

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT SWAT

Service Appeal No 804/2016

Date of Institution... 10.08.2016

Date of decision... 05.10.2017

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor Office, Swat.  
... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar  
and 3 others. ... (Respondents)

MR. IMDADULLAH,  
Advocate

... For appellant.

MR. MUHAMMAD ZUBAIR,  
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. GUL ZEB KHAN,

... CHAIRMAN  
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned  
counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service vide impugned order dated 29.04.2016 after denovo enquiry as directed by this Tribunal in the judgment dated 03.06.2015. Feeling aggrieved from that order, the appellant filed departmental appeal on 08.5.2016 which was rejected on 29.09.2016 communicated to the appellant on 22.10.2016, hence the present appeal.
3. The charge against the appellant is that he manipulated a fake Fard Jamabandi of land which was used before a criminal court in some criminal case.

A criminal case was also registered against the appellant in this regard. In the first round the departmental proceedings culminated into his removal from service and this Tribunal vide judgment dated 03.06.2015 set aside the earlier removal order with the direction to conduct denovo enquiry. After denovo enquiry the present impugned order has been passed.

### ARGUMENTS

4. The learned counsel for the appellant focused his whole arguments on the point that no direct evidence was available against the appellant before the enquiry officer and the enquiry officer has based his findings mainly on the statement of Investigation Officer in the criminal case. The learned counsel for the appellant is of the view that the enquiry officer recorded the statement of Investigation Officer and the Investigation Officer referred to the confessional statement of two co-accused in the criminal case namely Zeshan and Farooq but the enquiry officer did not record the statements of Zeshan and Farooq. Secondly the enquiry officer has also not recorded the statement of concerned Patwari who simply submitted his report regarding the fakeness of the documents. He further argued that one of the witnesses namely Saeed Naeem, Senior Public Prosecutor stated before the enquiry officer that at the relevant day, the appellant had gone to Peshawar with his family.


5. On the other hand the learned District Attorney argued that findings of the enquiry officer is proper. That he afforded full chance of cross examination to the appellant. That nothing favourable to the appellant was extracted from the mouths of the witnesses. That the accused is habitual criminal as is apparent from the statements of all his superiors. That all of superiors at the end <sup>have</sup> given concession to the appellant by saying that he mended his way.

**CONCLUSION**

6. No procedural lapses or violation of any element of due process has been pointed out by the learned counsel for the appellant. His whole arguments revolved around his contention that no direct evidence was available against the appellant. But this is a disciplinary proceedings conducted by the domestic agency where the slandered of proof cannot be equated to that of a criminal case. Two co-accused in criminal case have confessed their guilt involving the appellant and that confession has been recorded by a Magistrate. For disciplinary proceedings it is enough material. Even the criminal courts give due weight to such confessional statement. It was established before the departmental authority that such confessional statement was there and the burden shifted to appellant to show that why he was implicated by the co-accused in the case. But no plausible explanation has been given by the appellant before the departmental authority that why was he implicated. The plea of alibi taken by the accused on the relevant day cannot give him any benefit because it was not alleged in the charge that he was present in the criminal court on the relevant day. The only charge is that he prepared fake Fard for use in the criminal court. The very concessions given by his superiors speak loud about his character.

7. As a sequel to the above discussion, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

  
(Gul Zeb Khan)  
Member

  
(Niaz Muhammad Khan)  
Chairman  
Camp Court, Swat

ANNOUNCED  
05.10.2017

09.03.2017


Counsel for the appellant and Mr. Mujarrab Khan DPP alongwith Mian Amir Qadar, GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 08.08.2017 at camp court, Swat.

  
Chairman  
Camp Court, Swat

08.08.2017

Clerk of counsel for the appellant and Mr. Muhammad Zubair, District Attorney alongwith Mr. Mujarrab Khan, DDP for the respondents present. Clerk of counsel for the appellant seeks adjournment as his counsel is not in attendance due to strike of the bar. Adjourned. To come up for arguments on 5.10.2017 before the DB at camp court, Swat.

  
Member

  
Chairman  
Camp court, Swat

5.10.2017

Appellant alongwith counsel and Mr. Muhammad Zubair, District Attorney alongwith Mujarrab Khan, SPP for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

  
Member


  
Chairman  
Camp Court, Swat.

ANNOUNCED

5.10.2017

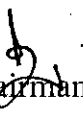
11.11.2016

Counsel for the appellant present. None present for the respondents due to curfew in the area. Fresh notices be issued to them. To come up for written reply/comments on 09.12.2016 before S.B at camp court, Swat

  
Chairman  
Camp court, Swat

09.12.2016


Counsel for the appellant and Mr. Mujarab Khan, DPP alongwith Mian Amir Qadir, GP for the respondents present. Counsel for the appellant submitted application for amending the service appeal. To come up for reply/arguments on application on 05.01.2017 at camp court, Swat.

  
Chairman  
Camp court, Swat

05.01.2017

Appellant with counsel and Mr. Mujarab Khan, DPP for the respondents present. Arguments on application for amending the appeal heard and record perused.

Learned counsel for the appellant argued that the order was passed by the appellate authority during proceedings of the instant appeal. As such application is accepted and appellant is allowed to submit amended appeal within fortnight in office thereafter notices be issued to the respondents for written reply/comments on 09.03.2017 before S.B at camp court, Swat. .

  
Chairman  
Camp court Swat.

08.09.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant was a Naib Qasid serving in Public Prosecutor Office, Swat when earlier subjected to enquiry and removed from service which order was set aside by this Tribunal vide judgment dated 3.6.2015 directing the respondents to conduct denovo enquiry which was conducted and vide impugned order dated 29.4.2016 appellant was again removed from service on the allegations of fraud and professional misconduct where-against departmental appeal of the appellant dated 08.5.2016 was not answered and hence the instant service appeal on 10.08.2016.

That the enquiry was not conducted in the mode and manners prescribed. That the allegations were not substantiated during the enquiry nor relevant witnesses examined nor proper opportunity of hearing and defence afforded to the appellant.




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 11.11.2016 before S.B. *at Camp Court Swat.*

  
Chairman  
Camp Court, Swat.

Appellant Deposited  
Security & Process Fee

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Case No. 804/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/08/2016	<p>The appeal of Mr. Muhammad Ismail presented today by Mr. Aziz-ur-Rehman Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	11-08-2016	<p>This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on <u>08-09-2016</u></p> <p style="text-align: right;"> MEMBER</p> <p style="text-align: right;"></p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 804 of 2016

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor Office Swat.

... Appellant

VERSUS

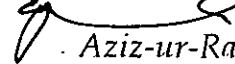
The Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and  
Others.

... Respondents

INDEX

S #	Description of documents	Annexure	Pages
1.	Memo of Appeal	....	1-6
2.	Affidavit	....	7
3.	Addresses of the parties	....	8
4.	Copy of the Appointment Order	A	9-10
5.	Copy of the FIR	B	11
6.	Copy of the Order dated 30-10-2013	C	12-14
7.	Copy of the Judgment dated 03-06-2015	D	15-16
8.	Copy of the Inquiry Report	E	17-40
9.	Copy of the Order dated 29-04-2016	F	41
10.	Copy of the Departmental Appeal	G	42-44
11.	Copy of the Order dated 29-09-2016	H	45-47

Appellant Through

 Aziz-ur-Rahman

Advocate Swat

Office: Khan Plaza, Gulshone Chowk,  
Mingora Swat, Cell 0300 907 0671



①

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

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Service Appeal No. 804 of 2016

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor  
Office Swat.

...Appellant

Khyber Pakhtunkhwa  
Service Tribunal

**VERSUS**

Diary No. 19

Dated 10-1-2017

1. The Government of Khyber Pakhtunkhwa through  
Chief Secretary, Peshawar.
2. The Government of Khyber Pakhtunkhwa through  
Secretary Home, Peshawar.
3. The Director General Prosecution Khyber  
Pakhtunkhwa, Peshawar.
4. The District Public Prosecutor, District Swat.

...Respondents

AMENDED SERVICE APPEAL UNDER  
SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL  
ACT, 1974 AGAINST THE ORDER NO.  
DP/E&A/1(1)PF/5491-95 DATED  
29-04-2016, COMMUNICATED ON  
02-05-2016, WHEREBY THE APPELLANT  
WAS REMOVED FROM SERVICE  
AGAINST WHICH THE  
DEPARTMENTAL APPEAL WAS  
PREFERRED TO THE RESPONDENT  
NO. 1, WHICH WAS REJECTED VIDE  
NO. SO (Pros)/HD/1-29/2012/Vol-1  
PESHAWAR DATED 29<sup>TH</sup> SEPTEMBER,  
2016 (RECEIVED ON 22-10-2016)  
WITHOUT GIVING REASONS, THE  
SAME BEING AGAINST THE LAW,  
RULES AND FACTS AND IS LIABLE TO  
BE SET ASIDE.

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Prayer:

*On acceptance of this appeal the orders impugned may very kindly be set aside and the appellant reinstated into service with all back benefits.*

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*Respectfully Sheweth:*

Facts:

- i. *That the appellant got appointed as Naib Qasid at the office of the Public Prosecutor District Swat vide order Endst: No. SLT.15(I)96/4837-95 dated 23-01-2003, after observing all the codal formalities. Copy of the order is enclosed as Annexure "A".*
- ii. *That the appellant was falsely involved in a criminal case FIR No. 587 dated 05-10-2013 u/s 419, 420, 468/471 PPC Police Station Saidu Sharif. The brief facts whereof that are the Learned ASJ1/IZQ granted bail to an accused. On furnishing bail bonds. The sureties placed the surety bonds along with revenue record in support of their being financially sound, before the said Learned Court. Copy of the FIR along with its better copy is enclosed as Annexure "B".*
- iii. *That the reader of the court reported to the Police that the Revenue record showing the financial position of the sureties is fake. Those sureties were arrested, who during the course of investigation named the appellant to be involved with them and consequently the appellant was also arrested. That at the bail stage the Learned Sessions Judge / Zilla Qazi not only rejected the bail application, but also awarded punishment before the trail of the case. It is yet to be determined as to whether the case against the appellant is true or false, but the Learned Session Judge was pleased to punish administratively the*

appellant by ordering the concerned officer of the appellant to transfer the appellant outside of the District Swat. Copy of the order is enclosed as Annexure "C".

- iv. That the August Peshawar High Court, Mingora Bench was pleased to grant the concession of bail to the appellant, however, the case against the accused is still under trail, before Civil Judge Cum Judicial Magistrate 1.
- v. That departmental inquiry was initiated against the appellant. It was conducted in cursory manner. Stamen of senior public prosecutor (very important), of Beram Khan Reader of the Court ASJ 1 Swat and that of the appellant were recorded. On the completion of the said inquiry final show cause notice was issued to which the appellant submitted a detailed reply, but in a mechanical manner and without affording the appellant an opportunity of hearing he was removed from service wide the impugned order.
- vi. That the said order was challenged through Service Appeal No. 1019 of 2014 on the ground of audi alteram partem among others, which appeal was accepted vide judgment dated 03-06-2015 and de novo inquiry was ordered. Copy of the judgment is enclosed as Annexure "D".
- vii. That the de novo inquiry was conducted in a very mechanical manner without giving the appellant fair chance of defence. The inquiry officer based his whole findings on the previous inquiry against the law and rules and without considering the judgment of this Honourable Tribunal on the previous inquiry and the inquiry officer gave his findings based on mere surmises and personal whims and beliefs,

which makes the inquiry an eye wash and nullity in the eyes of law, moreover the provision of Article 10 A of the Constitution have blatantly been flouted. Copy of the inquiry report along with the statements is enclosed as Annexure "E".

- viii. That upon the recommendations of the inquiry officer major penalty of removal from service was imposed by the authority vide order No. DP/E&A/PF/5491-95 dated 29-04-2016 against the law, rules, facts and Shariah and is liable to be set aside. Feeling aggrieved from the said order the appellant preferred departmental appeal which is still lying pending despite the lapse of mandatory period of time. Copy of the order is enclosed as Annexure "F" and that of the appeal is enclosed as Annexure "G".
- ix. That the appeal of the appellant was rejected in a summary manner without and without sifting the whole record, rather relied upon the shame inquiry vide NO. SO (Pros)/HD/1-29/2012/Vol-1 PESHAWAR DATED 29<sup>TH</sup> SEPTEMBER, 2016 (received on 22-10-2016), which order is liable to be set aside being against the law, rules and facts. Having no other option this service appeal is filed on the following grounds. Copy of the order is enclosed as Annexure "H".

Grounds:

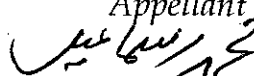
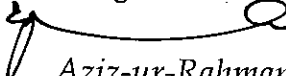

- a. That no fair chance of trail / hearing has been provided to the appellant, which fact is detrimental to his constitutional rights. The allegations leveled were required to be proved beyond any shadow of doubt, but on the basis of whims the appellant has been awarded the major penalty, whereas the charges leveled against him being false have absolutely not been proved.

- b. That the entire process from the very beginning are subjective and the evaluation of the material available on record has not been made objectively. The version of the appellant, carrying more weight than that of the departmental authorities has totally been ignored and never been discussed even.
- c. That according to the golden principles of safe administration of justice the very benefit of the doubt has to be given to the appellant and wherever it is possible the law is to be stretched in his favour.
- d. That the inquiry itself is volte face and a very low paid employee has been made to suffer allot without any lawful justification.
- e. That on one side the appellant is facing trail and on the other side the disciplinary proceedings (almost unilaterally completed). Moreover in addition to above the appellant was transferred to Torghar (Mansehra), on the order of the Learned District and Session Judge Swat, which amounts to double jeopardy, however, the attitude is so revengeful that the pay of the appellant was also being stopped.
- f. That the so called de novo inquiry is conducted in such a manner that the appellant was never afforded the opportunity to cross examine any witness against him. There is no direct or indirect evidence against the appellant.
- g. That the defence plea has never been considered by the inquiry officer while conducting the inquiry, hence the appellant is condemned as unheard. Moreover the inquiry so conducted was pre-decided one.

- h. That the de novo inquiry has been concluded before the conclusion of the trial, wherein proper investigation will be made and also proper evidence will be lead in accordance with the law, but the inquiry officer has not waited for the result of the trial and has condemned the appellant on the basis of a shame inquiry, which is never conducted in proper manner and in accordance with the law.
- i. That the appellant is still jobless and on this account is suffering a lot.

It is, therefore, very respectfully prayed that on acceptance of this amended appeal both the orders impugned may very kindly be set aside and the appellant reinstated into service with all back benefits.

Any other relief deemed appropriate may also very kindly be granted.

Appellant  
  
Muhammad Ismail  
Through Counsels,  
  
Aziz-ur-Rahman  
  
Imdad Ullah  
Advocates Swat

7

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_ of 2016

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor  
Office Swat.

...Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through Chief  
Secretary, Peshawar and Others.

...Respondents

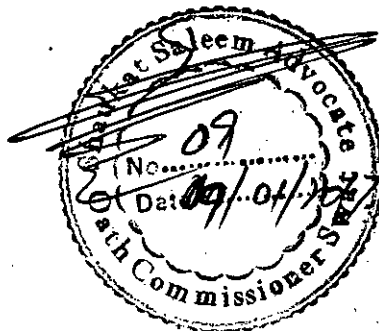
AFFIDAVIT

It is stated on Oath that all the contents of this  
amended appeal are true and correct to the best of my  
knowledge and belief.

Deponent

محمد اسماعیل

Muhammad Ismail



⑧

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

---

Service Appeal No. \_\_\_\_\_ of 2016

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...Appellant

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Secretary, Peshawar and Others.

...Respondents

**ADDRESSES OF THE PARTIES**

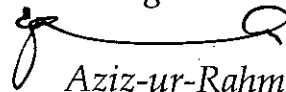
Appellant:

Muhammad Ismail, Naib Qasid at Public Prosecutor  
Office Swat, now at District Public Prosecutor, Torghar.

Respondents:

1. The Government of Khyber Pakhtunkhwa through  
Chief Secretary, Peshawar.
2. The Government of Khyber Pakhtunkhwa through  
Secretary Home, Peshawar.
3. The Director General Prosecution Khyber  
Pakhtunkhwa, Peshawar.
4. The District Public Prosecutor, District Swat.

Appellant  
Through Counsel,

  
Aziz-ur-Rahman  
Advocate Swat



*Annexure*

*Annexure*

*9*

GOVERNMENT OF THE N.-W.F.P.,  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT.

*9*

Peshawar, dated 23.12.2003.

