against the total 9 vacant post of Sub-Registrar as shown in the said working paper.

FINDINGS.

4. This is revised enquiry which was initially conducted by Mr. Ghulam Jeelani, the then Assistant Secretary, Board of Revenue against Mr. Ghulam Nabi, Superintendent, Director Land Records office and Mr. Anwar zeb, Office Assistant, Director Land Record's office and no other official of the said Directorate has been involved in this enquiry. No fresh Charge Sheets/Statement of allegations have been served upon them. Previous Charge Sheets, Statement of allegations, their replies and all other relevant available records have been examined. From the perusal of Charge Sheets/Statement of allegations, it reveals that the above officials had processed the promotion case of nine Registration Moharris to the post of Sub Registrars without having cogent/valid rules and DPC have cleared them and promoted as Sub Registrars from 20.09.2008.

5. So far as the illegal promotion of Registration Moharris is concerned, they were promoted by the Departmental Promotion Committee consisted upon the following senior and experienced officers:

- | | |
|---|----------|
| 1. Mr. Khalid Saleem DLR/IGR, Khyber Pakhtunkhwa. | Chairman |
| 2. Mr. Bakhtiar Khan (DS-II), Board of Revenue | Member |
| 3. Mr. Ghulam Jeelani (Assistant Secretary), Board of Revenue | Member. |

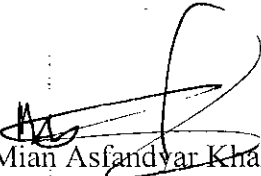
6. It was the responsibility of the Committee's members to see all rules/regulations and other criteria which has been formulated for the promotion of Sub Registrars because all the above mentioned officers are well experienced and matured due to their length of services as all of them have now been retired from service.

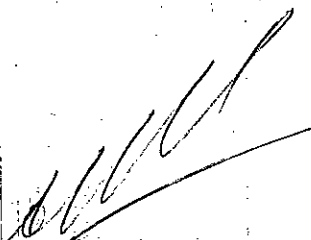
7. As the above mentioned officers have been retired from service and no disciplinary actions could be taken against them. As it was the duty of the Departmental Promotion Committee to scrutinize all the cases and to fulfill all the legal requirements before their selection/promotion and the committee has also violated these rules. This fact has also been admitted by the then Inspector General Registration (namely Mr. Khan Bakhsh) in an office note which was submitted to the then Senior Member, Board of Revenue (**Annexure-D**).

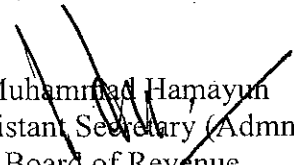
8. If all the Sub Registrars are reverted to their original positions i.e Registration Moharris in light of the letter of Establishment Department vide (**Annexure-E**) then a flood gate of litigations will be opened as they are enjoying their positions since 20.09.2008. On the other hand both the officials namely Ghulam Nabi (Superintendent) and Mr. Anwarzeb (Office Assistant) of the DLR office have suffered a lot for the last one and a half year and only considering them guilty for the promotion of Sub Registrars will not be the justice.

RECOMMENDATIONS.

9. In light of the above mentioned facts/discussion and perusal of available records, the Committee recommends that both the above named officials may be warned to be careful in future.


Mian Asfandyar Khan
Director Land Records


Arshad Naveed
Secretary-II
Board of Revenue


Muhammad Hamayun
Assistant Secretary (Admn)
Board of Revenue

(19)
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In compliance with the directions of the then Senior Member Board of Revenue vide para-4/N all the three retired officers were summoned and they have submitted their joint written statement vide (Flag-F). Their statement has been examined and it has been observed that, according to the statement of Director land Record, the working paper which is available in file no. L.R.IV/Registration Moharrir/2008 was not submitted to him for his approval, rather it has been changed and the working paper which was submitted to him for his approval, it was mentioned that 40% posts of sub Registrars will be filled up by initial recruitment to be made through Public service Commission and 60 % by promotion from amongst the Registration Moharrir.

After completion of DPC's proceedings all the Registration Moharrirs were promoted on regular basis by the Director land Records/IGR which is clearly violation of the rules and they have failed to defend their case.

It is further pointed out that after the receipt of draft Service Rules of Sub Registrars from the Law Department by the Administration Department i.e. (Board of Revenue) for examination/notifying and issuance vide Law Department letter No. Reg:I (6)1973/21-15-16 dated 17.08.2006 (Flag-G) but the said rules were not notified by the Board of Revenue, for un-known reasons even till now (2013) and in the meantime another rules on the same subject have been framed and also notified which are in-vogue now.