ORDER-

No.SLT.15(1)96.-On the recommendation of Departmental Selection Committee (DSC) of the Law Department the following candidates are hereby appointed as Class-IV (BPS-1) in the Law Department and in Muffasil Establishment of the Law Department (on contract basis as per Government policy) and posted in various offices noted against each with immediate effect:-

S.NO.	NAME AND ADDRESS	DESIGNATION	PLACE/DISTRICT OF POSTING.
1.	2.	3.	4.
1.	Mr. Latif Khan s/o Habibullah r/o District Bannu.	Naib Qasid	PP Office, Bannu.
2.	Mr. Ghulam Yahya s/o Ghulam Murtaza r/o Sohen Ayun Tehsil District Chitral.	-do-	PP Office, Chitral.
3.	Mr. Janshied Ahmed s/o Kosh Ahmad r/o Dawashish Joghur Tehsil & District Chitral.	-do-	PP Office, Chitral.
4.	Mr. Shuja-ud-Din s/o Muhammad Nizam-ud-Din r/o Village & Post office Broum Oweer, Tehsil Mulkhov, District Chitral.	-do-	PP Office, Chitral. at BONNI
5.	Mr. Alam Khan s/o Saidan, Tore Warsak Tehsil Daggar District Buner.	-do-	PP Office, Buner.
6.	Mr. Said Nawaz s/o Yaqoob r/o Raikai Tehsil Daggar District Buner.	-do-	PP Office, Buner.
7.	Mr. Bakht Parwaish s/o Darwaish r/o Kalpani Tehsil Daggar District Buner.	-do-	PP Office, Buner.
8.	Mr. Ikramullah s/o Fazal Wahid r/o Saidu Sharif Swat.	-do-	PP Office, Swat.
9.	Mr. Ismail s/o Amir Zareen r/o College Colony, Saidu Sharif, Swat.	-do-	PP Office, Swat.
10.	Mr. Haider Ali s/o Guli Sadber vill: Bihra Tehsil Matta Distt: Swat.	-do-	PP Office, Swat.
11.	Mr. Nasir Khan s/o Hadi Khan r/o Mingora Swat.	-do-	PP Office, Swat.
12.	Mr. Umer Ayaz s/o Gul Dad Khan Moh: Zaffar Khel Vill; Takht Nasrati Distt: Karak.	-do-	PP Office, Karak.

*Attested*  
*Advocate*

*Attested*  
*Advocate*

*Attested*  
*Advocate*

10/20/11

10/20/11

10

15

1

1.	2.	3.	4.
13.	Mr. Faisal s/o Akbar Deen Vill: Supply Bazar r/o Iqbal Road, Abbt:	Naib-Qasid	PP Office Abbottabad
14.	Mr. Wali-ur-Rehman s/o Mir Kalam Moh: Bahader Dist: Mansehra.	-do-	PP Office Mansehra
15.	Mr. Zar Shahd s/o Mir Wais Vill: Kota Tehsil and Dist: Swabi.	-do-	PP Office Swabi
16.	Mr. Habib Gul s/o Hazrat Gul Dehri Juligram Mkd: Agency.	-do-	Malakand at Batkhehla.
17.	Mr. Imran Khan s/o Ihsan Muhammad r/o Moh: Gari Hazrat Khel village Thana Malakand Agency.	-do-	Malakand at Batkhehla.
18.	Mr. Subhanullah s/o Musa Khan r/o Sado Tehsil, Timergara.	-do-	PP Office Dir at Timergara.

2. All the Public Prosecutors/Additional Public Prosecutors concerned are directed to procure the requisite agreement duly signed by the respective Naib Qasids and forward the same to this Department with a fortnight of the issuance of this Order.

(AMIR GULAB KHAN)  
Secretary to Government of the N.-W.F.P.,  
Law, Parliamentary Affairs and  
Human Rights Department.

Dated: 23/12/2003.

Ends: No.SLT.15(1)96/4837-95

- Copy forwarded to:
1. The Accountant General, N.-W.F.P. Peshawar.
  2. The Solicitor, N.-W.F.P. Law Department.
  3. The Director Prosecution, N.-W.F.P. Law Department.
  4. The P.S to Secretary Law.
  5. The District Accounts Officers concerned.
  6. The Public Prosecutors/Additional Public Prosecutors concerned.
  5. The concerned officials
  6. The Accountant, Litigation Cell, Law Department.

(MUHAMMAD ASIM IMAM)  
DIRECTOR PROSECUTION  
LAW DEPARTMENT.

Attested  
*[Signature]*  
Advocate

Attested  
*[Signature]*  
Advocate

(10)

(11)

(12)

ذیل پولیس نوٹس سرحد قائم نمبر ۷۳

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۳ مجموعہ ضابطہ نوعداری

PM 1:30

01	587	تاریخ	۱۵/۱۱/۲۰۱۳	وقت	۱۳:۳۰
تاریخ وقت رپورٹ	۱۵/۱۱/۲۰۱۳	وقت	۱۳:۵۵	جا آئیہ گی جہ پیم	۱۵/۱۱/۲۰۱۳
نام و سکونت اطلاع دہندہ	میراٹم خان ولد عبدالغنی	تعلقہ	گجرات	پتہ	گجرات
تفصیل کیفیت جرم (معدومہ) حال اگر کوئی لایا گیا ہو	۱۶۸-۱۶۹-۱۷۰	پتہ	۱۶۹-۱۷۰	پتہ	۱۶۹-۱۷۰
جانے وقوعہ قاصد قاصد سے اور دست بردارالت ایڈیشنل سیشن جج	گجرات	پتہ	گجرات	پتہ	گجرات
نام و سکونت ملزم	میراٹم خان ولد عبدالغنی	تعلقہ	گجرات	پتہ	گجرات
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرتے وقت ہوا تو وہ بیان کرو	گجرات	پتہ	گجرات	پتہ	گجرات
قائد سہ رواگ کی تاریخ وقت	گجرات	پتہ	گجرات	پتہ	گجرات

ابتدائی اطلاع نیچے درج کرو۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۱۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۲۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۳۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۴۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۵۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۶۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۷۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۸۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۹۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ  
 ۱۰۔ شاہ خان ولد عبدالغنی کے متعلق ذیل میں۔ آئیہ جہ پیم کی سہ راہ سہ راہ

Attested  
Advocate

Attested  
Advocate

Attested  
Advocate

بخون ایوری سے صورت عدم ماہ آکر مسائلہ  
 لغرض قاضی مقدمہ نسبت کم راکر اسلے باہر ارسال  
 حالہ مسائلہ گزارشتے راہد احمد شاہ خان SH5  
 کو چ ۱۹ کی رائی قضاہ نس امدہ سراسلہ کرد - کرد  
 درج صدر بتو کوربدہ مجرم ما ۲ توفا جائے گیا کار عمل  
 بد کہ مع صدر ۲۲۲ جانے ات سے رلیشن سے سے رلیشن کر  
 والے کیا جاتا ہے اس دن ماہ کو اطلاع دی جا رہی ہے کردہ

۱۱۱۱۱۱  
 ASTD/PS 55  
 4-10-2013

**ATTESTED**  
**Advocate**

\_\_\_\_\_  
 \_\_\_\_\_  
 اطلاعات کے لیے اطلاع دینے کا دعوایہ ہوگا جس کی ہر نشان لکایا جائے گا اور اس پر زیر کینہہ استغالی اطلاع کا دعوایہ طور تصدیق ہوگا۔ صرف الفبا اب سرج رو شالی سے بالفاظ  
 ایک طرح یا مشہور علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان یہاں موجودوں کوں لکھنا چاہئے۔

## ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ جوہداری

تھانہ سید شریف ضلع سوات مقدمہ علت نمبر 587

تاریخ 13-10-13 وقت 13:30 بجے

۱۔ تاریخ و وقت رپورٹ	05-10-13 وقت 14:00 بجے چاکی گی پرچہ 05-10-13 وقت 15:00 بجے
۲۔ نام و سکونت اطلاع دہندہ مستغیث	بیرام خان ولد عمر خان سکندہ محلہ عیسیٰ خیل، مینگورہ حال محررہ ADJI سوات
۳۔ مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔	PPC 419-420-468/471
۴۔ جائے وقوعہ فاصلہ تھانہ سے اور سمت	عدالت ایڈیشنل سیشن جج صاحب ا بمقام گل کدہ فاصلہ KM1 جانب شمال از تھانہ
۵۔ نام و سکونت ملزم	(۱) فاروق ولد خان گل (۲) ذیشان علی ولد علی محمد ساکنان طاہر آباد مینگورہ (۳) اجمل خان حسن خان سکندہ رنگ محلہ مینگورہ
	سوات (۳) محمد اسماعیل ولد امیر زرین سکندہ کالج کالونی، سید شریف مال امانکوٹ ضلع سوات
۶۔ کارروائی جو پیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو اور وجوہ بیان کرو	بدرسد کی تحریری مراسلہ پر چلایا گیا۔
۷۔ تھانہ سے روانگی کی تاریخ و وقت	پہ سبیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔

ایک تحریری مراسلہ منجانب احمد شاہ خان S.H.O موصول ہو کر جسکا متن ذیل میں ہیں۔ افسر انچارج تھانہ سیدو شریف امروز حسب اطلاع طلبی عدالت ایڈیشنل سیشن جج صاحب فسٹ آکر مستغیث بہرام خان ریڈر عدالت یوں رپورٹ کرتا ہے کہ میں عدالت ہذا میں بحیثیت ریڈر اپنا ڈیوٹی سرانجام دے رہا ہوں امروز عدالت ہذا سے ملزم معاذ ولد امجد علی سکندہ بنڑ، کے ضمانت بحوالہ مقدمہ علت نمبر 392 مورخہ 26-09-13 جرم P.O 3/4 میں جناب ایڈیشنل سیشن جج صاحب نے ایک لاکھ دو نفری ضمانت منظور کر کے ایک بوقت مسیان ضمانتی فاروق ولد خان گل ذیشان علی ولد علی محمد ساکنان طاہر آباد مینگورہ و اجمل خان ولد حسن خان ساکن رنگ محلہ مینگورہ سوات میں ملزم معاذ کے ضمانت کے بابت ضمانت نامہ معہ جائیداد فرد پیش کر کے جو ملاحظہ کر کے فرد جائیداد پر شک گزارا اور فرد کے متعلق عدالت میں D.K سے کرا کر جو ابرار خان D.K نے جعلی قرار دیا کیونکہ آج چھٹی ہے اور پڑواری تحصیلدار بابوزی کے دفاتر بند ہوتی ہیں لہذا ہر سہہ کسان کو سرسری انٹرویو کرنے پر بیانی ہیکہ یہ فرد جائیداد اسماعیل ولد امیر زرین سکندہ امانکوٹ نے بنا کر دیا ہے۔ کہ عدالت میں پیش کریں۔ لہذا میں عدالت کو دھوکہ کرنے کے غرض سے جعلی کاغذات پیش کرنے پر ہر چار کسان بالاکے خلاف رپورٹ کرتا ہوں۔ غور ہوئے۔ sd۔ بہرام خان ریڈر i ASJ کارروائی پولیس حسب گفتہ مستغیث بالاکے رپورٹ درج صدر ہو کر پڑھ کر

Attested  
Advocate

Attested  
Advocate

ایا سمجھایا گیا۔ ذرنگی پر دستخط مثبت کی۔ جس کی میں تصدیق کرتا ہوں۔  
مضمون رپورٹ سے صورت جرم بالا پائی جا کر مراسلہ  
بغرض قائمی مقدمہ بدست کنشیل ڈاکر اللہ 12004 ارسال  
تھانہ ہے۔ مراسلہ گزارش ہے۔ Sd. احمد شاہ خان SHO مورخہ 05-10-13  
کارروائی پولیس پس آمدہ مراسلہ حرف بحرف درج صدر ہو کر پرچہ بجرم بالا فوق چاک کیا جا کر  
نقل پرچہ بمعہ فرد جملہ کاغذات بمراد تفتیش متعلقہ تفتیش کو حوالہ کیا جاتا ہے۔ افسران بالا کو اطلاع  
دی جا رہی ہے۔ پرچہ گزارش ہے۔

دستخط انگریزی

PSSS

4-10-2013

Annexure <sup>11</sup> C

لہذا یہ سبب سے 83/4 / 2013

~~Memorandum~~

9

12

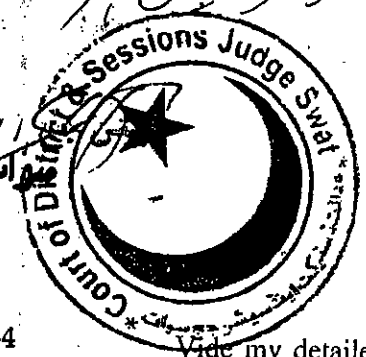
2013

فیڈرل کورٹ سوات

90/4

افتتاحی رپورٹ میں مذکور ہے کہ DPP نے درخواست کی ہے کہ اس کی ضمانت منظور کی جائے۔ لیکن وکیل نے یہ عرض کیا ہے کہ اس کی ضمانت منظور نہیں کی جائے۔

0-3  
29-10-13



ORDER---4  
Dt:30.10.2013

Vide my detailed order in Bail application No. 83/4 of 2013,

the instant bail application stands dismissed.

File be consigned to the record room after necessary completion.

*(Signature)*  
(SHARIF AHMAD)  
Sessions Judge/Zilla Qazi Swat

**SESSIONS JUDGE/  
Zilla Qazi, Swat.**

5568  
Date of presentation of Application: 21-3-14  
Date on which copy completed: 21-3-14  
No. of words: 8P  
Urgent Fee: \_\_\_\_\_  
Name of copyist: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Copying Fee: F 10/-  
Date of Delivery: 21-3-14

Date of Application: 21-3-14  
Date of preparation: 21-3-14  
Date of 1st intimation: 21-3-14 Through \_\_\_\_\_  
Date of 2nd intimation: \_\_\_\_\_ Through \_\_\_\_\_  
Date of delivery: 21-3-14

ATTESTED TO BE TRUE COPY

*(Signature)*  
EXAMINER,  
District & Sessions Judge  
Zilla Qazi, Swat.  
21-3-2014

*(Signature)*  
Attested  
Advocate

*(Signature)*  
Attested  
Advocate

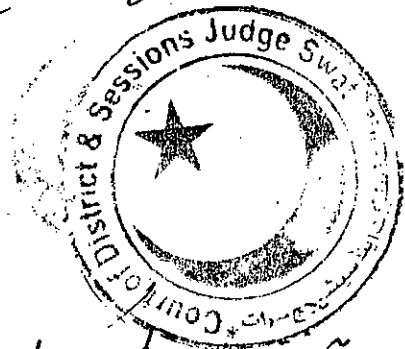


محمد اکمل نیچر ایگرونیوز پرائیویٹ

منالوٹ  
22-10-

ضرورت جانت ڈالنا دینے سند۔  
ضرورت سے ساتھ ساتھ بیان علوی۔ صلح عدالت مانت عدت  $\frac{10}{13}$  21-  
ضرورت سے ایڈووکیٹ/پلینٹیف۔ تھر P12۔ عدالت نام آفٹر نیچر ایگرونیوز پرائیویٹ  
حافظ مشتاق احمد ایڈووکیٹ ایٹ لاء/پلینٹیف ایٹ لاء/پلینٹیف سٹائل 2

Hand  
ریڈر مشتاق الحق ایڈووکیٹ  
لسٹریکٹ ایگرونیوز پرائیویٹ جج سوات



0-1  
22-10-

آفٹر نیچر ایگرونیوز پرائیویٹ/پلینٹیف، ڈاکٹر زینب ستاہ APP  
سورج حاضر۔ انڈراج لیب عدالت سے۔ ضرورت سے عدالت  $\frac{83}{4}$  4  
لیٹوان عارف وغیرہ بنا کر پلینٹیف جج سوات عدت  $\frac{10}{13}$  26 پیش ہو۔

Hand  
جج اصغر لافی  
سوات

ریڈر  
26-10-

طارق عزیز ٹورٹ ایڈووکیٹ/پلینٹیف سٹائل/پلینٹیف DPP  
پریسٹ سٹار حاضر۔ آفٹر جلیا ما رضعت القاضی پریسٹ۔  
مستویا نیچر ایگرونیوز پرائیویٹ/پلینٹیف عدت  $\frac{10}{13}$  28 پیش ہو۔

آفٹر نیچر ایگرونیوز پرائیویٹ/پلینٹیف سٹائل/پلینٹیف DPP  
حاضر۔ عدت سماعت سند۔ صلح عدت  $\frac{10}{13}$  29 پیش ہو۔

0-02  
28-10-

ATTESTED TO BE TRUE COPY  
EXAMINER,  
District & Sessions Judge,  
Zilla Qazi, Swat.

Hand  
جج اصغر لافی  
سوات

BA # 83/4 - 5 - 21  
2013

13  
13

ORDER—06  
Dt:30.10.2013

1. My this order is directed to dispose of application No. 83/4 jointly filed on behalf of Farooq Khan, Zeeshan Ali, Ajmal Khan, bail application No. 90/4 filed by Muhammad Ismail and bail application No.91/4 filed on behalf of Yousaf Ali for their post arrest bail. They, all the five, have been charged for the commission of offence U/S 419/420/468/471 PPC case FIR No. 587 of PS Saidu Sharif Swat.

Notices issued and record was requisitioned.



Muhammad Qayum Khan advocate on behalf of petitioners of application No. 83/4, Akhtar Munir Khan advocate assisted by Asim Rehman advocate on behalf of petitioner of application No. 91/4, Qazi Farid Ahmad advocate on behalf of petitioner of application No. 90/4 and DPP for state heard & record perused.

The present FIR originates from an ugly episode that was noticed as taken place within the Kachehry premises. One Maaz accused was granted bail in 3/4 PHO case FIR No. 392 against surety bonds in sum of Rs.200,000/- with two sureties. On the eventful day i.e. 05/10/2013 the accused Farooq and Ajmal Khan appeared before the court as sureties and accused Zeeshan Ali as their identifier along with bail bonds and attested copies of the Revenue Record to support their sound status. The attested copies were found to be fake. Police was called to whom Behram Khan Reader of the court of ASJ-I Swat made report, the police arrested the then present three persons and registered the case.

4. It was initially disclosed and further found in course of investigation that it was Ismail accused/petitioner who managed the Revenue Record attested copies against Rs.6,000/-, Rs.1,000/- paid and Rs.5,000/- promised to be paid on completion of the job. In the course of investigation it further revealed that accused/petitioner Yousaf Ali running Computer and Photostat business in the Kchehri in the name of "Shahab Photostat" got prepared the fake Revenue Record copies through computer composer Ubaid working in the same cabin and provided it to the sureties accused/petitioners through Ismail accused/petitioner. It was this background in which the other two accused i.e. Ismail and Yousaf Ali along with Ubaid were also implicated, Ubaid is at large.

Attested  
*[Signature]*  
Advocate

ATTESTED TO BE TRUE COPY  
EXAMINER,  
District & Sessions Judge  
Zila Qazi, Swat.

*[Signature]*  
SESSIONS JUDGE  
Zila Qazi, Swat.

Attested  
*[Signature]*  
Advocate

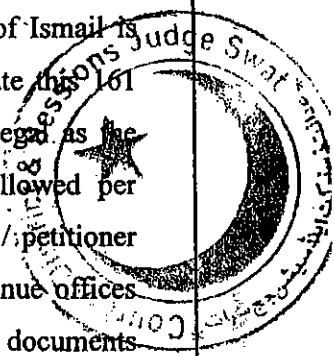
ORDER—06  
Dt:30.10.2013  
Continued

5. It was argued on behalf of the accused Farooq, Ajmal and Zeeshan that there is no evidence to connect the sureties and identifier accused/petitioners Farooq etc with the crime as they have neither prepared the fake documents nor they knew about it. On behalf of the accused/petitioner Yousaf Ali it was argued that he was not named in the FIR and the site plan, the sole 161 CrPC statement of Ismail is inadmissible against him as there is nothing to corroborate this 161 statement and further that registration of the FIR was illegal as the procedure laid down for such eventualities was not followed per relevant section 195 (c) Cr.PC. On behalf of the accused /petitioner Ismail it was argued that on the eventful day all the revenue offices were closed availability of Ibrar Khan DK confirming the documents to be fake indicates that actually he was involved but was not charged and there is no confession or recovery on the part of accused/petitioner Ismail who may be a good prosecution witness but not an accused.

6. Contrary to the above, it was convincingly argued by the DPP that three accused/petitioners Farooq, Zeeshan and Ajmal Khan along with Muhammad Ismail were directly charged in the FIR. Farooq and Ajmal have given inculpatory magisterial confessional statements which are consistent interse and depict the same sequence and fashion of the events making out the whole episode. Further, that Ismail is posted as a peon with Senior Public Prosecutor working in the same premises, he was available in the Kachehri and is known for brokering such jobs in the courts premises, that the amount of Rs.1,000/- handed over to Yousaf Ali was recovered in the course of investigation and the documents produced in the course of the attestation of bail bonds are available to which there can be no second opinion rather than to be fake and that no one of the accused petitioners including the absconding Ubaid is innocent. All the accused petitioners played their respective roles towards the completion of a hateful crime, there is no ill will behind their implication rather their role unveiled gradually as the investigation proceeded forward and no one of the accused petitioners is entitled to the concession of bail, the DPP concluded.

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EXAMINER,  
District & Sessions Judge  
Zilla Qazi, Swat.



*S. Y. Ali*

(14) (C.S.) (14)

ORDER—06  
Dt:30.10.2013  
Continued

7. The points raised and argued by the DPP find support from the record and apparently there is ample incriminatory evidentiary material available against the accused petitioners. The offence for which the accused are charged may not be heinous in terms of the quantum of punishment, however, its gravity is enormous when seen in its related social perspective and consequences.

8. Record indicates that the business of preparing fake documents has become a few minutes job and the facility is known and openly available all the times to all. The filthy job was being carried out within the courts premises Yousaf Ali Photostat operator, Ubaid Computer Composer supposed to be fair bread earners were openly involved while Ismail a Govt: servant supposed to be faithful to the system and guard the public trust played as broker. The foul play seems to be a daily routine business and not a single incident. Such like acts are counted against the justice system wherever public faith and the role of judiciary is gauged.

9. It appears that the accused Farooq and Ajmal Khan produced fake documents, managed through Ismail prepared by Yousaf Ali and Ubaid against unusual huge payment, in thousands, no one of them is entitled to the concession of bail and their bail applications stand dismissed.

10. The role of the accused petitioner Zeshan is, however differentiable from others. He is only identifier to the bail bonds, he has no apparent nexus with the preparation or production of the fake documents and even his knowledge as to that requires further enquiry. The accused petitioner Zeshan is therefore admitted to bail by allowing the bail application No. 82/4 up-to his extent. He shall furnish surety bonds in sum of Rs.80,000/- with two sureties in the equal amount to the satisfaction of Illaqa Duty/Judicial Magistrate.

11. Touts activities within the Kachehry premises have been a topic of discussion in the Bench Bar Liaison Committee meetings. The present appears to be an appropriate case for action. In the circumstance and relevant facts of the episode as stated above which needs no repetition, it seems appropriate that the accused working in the courts premises be proceeded for inclusion into the list of "touts"



Attested  
*[Signature]*  
Advocate

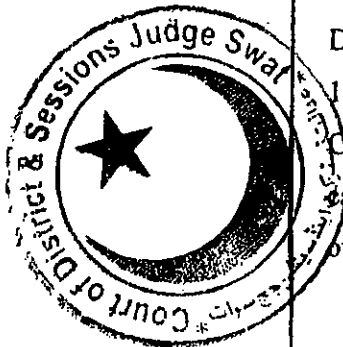
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EXAMINER,  
District & Sessions Judge  
Zilla Qazi, Swat.

*[Signature]*  
SESSIONS JUDGE/  
Zilla Qazi, Swat.

Attested  
*[Signature]*  
Advocate

ORDER---06  
Dt:30.10.2013  
Continued




which proceedings are being initiated. A copy of this order along with copies of the relevant documents from the record be brought on the file that be opened in this regard.

12. Further, it is directed that, in addition to any disciplinary action if taken, the employer department shall immediately and permanently exclude and post out the accused peon Ismail of the Prosecution Department from any duty within the courts premises of District Swat.

13. Furthermore, a copy of this order be forwarded to the Judicial Complex Cabin Management Committee for early vacation of the cabin of "Shahab Photostat" from the allottee and rent it out to some other suitable contender.

Ordered accordingly. Requisitioned record be returned.

Copy be placed on each case file which be consigned to the record room after doing the needful as above.

  
(SHARIF AHMAD)  
Sessions Judge/Zilla Qazi Swat

30-10-13

SESSIONS JUDGE  
Zilla Qazi, Swat

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EXAMINER,  
District & Sessions Judge,  
Zilla Qazi, Swat.

21-03-2014

*Best copy*  
 Annexure D *Signature* 15 15

S. No. Date of order proceedings

1 2

03.06.2015

Order or other proceedings with signature of judge or Magistrate

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
 CAMP COURT SWAT**

APPEAL NO. 1019/2014

(Muhammad Ismail-vs- Government of Khyber Pakhtunkhwa through Secretary Home,Peshawar, etc).

JUDGMENT

ABDUL LATIF, MEMBER:

Appellant with counsel (Mr. Aziz-Ur-Rehman, Advocate) and Mr. Mujarrab Khan, DPP alongwith Mr. Anwar-Ul-Haq, GP for the respondents present.

2. The instant appeal has been filed by Muhammad Ismail, Naib Qasid under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the order dated 15.04.2014 whereby the appellant was removed from service against which the departmental appeal made to the appellate authority was not responded in the statutory period.

3. Brief facts of the case are that the appellant was appointed as Naib Qasid in the office of Public Prosecutor District Swat on 23.01.2003. That the appellant was involved in a criminal case FIR No 387 dated 05.10.2013 on fake preparation of revenue record submitted with surety bonds for bail of accused Maaz in the Court of ASJ/IZQ Saidu Sharif. The learned ASJ rejected the bail application and also got the appellant transferred out of the District through controlling officer of the appellant. The official was proceeded against departmentally and major punishment of removal from service was imposed on him vide order dated 15.04.2014. Departmental appeal preferred before the appellate authority was also rejected, hence the instant appeal before this Service Tribunal.

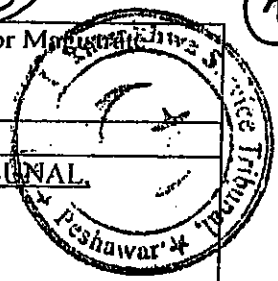
4. The learned counsel for the appellant argued that appellant was not associated with the enquiry. No opportunity was provided to him to cross examine the witnesses (three guarantors) against him, moreover, the defense plea of the appellant had not been considered by the inquiry officer

**ATTESTED**  
 EX-MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

**ATTESTED**  
 Advocate

**Attested**  
 Advocate

**Attested**  
 Advocate



hence the appellant had been condemned unheard. He further stated that enquiry had been conducted before the conclusion of the trial in the court hence the rush in justice tantamounts to crush the justice. Moreover in addition to the major penalty the appellant was transferred as a punishment to District Torghar which tantamount to double jeopardy and double punishment for the same offence hence not maintainable in the eyes of law. He prayed that the appeal may be accepted, the impugned orders may be set aside and he may be reinstated in service with all back benefits.

5. The learned Government Pleader argued that proper enquiry was conducted in the matter and the appellant was associated with the entire proceedings before imposition of penalty by the competent authority. The appellant was given full opportunity of defense. He prayed that the instant appeal being devoid of merits may be dismissed.

6. Arguments of the counsel for the parties heard and record perused with their assistance.

7. From perusal of the record it transpired that enquiry was not conducted as prescribed in the law as the appellant was not provided full opportunity of proper defense as enshrined in the Constitution of Islamic Republic of Pakistan 1973. As a reprisal of the case he was posted out of the District and was then removed from service while criminal case against the appellant was still pending in the court of ASJ Swat. The enquiry proceedings reveal that appellant was condemned unheard which is not maintainable in the eyes of law. The Tribunal is constrained to interfere in the case and remand the case to the respondent-department with direction to conduct *de-novo* enquiry against the appellant strictly in accordance with the law. The appellant shall be given full opportunity of defense and personal hearing before any orders are passed by the competent authority. The impugned order is set aside and the appellant is reinstated for the purpose of *de-novo* enquiry. Back benefits will be subject to outcome of the fresh enquiry. The appeal is decided in above terms. Parties are left to bear their own costs. File be consigned to the record.

ATTESTED  
*Mudal*  
ADVOCATE

ANNOUNCED  
03.06.2015

*By Mudal Rafiq*  
*Chairman*  
*By Muhammad Azim Khan*  
*Chairman*

Certified to be true copy  
EXAMINED BY  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Attested  
*Mudal*  
Advocate

Attested  
*Mudal*  
Advocate

Annexure "E"

Annexure "B"

17

17

STATEMENT OF IBRAR AHMAD TEHSILDAR / NAIB TEHSILDAR LAND REFORMS.

On the day of occurrence, I was present in the premises of District Courts Swat for my personal matter. In the meanwhile, I was called by the learned ASJ-I Swat who showed me two number of Fard intikhab which on examination I found fake and forged. Both the copies are placed as Annexure-L and M. Dated 05-10-2013 was Saturday and our offices are closed on Saturday and Sunday.

XXX...by accused official Mohammad Ismail.


1. I had not compared these Fards with my office record.
2. I myself expert being gained during my 30 years service.
3. It is correct that I have not obtained any Forensic training, explained that only in Revenue matters I have gained sufficient experience during my prolonged service.
4. My statement is recorded in the court of Senior Civil Judge Swat in the instant matter, the printed form of Fard is correct; however, the entries therein were fake and forged.
5. It is correct that we have not made any inquiry in the preparation of these Fards.

IBRAR AHMAD TEHSILDAR


MOHAMMAD IBRAHIM

DPP DIR LOWER / INQUIRY OFFICER

Attested

  
Advocate

Attested

  
Advocate



18


18

STATEMENT OF TAJBAR INSPECTOR / SHO P.S KKS.

Stated, that at the time of registration of FIR 587 dated 05-10-2013 against Ismail etc I was posted as S.I investigation P.S Saidu Sharif. Initial investigation was conducted by Mr. Jan Alam Khan ASI, who prepared site plan in the case, prepared pointation memo at the pointation of arrested accused Farooq, Zeeshan Ali and Ajmal Khan. Thereafter, Mr. Jan Alam Khan ASI was gone for training and I took over the investigation of the case. I produced accused Farooq, Zeeshan and Ajmal for recording their confessional statements. Except accused Ajmal the other two accused Farooq and Zeeshan recorded their confessional statements before the court of Judicial Magistrate Swat. Accused Farooq and Zeeshan Ali in their confessional statements named accused Ismail as co-accused. For ready reference, photocopies of the confessional statements of both the accused are Annexure-A and B. Accused Ismail was arrayed as accused in the case prior to my investigation. Accused Ismail thereafter filed BBA application in the court of Sessions Judge / Zilla Qazi Swat who vide Order dated Annexure-C declined BBA to Ismail. Accordingly, he was arrested and I interrogated him. I produced him for recording his confessional statement U/S 164/364 Cr. PC and he refused to confess his guilt. Thereafter I recorded his recorded his statement U/S 161 Cr. PC copy of which is Annexure-D. Ahmad Shah Khan SHO P.S Saidu Sharif has already taken into possession the alleged forged deed at the time of registration of the case. During investigation, the recovered fake deed was examined through expert / concerned Tehsildar who declared the deed as forged one. The investigation is complete and case is challaned to court and proceeding in the case is going on against him in the court of Judicial Magistrate. Accused Ismail has been released on bail by the High Court vide Order Annexure-E. The concerned Tehsildar has declared the seal and signature as fake and forged hence, Patwari Halqa submitted his report to me which is Annexure-F a self explanatory. In my investigation, he is accused in the case. Accused Ismail produced copy of affidavit dated 12-10-2013 to me but during investigation neither he nor his counsel produced me this affidavit.


XXX..... by accused official Mohammad Ismail.

1. It is correct that no point is given in the site plan to be the presence of Ismail.
2. I did not conduct any test if accused Ismail is capable to writing or operating on computer. Self stated that accused Ismail is illiterate.
3. It is correct that I failed to ascertain the name and identity of advocate to whom the case record was handed over for onward submission to the court.
4. It is correct that I did not make any recovery of amount from Ismail.
5. It is also correct that it has been shown in my investigation that the alleged recovered note was handed over to Yousaf by co-accused Farooq and Zeeshan.
6. It is correct that I did not collect any direct evidence against Ismail regarding his involvement in the instant case.
7. It is correct that absconding accused Ubaid used to work as deed writer in the court premises.

**Attested**  
  
**Advocate**

TAJBAR SHO P.S KSK

MOHAMMAD IBRAHIM  
DPP DIR LOWER / INQUIRY OFFICER

**Attested**  
  
**Advocate**

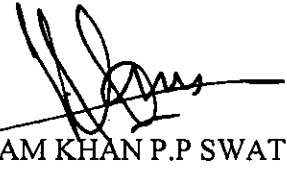
19

(19)

STATEMENT OF NISAR ALAM PUBLIC PROSECUTOR SWAT.

Stated that I, Mujarrab Khan DPP Swat, Saeed Naeem Sr. P.P Swat and Mohammad Naeem APP Swat have recorded joint statement wherein we have narrated that accused / official Ismail is a constant nuisance, enjoyed bad reputation and is injurious to the District Prosecution. The order of the court of Sessions Judge Swat dated 30-10-2013 attached as Annexure-G as evident about the character / activities of the accused Ismail. His previous conduct can be ascertained by the disciplinary actions already taken against him. I own my this statement which is correct and correctly bear signatures of all of us. Further, I and Jamsheed Khan P.P have submitted final report wherein we have recommended for the punishment in the shape of deduction of two annual increments from the accused Ismail due to his bad conduct and misconduct. Our report is already available on file which is annexure-H.

Self stated that I suggest and request the honourable high ups that Mohammad Ismail Ex-Naib Qasid of this office is a sole source of income of his family, he has having minor kids and there is no other source of income except his salary. As I know, presently he repented and mended his way. I was of the view when I submitted my previous statement that Ismail NQ would be punished with minor penalty i.e stoppage of increment and deduction of annual increment. The present punishment I think is more than enough and harsh. On humanitarian grounds it is required to be revisited, in the best interest of his family.

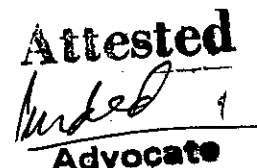


NISAR ALAM KHAN P.P SWAT

MOHAMMAD IBRAHIM

DPP DIR LOWER / INQUIRY OFFICER

**Attested**  
  
**Advocate**

**Attested**  
  
**Advocate**

20

STATEMENT OF MUJARRAB KHAN DPP SWAT.