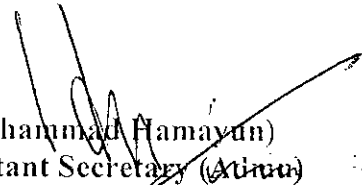
So far as response of Establishment Department is concerned, it is very much clear and which was supposed to be implemented in letter and spirit but it could not done due to unknown reason. In light of the joint statement of three retired officers and above mentioned facts, only superintendent and concerned office Assistant of Director land Record are not responsible, rather the officers/officials of the concerned branch of Board of Revenue, and Members of the DPC are equally responsible. As all the three Members/Chairman of the DPC have been retired, and no disciplinary action could be taken against them.

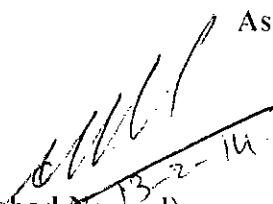
RECOMMENDATIONS

It is, therefore, recommended by the committee that the promotion orders of all the nine Moharrirs as Sub Registrars, being illegal and unjustified may be withdrawn and they may be reverted to their original post retrospectively.

2. Disciplinary action may be initiated against all concerned officers/officials in the Board of Revenue as well as Director land Record's office under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 who have shown negligence in notifying the draft Service Rules as desired in the Establishment Department letter No. SOR.II(E&AD)2(22)99 (Vol.II) dated 28.02.2009 (Flag-E).


(Mian Asfandyar Khan)
Director land Records


(Muhammad Hamayun)
Assistant Secretary (Admin)
Board of Revenue

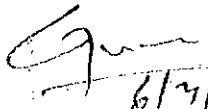

(Ashad Naveed)
Secretary-II
Board of Revenue

To.

The Enquiry Officer

Subject: Reply

Kindly refer to the subject noted above, with the Humble request that the requisite reply has already been communicated to the Enquiry Officer on 01/07/2012 (copy enclose) is still stand please.


6/7/13
(GHULAM NABI)

SUPERINTENDENT,
LAND RECORDS, KHYBER
PAKHTUNKHWA.

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REPLY TO THE CHARGE SHEET/STATEMENT OF ALLEGATION

The Assistant Secretary (Receipts)/
Enquiry Officer.

Subject:-

Kindly refer to Assistant Secretary (Esstt.) Board of Revenue Khyber Pakhtunkhwa memo:No.Esstt./31076-77/ dated 26/12/2011 wherein I the undersigned was served with a charge sheet. In reply to the charge sheet I hereby submit the following:-

i) The Charge that the Law Department vetted/approved the draft Notification on 17-3-2006 pertaining to Sub-Registrar Service Rules, but the same were not notified by the Department (Board of Revenue) and you processed the case of promotion of 09 Registration Muharrirs against the post of Sub-Registrar in 2008 on draft rules which had yet to be notified is baseless, mechanical and factitious because as a routine the Board of Revenue Khyber Pakhtunkhwa is authorized/responsible to notify the said rules as vetted by the Law Department. Neither Inspector General Registration/Director Land Records, Khyber Pakhtunkhwa nor I was responsible to notify the same. From the above it is evident that notifying rules was no part of my job/duty, rather Board of Revenue was duty bound to notify the rules being rules framing authority. Since the rules of 1993 was still intact and promotion on un-notified rules were illegal/unjustified. The case was neither initiated nor processed by me. I neither was D.P.C Member nor Chaired the D.P.C. rather other Officers who made promotions may be held responsible.

ii) The charge that the processing of working papers for promotions of above 09 Registration Muharrirs has not been recorded in writing reasons to be unjustified that I was directed by Competent Authority to prepare working paper for the said promotions. It is on record that I have prepared that working paper in shape of an information note that rules pertaining to the promotion of Registration Muharrirs are not cleared/notified. So I could not process the case being illegal. I was unaware of the D.P.C meeting only I was directed by the Competent Authority to prepare working paper. It was only after the D.P.C meeting that the relevant minutes handed over to for information and was directed to issue the orders. These orders were issued under the signatures of Inspector General Registration/Director Land Records, Khyber Pakhtunkhwa being Appointing Authority. Hence the charge is baseless.

iii) The charge that you did not process the advice/letter No.SOR.II(E&AD)2(22)/99 (Vol.II), dated 28-2-2009 (Copy attached vide Annexure-A) is totally against reason and common sense, is the received letter of Regulation Wing of Establishment Department which no where bears my initial but of Senior Member of Board of Revenue and Inspector General Registration, Khyber Pakhtunkhwa while (Copy attached at Annexure-B) is the note part prepared directly by Director Land Records to Senior Member of Board of Revenue for approval. The Senior Member of Board of Revenue was pleased to record his orders vide (Copy attached at Annexure-C). Secretary Board of Revenue was directed to refer the case to Law Department for advice. The case was handed over to Assistant Secretary (Admin) which clearly shows his initial and was directed by the Secretary Board of Revenue to "put up DRA". Hence the charge is baseless.