Stated that with reference to Order dated 30-10-2013 of the learned Sessions Judge Zilla Qazi Swat, I requested the worthy Director General Prosecution vide letter No. 1205 dated 07-11-2013 for the transfer of Mohammad Ismail NQ to some other districts. The Order of learned Sessions Judge ibid was conveyed to the worthy DG Prosecution. Application No. 6153 dated 04-11-2013 of District and Sessions Judge Swat addressed to me was also conveyed to the Directorate for compliance of his order in terms of para No. 12 of the said Order which is also placed on file as Annexure-I (consisting on 06 pages). Accordingly, the worthy Director General Prosecution transferred him to Torghar vide order Annexure-J. Besides this statement, I after receipt of inquiry report submitted to me by Jamsheed Khan and Nisar Alam Khan P.Ps, I directed Habibullah Jan Senior Clerk for deduction of his annual increment. My stated order is Annexure-K. Now he has reformed himself.

MUJARRAB KHAN

DISTRICT PUBLIC PROSECUTOR

SWAT AT GULKADA

MOHAMMAD IBRAHIM

DPP DIR LOWER / INQUIRY OFFICER

**Attested**  
  
**Advocate**

**Attested**  
  
**Advocate**

21

(scribble)

**STATEMENT OF MOHAMMAD ISMAIL S/O AMIR ZARIN EX-NAIB QASID,  
OFFICE OF THE DISTRICT PUBLIC PROSECUTOR SWAT.**

During those days, I was serving as Naib Qasid in the office of District Public Prosecutor Swat and I was attached with Mr. Saeed Naeem Senior Public Prosecutor Swat. On 05-10-2013, I was present in my office. Senior Public Prosecutor Swat handed over to me, keys of his car with the direction to change mobil oil at the workshop. Thereafter, I came back to my office. Gunner Jan Alam of Senior Public Prosecutor was also with me. When I met Mr. Saeed Naeem Khan, he directed me to take his family to Peshawar. He also gave me some amount for CNG and miscellaneous expenses. Accordingly, I took the family of Saeed Naeem Sr. P.P Swat to Peshawar and on the next date, I returned on 06-10-2013 to Swat. When I returned to my home, my brother Tariq Aziz informed me that I have been implicated in the criminal case. Thereafter, I applied for BBA which was granted to me. On the date of confirmation of my BBA, the learned Sessions Judge called my service record and on examination nothing adverse was found by him against me. However, he did not confirm my BBA. I was handed over to police and during interrogation, nothing incriminating was recovered from my possession. After rejection of my post arrest bail by the learned Sessions Judge Swat, I applied for my release on bail in the Darul Qaza Swat and my bail was allowed and was released on bail. I was roped falsely in the criminal case. I am innocent and not involved in any criminal or other activities being a government servant. I always worked to the entire satisfaction of my superiors. The disciplinary proceedings initiated against me, may kindly be dropped and I may be exonerated from the inquiry. In the previous inquiry, I have already replied to the final show cause notice submitted to Mr. Asmatullah Khan Gandapur the Director General Prosecution, Khyber Pakhtunkhwa, I also rely on my said reply which is annexure-O (consisting on 02 pages) which is correct and correctly bears my signature.

XXX...

1. It is correct that I have been transferred from this district to district Torghar on the written order of Mr. Sharif Ahmad Khan Sessions Judge Swat.
2. It is also correct that I was charged in another criminal case. Explained that, that very matter was of dispute over amount of my cousin Sultan Zarin with the complainant party of that case, though initially I was charged but at the commencement of trial, I was honourably acquitted U/S 265-K Cr. PC by ASJ-III Swat.

**Attested**  
*(Signature)*  
**Advocate**

MOHAMMAD IBRAHIM  
DPP DIR LOWER / INQUIRY OFFICER

*محمد اسماعیل*  
MOHAMMAD ISMAIL  
ACCUSED/OFFICIAL

**Attested**  
*(Signature)*  
**Advocate**



STATEMENT OF SAEED NAEEM SENIOR PUBLIC PROSECUTOR SWAT.

Stated, that on the day of instant allegations, I sent Mohammad Ismail Naib Qasid with my family to Peshawar being a driver. On the following day, he told me that a criminal case has been registered against him on the day when he was in Peshawar along with my family. Mohammad Ismail is known to me since his attachment to my office, initially, I have found some irregularity in discharging of his duty, I instructed and advised him on different occasions to reform himself, he suffered a lot, particularly his family with the agony of his dismissal. Previously I made recommendation for the punishment just for his reformation but the punishment as rest on his dismissal from service is more than enough, I suggest that mercy may please be observed in his case. Now he has reformed himself and built his way.

XXX....Nil opportunity given.

SAEED NAEEM

SENIOR PUBLIC PROSECUTOR SWAT

MOHAMMAD IBRAHIM

DPP DIR LOWER / INQUIRY OFFICER

**Attested**  
  
**Advocate**

**Attested**  
  
**Advocate**



STATEMENT OF BAHRAM KHAN READER TO ASJ-I SWAT.

During those days, I was posted as Reader to the court of Additional Sessions Judge-I Swat, I had already recorded my statement in the instant inquiry which I own to be correct and correctly bears my signature. My previous statement is Annexure-N.

XXX.....by accused official Mohammad Ismail,

1. It is correct that on the day when I lodged the report, I mentioned the name of accused as Ismail but did not mention his parentage. Ismail S/O Amir Zarin is known to me. He was not present in the court, on the day of my report.

BAHRAM KHAN READER

10-10-15

MOHAMMAD IBRAHIM

DPP DIR LOWER / INQUIRY OFFICER

**Attested**  
  
**Advocate**

**Attested**  
  
**Advocate**

24

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**OFFICE OF THE  
DISTRICT PUBLIC PROSECUTOR  
DIR LOWER AT TIMERGARA**

No. 660 /D.P.P/Dir/Lower


Dated Timergara, The 06-11-2015

To,

The Director General Prosecution,  
Directorate of Prosecution,  
Khyber Pakhtunkhwa

Subject: INQUIRY REPORT AGAINST MOHAMMAD ISMAIL NAIB  
QASID.

Reference letter No. DP/E&A/1(60)/7888-89 dated 03-09-2015 of the Directorate of Prosecution the subject inquiry was conducted per your honor order by the undersigned against Mohammad Ismail Naib Qasid DPP Office, Swat/Torghar therefore; inquiry report consisting on 10 pages along with annexures is hereby submitted for your honor further order, please.

  
6/11/2015  
Mohammad Ibrahim (Inquiry Officer)  
District Public Prosecutor,  
Dir Lower at Timergara.


DA  
16/11/15


16/11/15

ADCA

Process with relevant papers  
16/11

Port on R.F.C. P  
ES.  
16/11

Attested  
  
Advocate

Attested  
  
Advocate

**INQUIRY REPORT:-**

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ES

The Honorable Director General Prosecution, Khyber Pakhtunkhwa, vide his order No. DP/E&A/1(60)7883-85 dated 3<sup>rd</sup> September, 2015 appointed me as inquiry officer to conduct a de-novo inquiry against Mohammad Ismail, Naib Qasid, Office of the District Public Prosecutor, Swat (hereinafter referred to accused official) under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline ) Rules, 2011 for committing the acts of commission, omission and forgery for which a criminal case vide FIR No. 587 dated 05-10-2013 U/S 419/420/468/471PPC PS Saidu Sharif, Swat was registered (Annex-1).

The Competent Authority served upon him a charge sheet and statement of allegations in the following terms (Annex-2&3):-

1. That you prepared forged documents for the release of accused namely Maaz with the intention to cheat the staff of Additional Sessions Judge Swat and a case was registered against you vide FIR No. 587 dated 05-08-2013 U/S 419/420/468/471PPC in Police Station Saidu Sharif Swat and committed to prison.

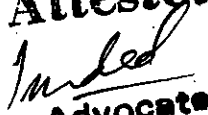
In the charge sheet, the accused official was asked to submit his written defense to the Inquiry Officer within seven days of the receipt of charge sheet and statement of allegations failing which he would be proceeded ex-parte.

A notice was issued to the accused official as well as District Public Prosecutor, Swat to appear before the inquiry officer on 10-10-2015 at 10:00 a.m in the office of District Public Prosecutor Swat to probe the allegations (Annex-4).

Pursuant to the direction, the accused official submitted his written statement in response to the directions in the charge sheet and statement of allegations which is reproduce as under :-

"It is submitted that all the charges and allegations leveled against me are baseless, incorrect and mala fide. I have never committed any act of commission or omission which may constitute any offence under any law. Furthermore, I have regularly attending my duties prior and after to the case and have neither been absented nor any complaint from public or officials/officers have been made against me, I have an unblemished service record. I have falsely been involved in a criminal case, which is still under investigation and the sureties who have prepared and presented the disputed document have not been proved to be false and fabricated.

Attested  
  
Advocate

Attested  
  
Advocate



This is a settled principles of law that non could be axed twice particularly in a matter where the criminal case is pending at any stage and finally a court has to reach a conclusion as to whether accused person is guilty or innocent, the disciplinary proceedings are dependent upon the verdict of the court trying the case. Therefore, initiation of disciplinary proceedings prior to the judicial proceedings is not warranted under the law. There is no likelihood of the accused to be convicted as the charges and allegation leveled against them are frivolous and could not stand judicial scrutiny.

Keeping in view the above facts it is requested that the charges and allegations leveled against me and the proceedings initiated may kindly be dropped and I may kindly be exonerated of the charges and allegations.

I wish to be heard in person as well and also request for allowing me to engage a counsel to properly defend my case, if need be. (Annex-5)". ✓

It is pertinent to mention here that prior to the instant de-novo inquiry in the instant case, inquiry under rule 3 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 was also conducted by Mr. Zafar Abbas Mirza, Deputy Director Monitoring Directorate of Prosecution Peshawar. His inquiry report along with enclosures is annex-"6" available on the file. His findings and recommendations are hereby reproduced as under:-

#### 1. Findings

"The official has attempted to deceive the Court and have brought bad name for the Prosecution in District Swat. He has also attempted to shatter the public interest by his activities. This is not his first instance, as discussed in the preceding paras there are series of such like complaints against the official by superiors which at this juncture cannot be ignore.

The Service record of the official under inquiry provides that he ceases to be efficient, is guilty of misconduct, is an habitual absentee from the duties and engaged in the activities not warranted by the Law and as such his case falls within the ambit of rule 3(a) (b) & (d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules 2011.

#### Recommendations

Keeping in view all above, I recommend the Major Penalty of Removal from Service for him within the meaning of Section 4 (b) (iii)

**Attested**  
  
**Advocate**

**Attested**  
  
**Advocate**

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of the Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules 2011.

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On the basis of above mentioned findings and recommendations DG Prosecution Khyber Pakhtunkhwa being Competent Authority imposed major penalty of removal from service upon Mohammad Ismail N/Q District PP Office Torghar with immediate effect (Annex-7).

After the said order the accused official being aggrieved by the impugned order (Annex-7) challenged the same before the Khyber Pakhtunkhwa Services Tribunal who vide order dated 03-06-2015 set aside the impugned order and remanded the case to the department to conduct de-novo inquiry strictly in accordance with the law (Annex-8).

In compliance with the order of Khyber Pakhtunkhwa Services Tribunal the Competent Authority appointed the undersigned as inquiry officer to conduct a de-novo inquiry under the provisions of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. The undersigned being authorized inquiry officer, undertook the inquiry into the allegations leveled against the accused official and called for hearing the accused and other witnesses on 10-10-2015 at 10am in the office of District Public Prosecutor, Swat (Annex-4). The statements of the accused official as well as of the witnesses were recorded in the presence of the accused official. Mr. Mujarab Khan, DPP Swat recorded his statement before the inquiry officer, Mr. Zafar Abbas Mirza, DD Monitoring. He recorded similar statement before the undersigned which is (Annex-9). In his statement he stated that with reference to order dated 30-10-2013 of the learned Sessions Judge/Zilla Qazi Swat, I requested the worthy Director General Prosecution vide letter No. 1205 dated 07-11-2013 for the transfer of Mohammad Ismail NQ to some other districts. The Order of learned Sessions Judge ibid was conveyed to the worthy DG Prosecution. Application No. 6153 dated 04-11-2013 of District and Sessions Judge Swat addressed to me was also conveyed to the Directorate for compliance of his order in term of para No. 12 of the said order which is also placed on file as Annexure -I (consisting on 06 pages(Already available on the File). Accordingly. the worthy Director General Prosecution transferred him to Torghar vide order Annexure-J. Besides this

Attested  
Advocate

Attested  
Advocate

ment, I after receipt of inquiry report submitted to me by Sheed Khan and Nisar Alam Khan PP. I, directed Habibullah Khan, Senior Clerk for deduction of his annual increment. My stated order is Annexure-K (this order is already available on the file). Now he has reformed himself.

28

In his statement he did not rebut the charges leveled against the accused official in the charge sheet and statements of allegations but in the last sentence of his statement he only stated that "now he has reformed himself". With these concluding remarks he intends that minor penalty be imposed upon the accused official.

Mr. Ibrar Ahmad Tehsildar/ Naib Tehsildar Land Reforms also recorded his statement before the undersigned being inquiry officer which is (Annex-10). In his statement he stated "that on the day of occurrence, I was present in the premises of District Courts Swat for my personal matter. In the meanwhile, I was called by the learned ASJ-I Swat who showed me two number of Fard Intikhab which on examination I found fake and forged. Both the copies are placed as Annexure-L and M. Dated 05-10-2013 was Saturday and our offices are closed on Saturday and Sunday".

The witness was crossed examined by accused official Mohammad Ismail. His cross examination is reproduced here as under:-

1. I had not compared these Fards with my office record.
2. I myself expert being gained during my 30 years service.
3. It is correct that I have not obtained any Forensic training and explained that only in Revenue matters I have gained sufficient experience during my prolonged service.
4. My statement is recorded in the court of Senior Civil Judge Swat in the instant matter, the printed form of Fard is correct, however, the entries therein was fake and forged.
5. It is correct that we have not made any inquiry in the preparation of these Fards.

In his statement Mr. Ibrar Ahmad Tehsildar declared the entries in printed Fards as fake and forged one made by the accused official for the release of accused "Maaz" bailed out by the learned ASJ-I Swat. He also did not deny the involvement of accused official in preparation of the fake and forged Fards.

Attested  
Indel  
Advocate

Attested  
Advocate

Mr. Bahram Khan Reader to ASJ-I Swat also recorded his statement before the undersigned which is (Annex-11). In his statement he stated that during those days, I was posted as Reader to the court of Additional Sessions Judge-I Swat, I had already recorded my statement in the instant inquiry which I own to be correct and correctly bears my signature. My previous statement is Annexure-N (available on the record). This witness was also cross examined by accused official Mohammad Ismail which is as under:-

(Signature)

29

It is correct that on the day when I lodged the report, I mentioned the name of accused as Ismail but did not mention his parentage. Ismail S/O Amir Zarin is known to me. He was not present in the court, on the day of my report. As evident from his statement that he is still charging accused official for committing forgery with the court.

Mr. Tajbar Inspector/ SHO PS KKS recorded his statement before the undersigned which is (annex-12). In his statement he narrated that at the time of registration of FIR 587 dated 05-10-2013 against Ismail etc I was posted as S.I investigation PS Saidu Sharif. Initial investigation was conducted by Mr. Jan Alam Khan ASI, who prepared site plan in the case, prepared pointation memo at the pointation of arrested accused Farooq, Zeeshan Ali and Ajmal Khan. Thereafter, Mr. Jan Alam Khan ASI was gone for training and I took over the investigation of the case. I produced accused Farooq, Zeeshan and Ajmal for recording their **confessional statements**. Except accused Ajmal the other two accused Farooq and Zeeshan recorded their confessional statements before the court of Judicial Magistrate Swat. Accused Farooq and Zeeshan Ali in their confessional statements named accused Ismail as co-accused. For ready reference, photocopies of the confessional statement of both the accused are Annexure-A and B. Accused Ismail was arraigned as accused in the case prior to my investigation. Accused Ismail thereafter file BBA application in the court of Sessions Judge/Zilla Qazi Swat who vide order dated Annexure-C declined BBA to Ismail. Accordingly, he was arrested and I interrogated him. I produced him for recording his confessional statement U/S 164/364 CrPC but he refused to confess his guilt. Thereafter I recorded his statement U/S 161CrPC which is Annexure-D. Ahmad Shah Khan SHO PS Saidu Sharif has already taken into possession the alleged forged deeds at the time of registration of the case. During investigation, the

Attested  
(Signature)  
Advocate

Attested  
(Signature)  
Advocate

recovered fake deeds were examined through expert/ concerned Tehsildar who declared the deeds as forged one. The investigation is complete and challan is submitted to court and proceedings in the case are going on against him in the court of Judicial Magistrate Swat. Accused Ismail has been released on bail by the High Court vide order (Annexure-E). The concerned Tehsildar has declared the seal and signature as fake and forged hence, Patwari Halqa submitted his report to me which is Annexure-F a self-explanatory. In my investigation, he is accused in the case. Accused Ismail produced copy of affidavit dated 12-10-2013 to me but during investigation neither he nor his counsel produced me this affidavit. This witness was also cross examined by accused official, Mohammad Ismail which is as under:-

30

1. It is correct that no point is given in the site plan to be the presence of Ismail.
2. I did not conduct any test if accused Ismail is capable to writing or operating on computer. Self-stated that accused Ismail is illiterate.
3. It is correct that I failed to ascertain the name and identity of advocate to whom the case record was handed over for onward submission to the court.
4. It is correct that I did not make any recovery of amount from Ismail.
5. It is also correct that it has been shown in my investigation that the alleged recovered note was handed over to Yousaf by co-accused Farooq and Zeeshan.
6. It is correct that I did not collect any direct evidence against Ismail regarding his involvement in the instant case.
7. It is correct that absconding accused Ubaid used to work as deed writer in the court premises.

He deposed against the accused official for committing forgery with the court. He also produced copies of confessional statements of co-accused of Ismail wherein they categorically confessed before the competent court of law that accused official Ismail has prepared fake and forged Fards for them in order to release accused "Maaz" on payment of Rs. 6000/-.

Attested  
*[Signature]*  
Advocate

Attested  
*[Signature]*  
Advocate

Mr. Nisar Alam PP ATC Swat also recorded his statement before the undersigned which is (annex-13). In his statement he stated that I, Mujarrab Khan DPP Swat, Saeed Naeem Sr. P.P Swat and Mohammad Naeem APP Swat have recorded joint statement wherein we have narrated that accused/official Ismail is a nuisance, enjoyed bad reputation and is injurious to the District Prosecution. The order of the court of Sessions Judge Swat dated 30-10-2013 attached as Annexure-G is evident about the character/ activities of the accused official, Ismail. His previous conduct can be ascertained by the disciplinary action already taken against him, I own my this statement which is correct and correctly bear signatures of all of us. Further, I and Jamsheed Khan PP have submitted final report wherein we have recommended for the punishment in the shape of deduction of two annual increments from the accused Ismail due to his bad conduct and misconduct. Our report is already available on file which is annexure-H.

31

Self-stated that I suggest and request the honorable high ups that Mohammad Ismail Ex-Naib Qasid of this office is a sole source of income of his family, he has having minor kids and there is no other source of income except his salary. As I know, presently he repented and mended his way. I was of the view when I submitted my previous statement that Ismail NQ would be punished with minor penalty i.e stoppage of increment and deduction of annual increment. The present punishment I think is more enough and harsh. On humanitarian grounds it is required to be revisited, in the best interest of his family.


His this statement is obvious that accused official is a constant nuisance, enjoyed bad reputation and is injurious to the District Prosecution but he requested the undersigned as well as high ups on humanitarian grounds that he is a sole source of income of his family besides this his repentance and mended his ways, therefore he is of the view that he be punished leniently i.e. stoppage of increment and deduction of his annual increment. He is of the view that the punishment of removal from service is very harsh and is more than enough therefore, he requested for lesser punishment to the accused official.

Mr. Saeed Naeem Khan Sr.PP ATC Swat also recorded his statement before the undersigned which is (annex-14). In his

Attested  
Advocate

Attested  
Advocate

statement he stated that on the day of instant allegation, I sent Mohammad Ismail Naib Qasid with my family to Peshawar being a driver. On the following day, he told me that a criminal case has been registered against him on the day when he was in Peshawar along with my family. Mohammad Ismail is known to me since his attachment in my office. Initially I have found some irregularity in discharging of his duty, I instructed and advised him on different occasion to reform him, and he suffered a lot, particularly his family with the agony of his dismissal.

  
32

Previously I made recommendation for the punishment just for his reformation but the punishment as rest on his dismissal from service is more than enough. I suggest that mercy may please be observed in his case. Now he has reformed himself and bent his way.

This witness in his statement did not mention that on the eventful day at what time he send the accused official to Peshawar. He might send him to Peshawar after closing duty hours of courts/ offices whereas per record accused "Maaz" was released on bail at morning time of the day of occurrence. However in concluding para of his statement he intends that minor punishment be imposed upon the accused official.

Mr. Mohammad Ismail Ex- Naib Qasid office of the District Public Prosecutor Swat (accused official) also recorded his statement before the undersigned which is (annex-15). In his statement he stated that during those days, I was serving as Naib Qasid in the office of District Public Prosecutor Swat and I was attached with Mr. Saeed Naeem Senior Public Prosecutor Swat. On 05-10-2013, I was present in my office. Senior Public Prosecutor Swat handed over to me, keys of his car with the direction to change mobile oil at the workshop. Thereafter, I came back to my office. Gunner Jan Alam of Senior Public Prosecutor was also with me. When I met Mr. Saeed Naeem Khan, he directed me to take his family to Peshawar. He also gave me some amount for CNG and miscellaneous expenses, Accordingly, I took the family of Saeed Naeem Sr. PP Swat to Peshawar and on the next date, I returned on 06-10-2013 to Swat. When I returned to my home, my brother Tariq Aziz informed me that I have been implicated in the criminal case, Thereafter, I applied for BBA which was granted to me. On the date of confirmation of my BBA, the learned Sessions Judge called my service record and on

**Tested**  
  
**Advocate**

**Tested**  
  
**Advocate**

examination nothing adverse was found by him against me. However, he did not confirm my BBA. I was handed over to police and during interrogation, nothing incriminating was recovered from my possession. After rejection of post arrest bail by the learned Sessions Judge Swat, I applied for my release on bail in the Darul Qaza Swat and my bail was allowed and released on bail. I was roped falsely in the criminal case. I am innocent and not involved in any criminal or other activities being a government servant. I always worked to entire satisfaction of my superiors. The disciplinary proceedings initiated against me, may kindly be dropped and may be exonerated from the inquiry. In the previous inquiry, I have already replied to the final show cause notice submitted to Mr. Asmatullah Khan Gandapur the Director General Prosecution, Khyber Pakhtunkhwa, I also rely on my said reply which is annexure-O (consisting on 02 pages) which is correct and correctly bears my signature.

The accused official was cross examined by the undersigned as under:-

1. It is correct that I have been transferred from this district to district Torghar on the written order of Mr. Sharif Ahmad Khan Sessions Judge Swat.
2. It is also correct that I was charged in another criminal case, he explained that, that very matter was of a dispute over amount of my cousin Sultan Zarin with the complainant party of that case, though initially I was charged but at the commencement of trial, I was honorably acquitted U/S 265-CrPC by ASJ-III Swat.

The accused denied the allegations and claimed that he has been falsely roped in the case. He is innocent and is not involved in any criminal or other activities prejudicial to the service disciplinary. Hence, the allegations are baseless, unfounded and he may be exonerated from the charges leveled against him.

But the available record and statements of witnesses speaks otherwise.

In cross examination the accused official admits that he has been transferred to Torghar on the written complaint of the learned Sessions Judge, Swat. The learned Sessions Judge, Swat in his order dated 30-10-2013 directed the Directorate of Prosecution/

Attested  
*[Signature]*  
Advocate

Attested  
*[Signature]*  
Advocate



department that in addition to any other disciplinary action against the accused official he shall be immediately and permanently exclude and post out from the court premises of District Swat to some other district.

34

He further admits that he was previously involved in criminal case and was acquitted from the said case on the basis of compromise. This also speaks his conduct which certainly is prejudicial to good order and service discipline.

However District Prosecution Swat requested for lenient action against the accused official on the grounds that he reformed himself therefore they all request that mercy may be observed in his case. They are of the view that the present punishment of removal for service they think is more enough and harsh. On humanitarian grounds they requested the high ups that it is required to be revisited, in the best interest of his family.

#### FINDINGS.

Keeping in view the facts, statements of witnesses, it is proved that the accused official namely, Mohamamd Ismail N/Q, DPP Office, Torghar is responsible for the acts of commission and omission referred in the charge sheet and statement of allegations. His conduct is prejudicial to good order and service discipline.

#### RECOMMENDATIONS.

I, the undersigned hereby recommend to the Director General, Prosecution, being a competent authority for appropriate order:-

"On the basis of the facts, statements of witnesses and keeping in view the request of the District Prosecution Swat that lenient action be taken in case of the accused official, I, recommend that Mr. Mohammad Ismail, the accused official is liable for the penalty specified in section 4(b) (i) or any other penalties specified in section 4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 as deemed consider appropriate."

**Attested**

*[Signature]*  
Advocate

*[Signature]*  
MOHAMMAD IBRAHIM  
Inquiry Officer  
25/09/2014.

**Attested**  
*[Signature]*  
Advocate



**DIRECTORATE OF PROSECUTION  
KHYBER PAKHTUNKHWA**

No. DP/ED/PPH/11276.  
Dated Peshawar 03/12/2015  
Office Phone # 091-9212559  
Fax # 091-9212559  
E-mail: kpprosecution@yahoo.com

(by Registered)

To

The District Public Prosecutor,  
Swat.

Subject:- FINAL SHOW CAUSE NOTICE.

Dear sir,

I am directed to refer to the subject noted above and to enclose herewith a Final show cause notice (in duplicate) duly signed by the competent authority alongwith Inquiry report.

It is, therefore, requested that the above mentioned Final show cause notice be served upon Muhammad Ismail, re-instated as Naib Qasid for the purpose of De-nevo; and duplicate copy may kindly be signed and return to this Directorate as token of receipt for further information, Please.

(Encls as above).

Your faithfully,

(MUHAMMAD MUZAFAR)  
Assistant Director Admin/Finance

**Attested**

**Advocate**

Handwritten notes in Urdu: "آئی بی", "11-12-05", "No 3441", "dat. 11-12-015".

Handwritten notes in Urdu: "وصول", "12-12-015".

Handwritten notes in Urdu: "تعمیرات", "12-12-015".

Handwritten notes in Urdu: "موجودہ", "12-12-015".

**Attested**

**Advocate**



(36)

**DIRECTORATE OF PROSECUTION**  
**KHYBER PAKHTUNKHWA**

No. DPP/ \_\_\_\_\_  
Dated Peshawar / /  
Office Phone # 091-9212559  
Fax # 091-9212559  
E-mail: kpprosecution@yahoo.com

**FINAL SHOW CAUSE NOTICE**

I, Shafir Ullah, Director General Prosecution, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011, do hereby serve upon you, Muhammad Ismail, Naib Qasid, office of the District Public Prosecutor, Swat as follow:-

- (i) That consequent upon the completion of De-nevo Inquiry conducted against you by Muhammad Ibrahim, DPP, Dir (Lower), for which you were given an opportunity of hearing & also recorded your statement. Thus,
- (ii) On going through the findings and recommendations of the Inquiry Officer, together material on record and other connected papers beside your defence version before the Inquiry Officer,

I am satisfied that you are found guilty of misconduct and lack of service discipline in term of Rule-3 of the said Rules.

2. As a result therefore, being a competent authority, the undersigned tentatively decided to impose upon you the penalty of "**Removal from Service**" under Rule-4 of the Rule ibid.
3. You are therefore, required to show cause as to why the after said penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this Notice is received within seven(07) days or not more than fifteen (15)days of its delivery, it shall be presumed that you have no defence to offer and in that case an Ex-Parte action shall be taken against you.
5. A copy of the findings of the Inquiry officer is enclosed.

**Attested**  
*[Signature]*  
**Advocate**

*[Signature]*  
11/2/15  
Shafirullah  
Director General (Prosecution)  
Khyber Pakhtunkhwa

**Attested**  
*[Signature]*  
**Advocate**



OFFICE OF THE  
DISTRICT PUBLIC PROSECUTOR  
SWAT AT GULKADA

(37)

No. 1418 /DPPSwat/

Dated 28 /12/2015

Phone & Fax # 0946-9240457  
Email: dppswat@yahoo.com

To

The worthy Director General,  
Directorate of Prosecution,  
Govt: of Khyber Pakhtunkhwa,  
Peshawar.

Subject: REPLY TO THE FINAL SHOW CAUSE NOTICE.

Respected Sir,

Reference the Assistant Director Administration/Finance, Directorate of Prosecution, Govt: of Khyber Pakhtunkhwa, Peshawar letter No. DP/E&A/PF/11276, dated 03-12-2015, on the subject noted above.

The self explanatory reply to the above noted show cause by Muhammad Ismail Naib Qasid is hereby submitted please.

DISTRICT PUBLIC PROSECUTOR  
SWAT AT GULKADA

Endst: of Even No. & Date:

Copy forwarded to:

1. The Assistant Director Administration/Finance, Directorate of Prosecution, Govt: of Khyber Pakhtunkhwa, Peshawar w/r to above.
2. Muhammad Ismail Naib Qasid.

for information please.

DISTRICT PUBLIC PROSECUTOR  
SWAT AT GULKADA

Attested

Advocate

Attested

Advocate

SENDING REPORT

30 Dec. 2015 11:14AM

YOUR LOGO : DPP SWAT  
YOUR FAX NO. : 106

38

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
01	0919223420	30 Dec. 11:11AM	02'35	SND	03	OK

TO TURN OFF REPORT, PRESS 'MENU' #04.  
THEN SELECT OFF BY USING '+' OR '-'.

Attested  
*[Signature]*  
Advocate

Attested  
*[Signature]*  
Advocate

(39)

To

The Director General (Prosecution)  
Khyber Pakhtunkhwa,  
Peshawar.

Subject: REPLY TO THE FINAL SHOW CAUSE  
NOTICE

Respected Sir,

Reference No DP/ E&A/PF/11276 dated  
Peshawar 03-12-2015 (Received on 21-12-2015)

My reply to the final show cause notice is as  
under.

I am not guilty of misconduct and lack of service  
discipline in term of Rule 3 Service rules mentioned in  
your letter under reference.

No proper inquiry has been conducted against me  
and the Inquiry Report is based on whims and surmises.  
Neither my earlier replies have been taken into  
consideration nor has any solid or concrete evidence been  
collected in my presence by the Inquiry Officer. Even I  
have not been given the fair chance of cross examination.  
The charges leveled against me have not been proved. This  
is preplanned and predecided disciplinary case against me  
and the authorities are adamant to make me suffer for no  
fault of mine. The Inquiry Officer has not been pleased  
even to know the exact details of the case before the  
Additional Session Judge 1. Neither I was present on that  
day nor there is any evidence against me to connect me  
with that story. Furthermore that the order of the  
Honourable District & Sessions Judge Swat with regards  
my transfer is illegal and coram non judice, not being the

**Attested**

*[Signature]*  
Advocate

**Attested**

*[Signature]*  
Advocate

~~40~~ 40

competent authority, but the same is considered as punishment by the enquiry officer so how can I be punished twice for the same alleged offence, he has considered the said order to the extent of my punishment and has left the other aspect untouched, which is never approved by the law and natural justice.

The competent authority may be pleased to take into consideration my version of innocence and to see the inquiry report, which is devoid of any substantive and circumstantial evidence against me. The tentative decision of the competent authority to impose upon me the major penalty is also neither justified nor based on solid evidence. As earlier submitted the whole process is just an eye wash. The basic concept of the inquiry is to find out, if any, the evidence, but in my presence.

No fair chance of defence has been afforded to me, which fact is violative of the constitutional rights

I wish to be heard in person.

It is, therefore, very respectfully prayed that on acceptance of this reply I may kindly be exonerated and the departmental proceedings initiated against me be filed without any further action.

Yours Obediently,

*(M) Ismail*  
Muhammad Ismail

Naib Qasid

28/12/015

Attested  
*[Signature]*  
Advocate

Attested  
*[Signature]*  
Advocate

Annexure <sup>"f"</sup>Annexure <sup>"g"</sup>

**DIRECTORATE OF PROSECUTION**  
**KHYBER PAKHTUNKHWA**

Dated Peshawar 29 April, 2016

Office Phone # 091-9212559 / 091-9212542

Fax # 091-9212559

Email: kprosecution@yahoo.com

ORDER:No. DP/E&A/ PF/549-95 - Dated 29-04-2014.

Whereas, Mr. Muhammad Ismail, Naib Qasid during his tenure at DPP Office Swat was charged for preparation of forged documents for the release of accused namely Maaz with the intention to cheat the staff of Additional Session Judge, Swat and a criminal case to this effect was registered against him vide FIR No. 587 dated 05-08-2013 u/s419/420/468/471 PPC in the Police Station Saidu Sharif, Swat.

Whereas, he was charge sheeted vide order No. DP/E & A/1(60)/7883-85 dated 03.09.2015 and Muhammad Ibrahim Khan, District Public Prosecutor Dir Lower was appointed as inquiry officer to conduct De-novo Inquiry against him under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011 as per compliance of order dated 03.06.2015 passed by Khyber Pakhtunkhwa Service Tribunal, Camp Tribunal at Swat, and the charge was proved against him.

Whereas, a Final Show Cause Notice was served upon the accused official and also called upon for personal hearing, however, he could not move a convincing reply.

And whereas, the accused official hereinabove has been found guilty of misconduct under the E & D Rules, 2011.

Therefore, I Muhammad Arif Khattak, Director General Prosecution Khyber Pakhtunkhwa being Competent Authority, under Rule-4(1)(b)(iii) of the Rules ibid, do hereby impose major penalty of " **removal from service** " upon Muhammad Ismail, accused official, who was posted as Naib Qasid at District Public Prosecutor Office, Torghar, with immediate effect.