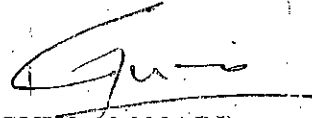
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In view of the above charges leveled against me nothing has been proved on record against me. I may please be exonerated from the above charges and obliged. Personal hearing is solicited please

Dated:- 7/11/12

Yours Obediently



(GHULAM NABI)

Assistant Supdt:

Directorate of Land Records.

(Presently working as Supdt: in the Budget Branch, Board of Revenue Khyber Pakhtunkhwa)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.618/2016

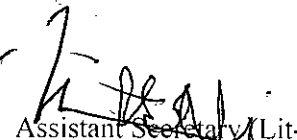
Ghulam Nabi, Ex-Superintendent, Office of Director Land Records, KPK,.....Appellant

VERSUR

Government of Khyber Pakhtunkhwa through Chief Secretary & Others,.....Respondents

AFFIDAVIT

I Mr.Mukhtiar Ali, Superintendent (Lit-II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me and nothing has been deliberately concealed from this Hon'able Tribunal.


Assistant Secretary (Lit-II),
Board of Revenue

BEFORE THE KKP, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 618/2016

Ghulam Nabi

VS

Revenue Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-5) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 No comments endorsed by the respondents department which means that they have admitted Para-1 Of the appeal is correct as relevant record is already in the custody of department.
- 2 Para-2 of the appeal is admitted correct by the respondent's department, so needs no comments.
- 3 No comments endorsed by the respondents department which means that they have admitted Para-3 Of the appeal is correct.
- 4 In first portion of reply respondent's department admitted half Para-4 of the appeal as correct. While rest of Para-4 of appeal is not denied by the respondents which mean respondent's department also admitted rest of para-4 of the appeal as correct as mentioned in the main appeal of the appellent.

- 5 Para-5 of the reply of respondent's department is incorrect. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant.
- 6 Para-6 of the appeal is admitted correct by the respondent's department, moreover, appellant properly replied to the show cause notice.
- 7 Incorrect and not replied as per contents of the Para-7 of the appeal. While Para-7 of the appeal is correct as mentioned in the main appeal of the appellant.
- 8 Incorrect. The appellant has good cause of action and may be accepted as prayed for.

GROUND:

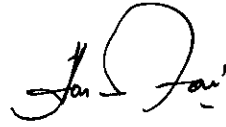
- A- Incorrect. While Para-A of the ground of the appeal is correct as mentioned in the main of the appellant. Moreover, impugned order 10.2.2016 was against the law, facts, norms justice and material on record, therefore, not tenable.
- B- Incorrect. While Para-B of the ground of the appeal is correct as mentioned in the main of the appellant.
- C- Incorrect. While Para-C of the ground of the appeal is correct as mentioned in the main of the appellant. Moreover, respondent's department not acted as per law & rules.
- D- Incorrect. While Para-D of the ground of the appeal is correct as mentioned in the main of the appellant. Moreover, the appellant was never found guilty.
- E- Incorrect. While Para-E of the ground of the appeal is correct as mentioned in the main of the appellant. Moreover, no regular inquiry was conducted and impugned order was passed.

- F- Incorrect. While Para-F of the ground of the appeal is correct as mentioned in the main of the appellant.
- G- Incorrect. While Para-G of the ground of the appeal is correct as mentioned in the main of the appellant.
- H- Incorrect. While Para-H of the ground of the appeal is correct as mentioned in the main of the appellant. Moreover, the appellant is never deal with E&D Rules 2011.
- I- Incorrect. While Para-I of the ground of the appeal is correct as mentioned in the main of the appellant. The appellant never committed irregularities and the appellant was made scapegoat and has been punished for the faults of other.
- J- Incorrect. While Para-J of the ground of the appeal is correct as mentioned in the main of the appellant.
- K- Incorrect. While Para-K of the ground of the appeal is correct as mentioned in the main of the appellant. Moreover, there is no proofed was attached with the reply therefore the contention of respondent's department was denied.
- L- Incorrect. While Para-L of the ground of the appeal is correct as mentioned in the main of the appellant.
- M- Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Ghulam Nabi

Through:



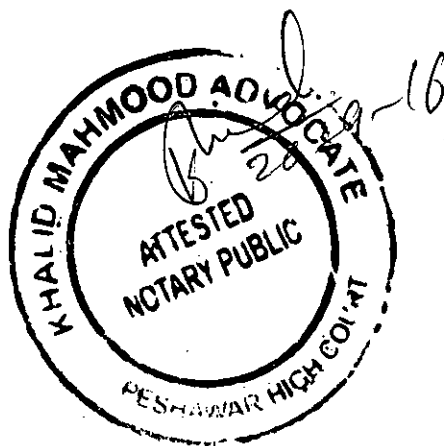
(M. ASIF YOUSAFZAI)

&

(SYED NOMAN ALI BUKHARI
ADVOCATES, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the honorable Tribunal.




DEPONENT