(Muhammad Arif Khattak)  
 Director General Prosecution  
 Khyber Pakhtunkhwa

Attested

Advocate

Attested

Advocate



Annexure "19"

Annexure "20"

42

42

To

The Secretary to the Government of Khyber Pakhtunkhwa,  
Home & Tribal Affairs Department,  
Peshawar.

**Subject:** Appeal against the order No. DF/E&A/PE/5491-95 dated 29-04-2016, communicated on 02-05-2016, whereby the appellant was removed from service by imposing major penalty against the law, rules, facts and Shariah.

**Prayer:** That on acceptance of this appeal the order impugned may very kindly be set aside and the appellant reinstated back into service with all back benefits.

Respected Sir,

The appellant submits as under:

- i. That the appellant got appointed as Naib Qasid at the office of the Public Prosecutor District Swat vide order Endst: No. SLT.15(I)96/4837-95 dated 23-01-2003, after observing all the codal formalities.
- ii. That the appellant was falsely involved in a criminal case FIR No. 587 dated 05-10-2013 u/s 419, 420, 468/471 PPC Police Station Saidu Sharif. The brief facts whereof that are the Learned ASJ1/IZQ granted bail to an accused. On furnishing bail bonds. The sureties placed the surety bonds along with revenue record in support of their being financially sound, before the said Learned Court.
- iii. That the reader of the court reported to the Police that the Revenue record showing the financial position of the sureties is fake. Those sureties were arrested, who during the course of investigation named the appellant to be involved with them and consequently the appellant was also arrested. That at the bail stage the Learned Sessions Judge / Zilla Qazi not only rejected the bail application, but also awarded punishment before the trail of the case. It was yet to be determined as to whether the case against the appellant is true or false, but the Learned Session judge was pleased to punish administratively the appellant

Attested  
Indep  
Advocate


Attested  
Advocate

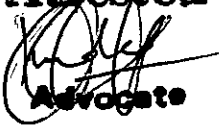
43



by ordering the concerned officer of the appellant to transfer the appellant outside.

- iv. That the August Peshawar High Court, Mingora Bench was pleased to grant the concession of bail to the appellant, however, the case against the accused is still under trail, before Civil Judge Cum Judicial Magistrate 1.
- v. That on one side the appellant is facing trail and on the other side the disciplinary proceedings (almost unilaterally completed). Moreover in addition to above the appellant was transferred to Torghar (Mansehra), however, the attitude is so revengeful that the pay of the appellant is also being stopped.
- vi. That the so called inquiry is conducted in such a manner that the appellant was never afforded the opportunity to cross examine any witness against him.
- vii. That the defence plea has never been considered by the inquiry officer while conducting the inquiry, hence the appellant is condemned as unheard. Moreover the inquiry so conducted was pre-decided one.
- viii. That the inquiry has been concluded before the conclusion of the trail, wherein proper investigation will be made and also proper evidence will be lead in accordance with the law, but the inquiry officer has not waited for the result of the trail and has condemned the appellant on the basis of a shame inquiry, which is never conducted in proper manner and in accordance with the law.
- ix. That as a result of the farce enquiry the appellant was removed from service vide impugned order No. DP/E&A/1(1) P/F/4294-99 dated 15-04-2014, communicated on 18-04-2014, against which the appellant filed a departmental appeal and finally filed a Service Appeal No. 1019/2014 which was decided on 03-06-2015 and the case was sent back for de novo enquiry.
- x. That again the appellant was expecting an impartial enquiry in accordance with the law and rules and fulfillment of all the codal formalities, but again the enquiry seemed to be just an eye wash.
- xi. That the enquiry officer, under the law and rules was to conduct a full dressed enquiry, but he failed to do so for reasons not known to the appellant. The enquiry officer was supposed to give his own finding, and that too after resorting

**Attested**  
  
**Advocate**

**Attested**  
  
**Advocate**

44

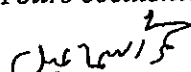


to the due course of law, but, he rather based his enquiry on the preceding enquiry and on the basis of the same gave his impartial recommendations, which is never provided for in the law and rules on the subject.

- xii. That the appellant has been condemned as unheard and his constitutional rights have been denied to him.
- xiii. That the appellant has not committed an act of commission or omission which may constitute any offence under any law.
- xiv. That the appellant wants to be heard in person.

It is, therefore, very humbly prayed that on acceptance of this appeal the order impugned may very kindly be set aside and the appellant reinstated into service with all back benefits. Furthermore the appellant be order to serve at District Swat, where he is appointed.


Yours obediently

  
Muhammad Ismail  
8-5-016

**Attested**

  
**Advocate**

**Attested**


  
**Advocate**

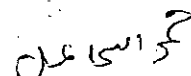
Annexure <sup>" "</sup> H

45

## ACKNOWLEDGMENT RECEIPT

I Mr. Muhammad Ismail Ex-Naib Qasid Office of District Public Prosecutor, Swat received letter No. SO(Pros)/HD/1.29/2012/vol-I dated 29 September, 2016, of Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar duly signed by the Section Officer Prosecution from District Public Prosecutor, Swat at Gulkada as per direction of worthy Director General Prosecution vide letter No. DP/E&A1(38)16-Ismail/17442-43 dated 7<sup>th</sup> October, 2016.

Attested By:   
District Public Prosecutor,  
Swat, At Gulkada.

  
Muhammad Ismail  
Ex-Naib Qasid,  
District Public Prosecutor,  
Swat, At Gulkada.

22/10/16

**Attested**  
  
**Advocate**



Government of Khyber Pakhtunkhwa  
Home & Tribal Affairs Department  
NO. SO (Pros)/HD/1-29/2012/vol-I  
Peshawar dated the 29<sup>th</sup> September, 2016.

46

To

The Director General Prosecution,  
Khyber Pakhtunkhwa, Peshawar.


Subject:

**APPEAL AGAINST THE ORDER NO .DP/E&A/P/F/5491-95 DATED 29-04-2016 COMMUNICATED ON 02-05-2016, WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE BY IMPOSING MAJOR PENALTY AGAINST THE LAW, RULES, FACTS AND SHARIAH**

Dear Sir,

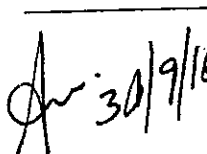
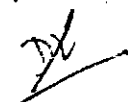
I am directed to refer to your letter No. DP/E&A/P/F/ (38)-15 Ismail/9794 dated 22/0/2016 on the subject noted above and to state that the departmental appeal, in respect of Mr. Muhammad Ismail, Ex-Naib Qasid, office of the District Public Prosecution Swat, was considered is rejected on merit by the competent authority.

Yours faithfully,



  
Section Officer (Prosecution)  
Ph: # 091-9210541  
Fax: # 091-9210201

C.c:-

P.S to Secretary Home & TAs Department.

  
30/9/16  


7176  
30/9

DD (A)   
30/9  
DD   
30/9

**Attested**  
  
**Advocate**



**DIRECTORATE OF PROSECUTION**

KHYBER PAKHTUNKHWA

No. DP/E&A 1(38)16-Asmail/

Dated Peshawar 7<sup>th</sup> day of October 2016

Office Phone # 091-9212559/ 091-9212542

Fax # 091-9212559

E-mail: kpprosecution@yahoo.com

17442-43

47

To

The District Public Prosecutor,  
Swat.

Subject:- **APPEAL AGAINST THE ORDER NO.DP/E&A/E/F/  
5491-95 DATED 29-04-2016 COMMUNICATED ON  
02-05-2016 WHEREBY THE APPELLANT WAS  
REMOVE FROM SERVICE BY IMPOSING MAJOR  
PENALTY AGAINST THE LAW, RULES FACTS OF  
SHARIAH**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of letter NO.SO(Pros)/HD/1-29/2012/Vol-I dated 29-09-2016, which is self-explanatory.

It is, therefore, requested that the above mentioned order may kindly be served on Mr. Muhammad Ismail Ex-Naib Qasid office of District Public Prosecutor, Swat and acknowledgment receipt of the order may kindly be obtained from the official and return the same to this Directorate as a token of receipt for information / record please.

**(Encloses as above)**

Yours faithfully,

**(SAHIBZADI YASMEEN ARA)**

Assistant Director Legal

**Copy forwarded for information to the:**

OFFICE OF THE DISTRICT PUBLIC PROSECUTOR  
Section Officer (Prosecution) Home Department Khyber Pakhtunkhwa  
Peshawar.  
No. 2791  
19/10/2016

Assistant Director Legal

**Attested**

**Advocate**

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

Service Appeal No. 204 of 2016

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor Office Swat.

...Appellant

**VERSUS**

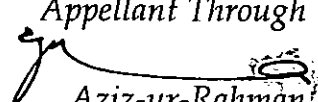
The Government of Khyber Pakhtunkhwa through Secretary Home, Peshawar and  
Others.

...Respondents

INDEX

S.#	Description of documents	Annexure	Pages
1.	Memo of Appeal	....	1-6
2.	Affidavit	....	7
3.	Addresses of the parties	....	8
4.	Copy of the Appointment Order	A	9-10
5.	Copy of the FIR	B	11
6.	Copy of the Order	C	12-14
7.	Copy of the Judgment 03-06-2015	D	15-16
8.	Copy of the Inquiry Report	E	17-40
9.	Copy of the Order	F	41
10.	Copy of the Departmental Appeal	G	42-44
11.	Vakalat Nama	....	45

Appellant Through

  
Aziz-ur-Rahman  
Advocate Swat

Office: Khan Plaza, Gulshone Chowk,  
Mingora Swat, Cell 0300 907 0671

①

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

---

Service Appeal No. 804 of 2016

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor  
Office Swat.

Khyber Pakhtukhwa  
...Appellant Service Tribunal

VERSUS

Diary No. 825

Dated 10-8-2016

1. The Government of Khyber Pakhtunkhwa through  
Secretary Home, Peshawar.
2. The Director General Prosecution Khyber  
Pakhtunkhwa, Peshawar.
3. The District Public Prosecutor, District Swat.

...Respondents

SERVICE APPEAL UNDER SECTION 4  
OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORDER NO.  
DP/E&A/1(1)PF/5491-95 DATED  
29-04-2016, COMMUNICATED ON  
02-05-2016, WHEREBY THE APPELLANT  
WAS REMOVED FROM SERVICE  
AGAINST WHICH THE  
DEPARTMENTAL APPEAL WAS  
PREFERRED TO THE RESPONDENT  
NO. 1, BUT WITH NO RESPONSE  
WITHIN THE STATUTORY PERIOD OF  
90 DAYS.

---

Filed to-day

Registrar

10/8/11

Prayer:

*On acceptance of this appeal the order impugned  
may very kindly be set aside and the appellant reinstated  
into service with all back benefits.*

---

Respectfully Sheweth:

Facts:



- i. That the appellant got appointed as Naib Qasid at the office of the Public Prosecutor District Swat vide order Endst: No. SLT.15(I)96/4837-95 dated 23-01-2003, after observing all the codal formalities. Copy of the order is enclosed as Annexure "A".
- ii. That the appellant was falsely involved in a criminal case FIR No. 587 dated 05-10-2013 u/s 419, 420, 468/471 PPC Police Station Saidu Sharif. The brief facts whereof that are the Learned ASJ1/IZQ granted bail to an accused. On furnishing bail bonds. The sureties placed the surety bonds along with revenue record in support of their being financially sound, before the said Learned Court. Copy of the FIR along with its better copy is enclosed as Annexure "B".
- iii. That the reader of the court reported to the Police that the Revenue record showing the financial position of the sureties is fake. Those sureties were arrested, who during the course of investigation named the appellant to be involved with them and consequently the appellant was also arrested. That at the bail stage the Learned Sessions Judge / Zilla Qazi not only rejected the bail application, but also awarded punishment before the trail of the case. It is yet to be determined as to whether the case against the appellant is true or false, but the Learned Session Judge was pleased to punish administratively the appellant by ordering the concerned officer of the appellant to transfer the appellant outside of the District Swat. Copy of the order is enclosed as Annexure "C".
- iv. That the August Peshawar High Court, Mingora Bench was pleased to grant the concession of bail to the appellant, however, the case against the accused

is still under trail, before Civil Judge Cum Judicial Magistrate 1.

- v. That departmental inquiry was initiated against the appellant. It was conducted in cursory manner. Stamen of senior public prosecutor (very important), of Beram Khan Reader of the Court ASJ 1 Swat and that of the appellant were recorded. On the completion of the said inquiry final show cause notice was issued to which the appellant submitted a detailed reply, but in a mechanical manner and without affording the appellant an opportunity of hearing he was removed from service wide the impugned order.
- vi. That the said order was challenged through Service Appeal No. 1019 of 2014 on the ground of audi alteram partem among others, which appeal was accepted vide judgment dated 03-06-2015 and de novo inquiry was ordered. Copy of the judgment is enclosed as Annexure "D".
- vii. That the de novo inquiry was conducted in a very mechanical manner without giving the appellant fair chance of defence. The inquiry officer based his whole findings on the previous inquiry against the law and rules and without considering the judgment of this Honourable Tribunal on the previous inquiry and the inquiry officer gave his findings based on mere surmises and personal whims and beliefs, which makes the inquiry an eye wash and nullity in the eyes of law, moreover the provision of Article 10 A of the Constitution have blatantly been flouted. Copy of the inquiry report along with the statements is enclosed as Annexure "E".
- viii. That upon the recommendations of the inquiry officer major penalty of removal from service was

imposed by the authority vide order No. DP/E&A/PF/5491-95 dated 29-04-2016 against the law, rules, facts and Shariah and is liable to be set aside. Feeling aggrieved from the said order the appellant preferred departmental appeal which is still lying pending despite the lapse of mandatory period of time. Copy of the order is enclosed as Annexure "F" and that of the appeal is enclosed as Annexure "G".

- ix. That having no other option this service appeal is filed on the following grounds.

Grounds:

- a. That no fair chance of trial / hearing has been provided to the appellant, which fact is detrimental to his constitutional rights. The allegations leveled were required to be proved beyond any shadow of doubt, but on the basis of whims the appellant has been awarded the major penalty, whereas the charges leveled against him being false have absolutely not been proved.
- b. That the entire process from the very beginning are subjective and the evaluation of the material available on record has not been made objectively. The version of the appellant, carrying more weight than that of the departmental authorities has totally been ignored and never been discussed even.
- c. That according to the golden principles of safe administration of justice the very benefit of the doubt has to be given to the appellant and wherever it is possible the law is to be stretched in his favour.
- d. That the inquiry itself is volte face and a very low paid employee has been made to suffer allot without any lawful justification.

- e. *That on one side the appellant is facing trail and on the other side the disciplinary proceedings (almost unilaterally completed). Moreover in addition to above the appellant was transferred to Torghar (Mansehra), on the order of the Learned District and Session Judge Swat, which amounts to double jeopardy, however, the attitude is so revengeful that the pay of the appellant was also being stopped.*
  
- f. *That the so called de novo inquiry is conducted in such a manner that the appellant was never afforded the opportunity to cross examine any witness against him. There is no direct or indirect evidence against the appellant.*
  
- g. *That the defence plea has never been considered by the inquiry officer while conducting the inquiry, hence the appellant is condemned as unheard. Moreover the inquiry so conducted was pre-decided one.*
  
- h. *That the de novo inquiry has been concluded before the conclusion of the trail, wherein proper investigation will be made and also proper evidence will be lead in accordance with the law, but the inquiry officer has not waited for the result of the trail and has condemned the appellant on the basis of a shame inquiry, which is never conducted in proper manner and in accordance with the law.*
  
- i. *That the appellant is still jobless and on this account is suffering a lot.*

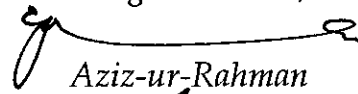
*It is, therefore, very respectfully prayed that on acceptance of this appeal the order impugned may very kindly be set aside and the appellant reinstated into service with all back benefits.*

Any other relief deemed appropriate may also  
very kindly be granted.

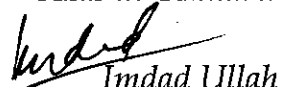
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Appellant

محمد اسماعيل  
Muhammad Ismail  
Through Counsels,



Aziz-ur-Rahman

  
Imdad Ullah  
Advocates Swat

7

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_ of 2016

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor  
Office Swat.

...Appellant

VERSUS

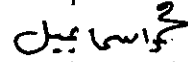
The Government of Khyber Pakhtunkhwa through  
Secretary Home, Peshawar and Others.

...Respondents

AFFIDAVIT

It is stated on Oath that all the contents of this  
appeal are true and correct to the best of my knowledge and  
belief.

Deponent

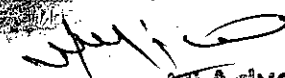


Muhammad Ismail

Identified by:



Adv

ATTESTED  
  
Muazam Ali Advocate  
OATH COMMISSIONER  
Distt: Courts Swat.  
Upto 19-12-2018  
No: 191 Date: 21/8/16

(8)

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

---

Service Appeal No. \_\_\_\_\_ of 2016

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor  
Office Swat.

...Appellant

**VERSUS**

The Government of Khyber Pakhtunkhwa through  
Secretary Home, Peshawar and Others.

...Respondents

**ADDRESSES OF THE PARTIES**

Appellant:

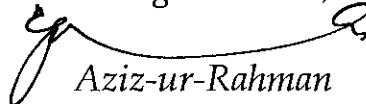
Muhammad Ismail, Naib Qasid at Public Prosecutor  
Office Swat, now at District Public Prosecutor, Torghar.

Respondents:

1. The Government of Khyber Pakhtunkhwa through  
Secretary Home, Peshawar.
2. The Director General Prosecution Khyber  
Pakhtunkhwa, Peshawar.
3. The District Public Prosecutor, District Swat.

Appellant

Through Counsel,

  
Aziz-ur-Rahman

Advocate Swat



GOVERNMENT OF THE N.-W.F.P.,  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT.

Peshawar, dated 23.12.2003.

ORDER-

No.SLT.15(1)96.-On the recommendation of Departmental Selection Committee (DSC) of the Law Department the following candidates are hereby appointed as Class-IV (BPS-1) in the Law Department and in Muffasil Establishment of the Law Department (on contract basis as per Government policy) and posted in various offices noted against each with immediate effect:-

S.NO.	NAME AND ADDRESS	DESIGNATION	PLACE/DISTRICT OF POSTING.
1.	2.	3.	4.
1.	Mr. Latif Khan s/o Habibullah r/o District Bannu.	Naib Qasid	PP Office, Bannu.
2.	Mr. Ghulam Yahya s/o Ghulam Murtaza r/o Sohen Ayun Tehsil District Chitral.	-do-	PP Office, Chitral.
3.	Mr. Jamsheed Ahmed s/o Kosh Ahmad r/o Dawashish Joghur Tehsil & District Chitral.	-do-	PP Office, Chitral.
4.	Mr. Shuja-ud-Din s/o Muhammad Nizam-ud-Din r/o Village & Post office Broum Oweer, Tehsil Mulkhaw, District Chitral.	-do-	PP Office, Chitral. at BONNI
5.	Mr. Alam Khan s/o Saidan, Tore Warsak Tehsil Daggar District Buner.	-do-	PP Office, Buner.
6.	Mr. Said Nawaz s/o Yaqoob r/o Raikai Tehsil Daggar District Buner.	-do-	PP Office, Buner.
7.	Mr. Bakht Parwaish s/o Darwaish r/o Kalpani Tehsil Daggar District Buner.	-do-	PP Office, Buner.
8.	Mr. Ikramullah s/o Fazal Wahid r/o Saidu Sharif Swat.	-do-	PP Office, Swat.
9.	Mr. Ismail s/o Amir Zareen r/o College Colony, Saidu Sharif, Swat.	-do-	PP Office, Swat.
10.	Mr. Haider Ali s/o Guli Sadber vill: Biha Tehsil Matta Distt: Swat.	-do-	PP Office, Swat.
11.	Mr. Nasir Khan s/o Hadi Khan r/o Mingora Swat.	-do-	PP Office, Swat.
12.	Mr. Umer Ayaz s/o Gul Dad Khan Moh: Zaffar Khel Vill: Takht Nasrati Distt: Karak.	-do-	PP Office, Karak

Attested  
*[Signature]*  
Advocate

*[Signature]*



10

10

1.	2.	3.	4.
13.	Mr. Faisal s/o Akbar Deen Vill: Supply Bazar r/o Iqbal Road, Abbt:	Naib Qasid	PP Office Abbottabad
14.	Mr. Wali-ur-Rehman s/o Mir Kalam Moh: Bahader Distt: Mansehra.	-do-	PP Office Mansehra
15.	Mr. Zar Shahd s/o Mir Wais Vill: Kota Tehsil and Distt: Swabi.	-do-	PP Office Swabi
16.	Mr. Habib Gul s/o Hazrat Gul Dehri Juligram Mlkd: Agency.	-do-	Malakand at Bathkela.
17.	Mr. Anuran Khan s/o Pisan Muhammad r/o Moh: Gari Hazrat Khel village Thana Malakand Agency.	-do-	Malakand at Bathkela.
18.	Mr. Subhanullah s/o Musa Khan r/o Sado Tehsil, Timergara.	-do-	PP Office Dir at Timergara.

2. All the Public Prosecutors/Additional Public Prosecutors concerned are directed to procure the requisite agreement duly signed by the respective Naib Qasids and forward the same to this Department with a fortnight of the issuance of this Order.

(AMIR GULAB KHAN)  
Secretary to Government of the N.-W.F.P.,  
Law, Parliamentary Affairs and  
Human Rights Department.

Dated: 23/12/2003.

Endst: No.SLT 15(1)96/4837-95

- Copy forwarded to:
1. The Accountant General, N.-W.F.P. Peshawar.
  2. The Solicitor, N.-W.F.P. Law Department.
  3. The Director Prosecution, N.-W.F.P. Law Department.
  4. The P.S to Secretary Law.
  5. The District Accounts Officers concerned.
  6. The Public Prosecutors/Additional Public Prosecutors concerned.
  5. The concerned officials
  6. The Accountant, Litigation Cell, Law Department.

(MUHAMMAD ASIM IMAM)  
DIRECTOR PROSECUTION  
LAW DEPARTMENT.

Attested  
*[Signature]*  
Advocate

*[Signature]*  
A-11-B



محرم الحرام سے صورت عدم یا اکثر مسائل  
 بعض قاضی مقدمہ نمبر کچھ ریکارڈ 2004 سال  
 قاضی مقدمہ گزارشی سے ریکارڈ ایف ایف جی اے  
 نوٹ 15/13 کہے گا رانی قاضی مقدمہ سہ ماہیہ صرف  
 درج صدر بیورو کردہ بحکم ماہ فوق خاک آبیہ خاں قاضی  
 بدلیہ مع صدر 2012 خانہ عدالت بدلیہ مع صدر قاضی کو  
 قوالہ کیا جاتا ہے اس کے بعد اس کو اطلاع دی جا رہی ہے بدلیہ  
 گزارشی سے آتی

10/10/13  
 ASTB/PSSS  
 4-10-2013

**ATTESTED**

**Advocate**

\_\_\_\_\_

اطلاع کے لیے اطلاع دہندہ کو مطلع ہوگا یا اس کی ہر نشان لگایا جائے گا۔ اور سرگزیر کٹھنہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حرف الفیاب مریخ روشنی سے باقاعظ  
 ایک طرز یا مشہور بل الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیاء یا افغانستان جہاں میڈوں ہوں، لکھنا چاہئے۔

Attested

etnoevba

## ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ جو جداری

تھانہ سید و شریف  
مقدمہ علت نمبر 587  
تاریخ 13-10-13 وقت 13:30 بجے  
ضلع سوات

1- تاریخ و وقت رپورٹ	05-10-13 وقت 14:00 بجے چاکیدگی پر چہ 05-10-13 وقت 15:00 بجے
2- نام و سکونت اطلاع دہندہ مستغنیث	بیرام خان ولد عمرا خان سکنتہ محلہ عیسیٰ خیل، مینگورہ حال محررہ ADJI سوات
3- مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔	PPC 419-420-468/471
4- جائے وقوعہ فاصلہ تھانہ سے اور سمت	عدالت ایڈیشنل سیشن جج صاحب ا بمقام گل کدہ فاصلہ 1 KM جانب شمال از تھانہ
5- نام و سکونت ملزم	(1) فاروق ولد خان گل (2) ذیشان علی ولد علی محمد ساکنان طاہر آباد مینگورہ (3) اجمل خان حسن خان سکنتہ رنگ محلہ مینگورہ سوات (3) محمد اسماعیل ولد امیر زرین سکنتہ کالج کالونی، سید و شریف حال امانکوٹ ضلع سوات
6- کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	بہر سیدگی تحریری مراسلہ پر چہ دیا گیا۔
7- تھانہ سے روانگی کی تاریخ و وقت	پہ سبیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔

ایک تحریری مراسلہ منجانب احمد شاہ خان S.H.O موصول ہو کر جسکا متن ذیل ہیں۔ افسر انچارج تھانہ سید و شریف امروز حسب اطلاع طلبی عدالت ایڈیشنل سیشن جج صاحب فسٹ آکر مستغنیث بہرام خان ریڈر عدالت یوں رپورٹ کرتا ہے کہ میں عدالت ہذا میں بحیثیت ریڈر اپنا ڈیوٹی سرانجام دے رہا ہوں امروز عدالت ہذا سے ملزم معاذ ولد امجد علی سکنتہ بنڈ، کے ضمانت بحوالہ مقدمہ علت نمبر 392 مورخہ 26-09-13 جرم P.O 3/4 میں جناب ایڈیشنل سیشن جج صاحب نے ایک لاکھ دو نفری ضمانت منظور کر کے ایک بوقت مسیمان ضمانتی فاروق ولد خان گل ذیشان علی ولد علی محمد ساکنان طاہر آباد مینگورہ و اجمل خان ولد حسن خان ساکن رنگ محلہ مینگورہ سوات میں ملزم معاذ کے ضمانت کے بابت ضمانت نامہ معہ جائیداد فرد پیش کر کے جو ملاحظہ کر کے فرد جائیداد پر شک گزرا اور فرد کے متعلق عدالت میں D.K سے کرا کر جو ابرار خان D.K نے جعلی قرار دیا کیونکہ آج چھٹی ہے اور پٹواری تحصیلدار باوڑی کے دفاتر بند ہوتی ہیں لہذا ہر سہہ کسان کو سرسری انٹرویو کرنے پر بیانی ہیکہ یہ فرد جائیداد اسماعیل ولد امیر زرین سکنتہ امانکوٹ نے بنا کر دیا ہے۔ کہ عدالت میں پیش کریں۔ لہذا میں عدالت کو دھوکہ کرنے کے غرض سے جعلی کاغذات پیش کرنے پر ہر چار کسان بالا کے خلاف رپورٹ کرتا ہوں۔ غور ہوئے۔ sd- بہرام خان ریڈر ASJ i کارروائی پولیس حسب گفتہ مستغنیث بالا کی رپورٹ درج صدر ہو کر پڑھ کر

Attested  
In  
Advocate

ایا سمجھایا گیا۔ ڈرنکی پر دستخط ثبت کی۔ جس کی میں تصدیق کرتا ہوں۔  
مضمون رپورٹ سے صورت جرم بالا پائی جا کر مراسلہ  
بغرض قائمی مقدمہ بدست کنشیپل ذاکر اللہ 12004 ارسال  
تھانہ ہے۔ مراسلہ گزارش ہے۔ Sd. احمد شاہ خان SHO مورخہ 05-10-13  
کارروائی پولیس پس آمدہ مراسلہ حرف بحرف درج صدر ہو کر پرچہ بجرم بالا فوق چاک کیا جا کر  
نقل پرچہ بمعہ فرد جملہ کاغذات بمراد تفتیش متعلقہ تفتیش کو حوالہ کیا جاتا ہے۔ افسران بالا کو اطلاع  
دی جا رہی ہے۔ پرچہ گزارش ہے۔

دستخط انگریزی

PSSS

4-10-2013

11/10/2013

11/10/2013

11/10/2013

لکھنؤ میں 2013/83/4

Annexure "C"

12



2013

ڈی ایچ جی

90/4

Handwritten notes in Urdu, mentioning DPP and bail application details.

5-3  
29-10-13



ORDER---4  
Dt:30.10.2013

Vide my detailed order in Bail application No. 83/4 of 2013, the instant bail application stands dismissed.

File be consigned to the record room after necessary completion.

(SHARIF AHMAD)  
Sessions Judge/Zilla Qazi Swat

SESSIONS JUDGE/  
Zila Qazi, Swat.

5568  
Date of Presentation of Application: 21-3-14  
Date on which copy completed: 21-3-14  
No. of words: 8p  
Urgent Fee: \_\_\_\_\_  
Name of copyist: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Copying Fee: F. Post  
Date of Delivery: 21-3-14

Date of Application: 21-3-14  
Date of preparation: 21-3-14  
Date of 1st intimation: 21-3-14 Through \_\_\_\_\_  
Date of 2nd intimation: \_\_\_\_\_ Through \_\_\_\_\_  
Date of delivery: 21-3-14

ATTESTED TO BE TRUE COPY  
EXAMINER,  
District & Sessions Judge  
Zilla Qazi, Swat.

21-3-2014

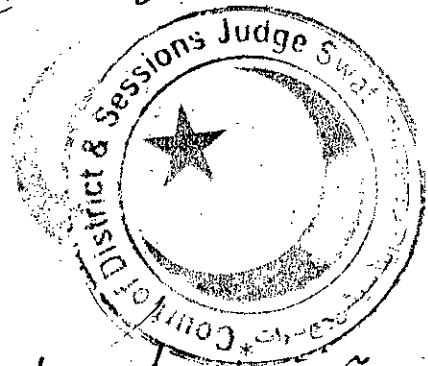
Attested  
Advocate

محمد اکرم خان

من لفظ  
22-10-

ضرورت سماعت دہا کی درخواست  
ضرورت سماعت کے ساتھ عدالت میں حلف - حکم عدالت سماعت کے دن 21/10/21  
ضرورت سماعت کے لئے - تھر RIR - عدالت نام آفیسر نے اعداد و شمار  
حافظ مشتاق احمد ریڈیو کیس کے تحت عدالت میں حلف کیا ہے

ریڈیو مشتاق احمد ریڈیو کیس  
لنٹرکٹ ایسوسی ایشن جج سوات



0-1  
22-10-

آفیسر احمد ریڈیو کیس کے تحت عدالت میں حلف کیا ہے  
عدالت میں حلف کیا ہے - راج احمد ریڈیو کیس - عدالت میں حلف کیا ہے  
عدالت میں حلف کیا ہے - راج احمد ریڈیو کیس - عدالت میں حلف کیا ہے

محمد جج اضلاع قاضی  
سوات

حاضر محمد علی محمد ریڈیو کیس کے تحت عدالت میں حلف کیا ہے  
عدالت میں حلف کیا ہے - راج احمد ریڈیو کیس - عدالت میں حلف کیا ہے  
عدالت میں حلف کیا ہے - راج احمد ریڈیو کیس - عدالت میں حلف کیا ہے

ریڈیو کیس  
26-10-

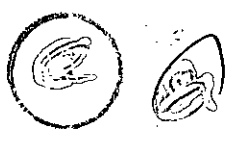
آفیسر احمد ریڈیو کیس کے تحت عدالت میں حلف کیا ہے  
عدالت میں حلف کیا ہے - راج احمد ریڈیو کیس - عدالت میں حلف کیا ہے  
عدالت میں حلف کیا ہے - راج احمد ریڈیو کیس - عدالت میں حلف کیا ہے

0-02  
28-10-

ATTESTED TO BE TRUE COPY  
EXAMINER,  
District & Sessions Judge,  
Zilla Qazi, Swat.

محمد جج اضلاع قاضی  
سوات

BA # 83/4 - 8 - 21 / 2013

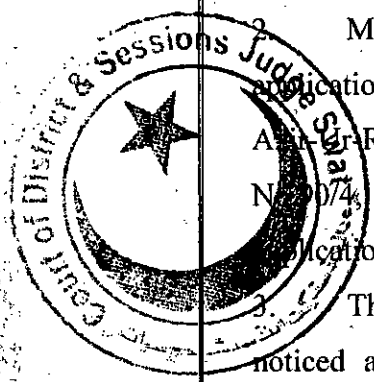


ORDER---06  
Dt:30.10.2013

1. My this order is directed to dispose of application No. 83/4 jointly filed on behalf of Farooq Khan, Zeeshan Ali, Ajmal Khan, bail application No. 90/4 filed by Muhammad Ismail and bail application No.91/4 filed on behalf of Yousaf Ali for their post arrest bail. They, all the five, have been charged for the commission of offence U/S 419/420/468/471 PPC case FIR No. 587 of PS Saidu Sharif Swat.

Notices issued and record was requisitioned.

Muhammad Qayum Khan advocate on behalf of petitioners of application No. 83/4, Akhtar Munir Khan advocate assisted by Amir Rehman advocate on behalf of petitioner of application No. 90/4, Qazi Farid Ahmad advocate on behalf of petitioner of application No. 90/4 and DPP for state heard & record perused.



The present FIR originates from an ugly episode that was noticed as taken place within the Kachehry premises. One Maaz accused was granted bail in 3/4 PHO case FIR No. 392 against surety bonds in sum of Rs.200,000/- with two sureties. On the eventful day i.e. 05/10/2013 the accused Farooq and Ajmal Khan appeared before the court as sureties and accused Zeeshan Ali as their identifier along with bail bonds and attested copies of the Revenue Record to support their sound status. The attested copies were found to be fake. Police was called to whom Behram Khan Reader of the court of ASJ-I Swat made report, the police arrested the then present three persons and registered the case.

4. It was initially disclosed and further found in course of investigation that it was Ismail accused/petitioner who managed the Revenue Record attested copies against Rs.6,000/-, Rs.1,000/- paid and Rs.5,000/- promised to be paid on completion of the job. In the course of investigation it further revealed that accused/petitioner Yousaf Ali running Computer and Photostat business in the Kchehri in the name of "Shahab Photostat" got prepared the fake Revenue Record copies through computer composer Ubaid working in the same cabin and provided it to the sureties accused/petitioners through Ismail accused/petitioner. It was this background in which the other two accused i.e. Ismail and Yousaf Ali along with Ubaid were also implicated, Ubaid is at large.

Attested  
*[Signature]*  
Advocate

ATTESTED TO BE TRUE COPY  
EXAMINER,  
District & Sessions Judge  
Zila Qazi, Swat.

*[Signature]*  
SESSIONS JUDGE  
Zila Qazi, Swat.



ORDER---06  
Dt:30.10.2013  
Continued

5. It was argued on behalf of the accused Farooq, Ajmal and Zeeshan that there is no evidence to connect the sureties and identifier accused/petitioners Farooq etc with the crime as they have neither prepared the fake documents nor they knew about it. On behalf of the accused/petitioner Yousaf Ali it was argued that he was not named in the FIR and the site plan, the sole 161 CrPC statement of Ismail is inadmissible against him as there is nothing to corroborate this 161 statement and further that registration of the FIR was illegal as the procedure laid down for such eventualities was not followed per relevant section 195 (c) Cr.PC. On behalf of the accused / petitioner Ismail it was argued that on the eventful day all the revenue offices were closed availability of Ibrar Khan DK confirming the documents to be fake indicates that actually he was involved but was not charged and there is no confession or recovery on the part of accused/petitioner Ismail who may be a good prosecution witness but not an accused.

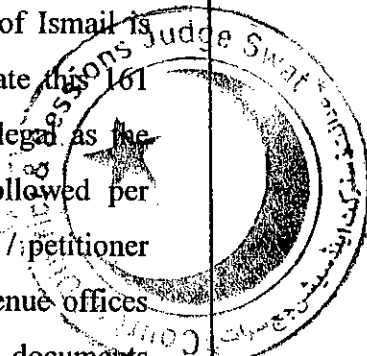
6. Contrary to the above, it was convincingly argued by the DPP that three accused/petitioners Farooq, Zeeshan and Ajmal Khan along with Muhammad Ismail were directly charged in the FIR. Farooq and Ajmal have given inculpatory magisterial confessional statements which are consistent interse and depict the same sequence and fashion of the events making out the whole episode. Further, that Ismail is posted as a peon with Senior Public Prosecutor working in the same premises, he was available in the Kachehri and is known for brokering such jobs in the courts premises, that the amount of Rs.1,000/- handed over to Yousaf Ali was recovered in the course of investigation and the documents produced in the course of the attestation of bail bonds are available to which there can be no second opinion rather than to be fake and that no one of the accused petitioners including the absconding Ubaid is innocent. All the accused petitioners played their respective roles towards the completion of a hateful crime, there is no ill will behind their implication rather their role unveiled gradually as the investigation proceeded forward and no one of the accused petitioners is entitled to the concession of bail, the DPP concluded.

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EXAMINER,  
District & Sessions Judge  
Zilla Qazi, Swat.

10/10/13

10/10/13



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ORDER---06  
Dt:30.10.2013  
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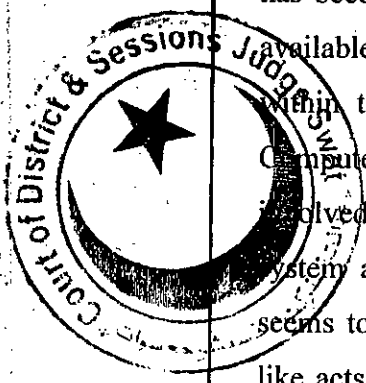
7. The points raised and argued by the DPP find support from the record and apparently there is ample incriminatory evidentiary material available against the accused petitioners. The offence for which the accused are charged may not be heinous in terms of the quantum of punishment, however, its gravity is enormous when seen in its related social perspective and consequences.

8. Record indicates that the business of preparing fake documents has become a few minutes job and the facility is known and openly available all the times to all. The filthy job was being carried out within the courts premises Yousaf Ali Photostat operator, Ubaid Computer Composer supposed to be fair bread earners were openly involved while Ismail a Govt: servant supposed to be faithful to the system and guard the public trust played as broker. The foul play seems to be a daily routine business and not a single incident. Such like acts are counted against the justice system wherever public faith and the role of judiciary is gauged.

9. It appears that the accused Farooq and Ajmal Khan produced fake documents, managed through Ismail prepared by Yousaf Ali and Ubaid against unusual huge payment, in thousands, no one of them is entitled to the concession of bail and their bail applications stand dismissed.

10. The role of the accused petitioner Zeshan is, however differentiable from others. He is only identifier to the bail bonds, he has no apparent nexus with the preparation or production of the fake documents and even his knowledge as to that requires further enquiry. The accused petitioner Zeshan is therefore admitted to bail by allowing the bail application No. 82/4 up-to his extent. He shall furnish surety bonds in sum of Rs.80,000/- with two sureties in the equal amount to the satisfaction of Illaqa Duty/Judicial Magistrate.

11. Touts activities within the Kachehry premises have been a topic of discussion in the Bench Bar Liaison Committee meetings. The present appears to be an appropriate case for action. In the circumstance and relevant facts of the episode as stated above which needs no repetition, it seems appropriate that the accused working in the courts premises be proceeded for inclusion into the list of "touts"

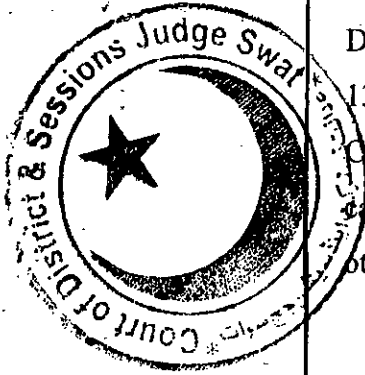


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*[Signature]*  
Advocate

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EXAMINER,  
District & Sessions Judge,  
Zilla Qazi, Swat.

*[Signature]*  
SESSIONS JUDGE/  
Zilla Qazi, Swat.

ORDER---06  
Dt:30.10.2013  
Continued




which proceedings are being initiated. A copy of this order along with copies of the relevant documents from the record be brought on the file that be opened in this regard.

12. Further, it is directed that, in addition to any disciplinary action if taken, the employer department shall immediately and permanently exclude and post out the accused peon Ismail of the Prosecution Department from any duty within the courts premises of District Swat.

13. Furthermore, a copy of this order be forwarded to the Judicial Complex Cabin Management Committee for early vacation of the cabin of "*Shahab Photostat*" from the allottee and rent it out to some other suitable contender.

Ordered accordingly. Requisitioned record be returned.

Copy be placed on each case file which be consigned to the record room after doing the needful as above.


  
(SHARIF AHMAD)

Sessions Judge/Zilla Qazi Swat

30-10-13

SESSIONS JUDGE  
Zila Qazi, Swat

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EXAMINER,  
District & Sessions Judge  
Zilla Qazi, Swat.

21-03-2014

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*Annexure*



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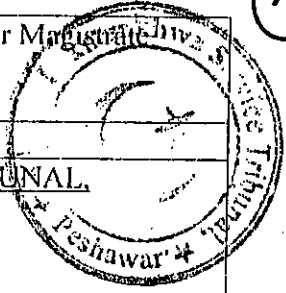
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Order or other proceedings with signature of judge or Magistrate

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT**

APPEAL NO. 1019/2014

(Muhammad Ismail-vs- Government of Khyber Pakhtunkhwa through Secretary Home, Peshawar, etc).



03.06.2015

JUDGMENT

ABDUL LATIF, MEMBER:

Appellant with counsel (Mr. Aziz-Ur-Rehman, Advocate) and Mr. Mujarrab Khan, DPP alongwith Mr. Anwar-Ul-Haq, GP for the respondents present.

2. The instant appeal has been filed by Muhammad Ismail, Naib Qasid under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the order dated 15.04.2014 whereby the appellant was removed from service against which the departmental appeal made to the appellate authority was not responded in the statutory period.

3. Brief facts of the case are that the appellant was appointed as Naib Qasid in the office of Public Prosecutor District Swat on 23.01.2003. That the appellant was involved in a criminal case FIR No 387 dated 05.10.2013 on fake preparation of revenue record submitted with surety bonds for bail of accused Maaz in the Court of ASJ/IZQ Saidu Sharif. The learned ASJ rejected the bail application and also got the appellant transferred out of the District through controlling officer of the appellant. The official was proceeded against departmentally and major punishment of removal from service was imposed on him vide order dated 15.04.2014. Departmental appeal preferred before the appellate authority was also rejected, hence the instant appeal before this Service Tribunal.

4. The learned counsel for the appellant argued that appellant was not associated with the enquiry. No opportunity was provided to him to cross examine the witnesses (three grantors) against him, moreover, the defense plea of the appellant had not been considered by the inquiry officer

**ATTESTED**  
BY  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

**ATTESTED**  
*Muhammad Ismail*  
ADVOCATE

**Attesteu**  
*Muhammad Ismail*  
Advocate



hence the appellant had been condemned unheard. He further stated that enquiry had been conducted before the conclusion of the trial in the court hence the rush in justice tantamounts to crush the justice. Moreover in addition to the major penalty the appellant was transferred as a punishment to District Torghar which tantamount to double jeopardy and double punishment for the same offence hence not maintainable in the eyes of law. He prayed that the appeal may be accepted, the impugned orders may be set aside and he may be reinstated in service with all back benefits.

5. The learned Government Pleader argued that proper enquiry was conducted in the matter and the appellant was associated with the entire proceedings before imposition of penalty by the competent authority. The appellant was given full opportunity of defense. He prayed that the instant appeal being devoid of merits may be dismissed.

6. Arguments of the counsel for the parties heard and record perused with their assistance.

7. From perusal of the record it transpired that enquiry was not conducted as prescribed in the law as the appellant was not provided full opportunity of proper defense as enshrined in the Constitution of Islamic Republic of Pakistan 1973. As a reprisal of the case he was posted out of the District and was then removed from service while criminal case against the appellant was still pending in the court of ASJ Swat. The enquiry proceedings reveal that appellant was condemned unheard which is not maintainable in the eyes of law. The Tribunal is constrained to interfere in the case and remand the case to the respondent-department with direction to conduct *de-novo* enquiry against the appellant strictly in accordance with the law. The appellant shall be given full opportunity of defense and personal hearing before any orders are passed by the competent authority. The impugned order is set aside and the appellant is reinstated for the purpose of *de-novo* enquiry. Back benefits will be subject to outcome of the fresh enquiry. The appeal is decided in above terms. Parties are left to bear their own costs. File be consigned to the record.

ATTESTED  
*Inded*  
ADVOCATE

ANNOUNCED  
03.06.2015

*Sy Abdul Raziq*  
our selves  
*Sy Muhammad Azim Khan Afridi*  
Chairman

Attested  
*Inded*  
Advocate

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STATEMENT OF IBRAR AHMAD TEHSILDAR / NAIB TEHSILDAR LAND REFORMS.

On the day of occurrence, I was present in the premises of District Courts Swat for my personal matter. In the meanwhile, I was called by the learned ASJ-I Swat who showed me two number of Fard intikhab which on examination I found fake and forged. Both the copies are placed as Annexure-L and M. Dated 05-10-2013 was Saturday and our offices are closed on Saturday and Sunday.

XXX...by accused official Mohammad Ismail.

1. I had not compared these Fards with my office record.
2. I myself expert being gained during my 30 years service.
3. It is correct that I have not obtained any Forensic training, explained that only in Revenue matters I have gained sufficient experience during my prolonged service.
4. My statement is recorded in the court of Senior Civil Judge Swat in the instant matter, the printed form of Fard is correct; however, the entries therein were fake and forged.
5. It is correct that we have not made any inquiry in the preparation of these Fards.

IBRAR AHMAD TEHSILDAR

MOHAMMAD IBRAHIM

DPP DIR LOWER / INQUIRY OFFICER

**Attested**  
*Janded*  
**Advocate**

STATEMENT OF TAJBAR INSPECTOR / SHO P.S KKS.

Stated, that at the time of registration of FIR 587 dated 05-10-2013 against Ismail etc I was posted as S.I investigation P.S Saidu Sharif. Initial investigation was conducted by Mr. Jan Alam Khan ASI, who prepared site plan in the case, prepared pointation memo at the pointation of arrested accused Farooq, Zeeshan Ali and Ajmal Khan. Thereafter, Mr. Jan Alam Khan ASI was gone for training and I took over the investigation of the case. I produced accused Farooq, Zeeshan and Ajmal for recording their confessional statements. Except accused Ajmal the other two accused Farooq and Zeeshan recorded their confessional statements before the court of Judicial Magistrate Swat. Accused Farooq and Zeeshan Ali in their confessional statements named accused Ismail as co-accused. For ready reference, photocopies of the confessional statements of both the accused are Annexure-A and B. Accused Ismail was arrayed as accused in the case prior to my investigation. Accused Ismail thereafter filed BBA application in the court of Sessions Judge / Zilla Qazi Swat who vide Order dated Annexure-C declined BBA to Ismail. Accordingly, he was arrested and I interrogated him. I produced him for recording his confessional statement U/S 164/364 Cr. PC and he refused to confess his guilt. Thereafter I recorded his statement U/S 161 Cr. PC copy of which is Annexure-D. Ahmad Shah Khan SHO P.S Saidu Sharif has already taken into possession the alleged forged deed at the time of registration of the case. During investigation, the recovered fake deed was examined through expert / concerned Tehsildar who declared the deed as forged one. The investigation is complete and case is challaned to court and proceeding in the case is going on against him in the court of Judicial Magistrate. Accused Ismail has been released on bail by the High Court vide Order Annexure-E. The concerned Tehsildar has declared the seal and signature as fake and forged hence, Patwari Halqa submitted his report to me which is Annexure-F a self explanatory. In my investigation, he is accused in the case. Accused Ismail produced copy of affidavit dated 12-10-2013 to me but during investigation neither he nor his counsel produced me this affidavit.

XXX..... by accused official Mohammad Ismail.

1. It is correct that no point is given in the site plan to be the presence of Ismail.
2. I did not conduct any test if accused Ismail is capable to writing or operating on computer. Self stated that accused Ismail is illiterate.
3. It is correct that I failed to ascertain the name and identity of advocate to whom the case record was handed over for onward submission to the court.
4. It is correct that I did not make any recovery of amount from Ismail.
5. It is also correct that it has been shown in my investigation that the alleged recovered note was handed over to Yousaf by co-accused Farooq and Zeeshan.
6. It is correct that I did not collect any direct evidence against Ismail regarding his involvement in the instant case.
7. It is correct that absconding accused Ubaid used to work as deed writer in the court premises.

**Attested**  
*[Signature]*  
**Advocate**

TAJBAR SHO P.S KSK

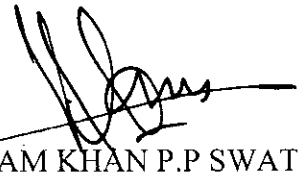
MOHAMMAD IBRAHIM

DPP DIR LOWER / INQUIRY OFFICER

STATEMENT OF NISAR ALAM PUBLIC PROSECUTOR SWAT.

Stated that I, Mujarrab Khan DPP Swat, Saeed Naeem Sr. P.P. Swat and Mohammad Naeem APP Swat have recorded joint statement wherein we have narrated that accused / official Ismail is a constant nuisance, enjoyed bad reputation and is injurious to the District Prosecution. The order of the court of Sessions Judge Swat dated 30-10-2013 attached as Annexure-G as evident about the character / activities of the accused Ismail. His previous conduct can be ascertained by the disciplinary actions already taken against him. I own my this statement which is correct and correctly bear signatures of all of us. Further, I and Jamsheed Khan P.P have submitted final report wherein we have recommended for the punishment in the shape of deduction of two annual increments from the accused Ismail due to his bad conduct and misconduct. Our report is already available on file which is annexure-H.

Self stated that I suggest and request the honourable high ups that Mohammad Ismail Ex-Naib Qasid of this office is a sole source of income of his family, he has having minor kids and there is no other source of income except his salary. As I know, presently he repented and mended his way. I was of the view when I submitted my previous statement that Ismail NQ would be punished with minor penalty i.e stoppage of increment and deduction of annual increment. The present punishment I think is more than enough and harsh. On humanitarian grounds it is required to be revisited, in the best interest of his family.

  
NISAR ALAM KHAN P.P SWAT

MOHAMMAD IBRAHIM  
DPP DIR LOWER / INQUIRY OFFICER

**Attested**  
  
**Advocate**



STATEMENT OF MUJARRAB KHAN DPP SWAT.

Stated that with reference to Order dated 30-10-2013 of the learned Sessions Judge Zilla Qazi Swat, I requested the worthy Director General Prosecution vide letter No. 1205 dated 07-11-2013 for the transfer of Mohammad Ismail NQ to some other districts. The Order of learned Sessions Judge ibid was conveyed to the worthy DG Prosecution. Application No. 6153 dated 04-11-2013 of District and Sessions Judge Swat addressed to me was also conveyed to the Directorate for compliance of his order in terms of para No. 12 of the said Order which is also placed on file as Annexure-I (consisting on 06 pages). Accordingly, the worthy Director General Prosecution transferred him to Torghar vide order Annexure-J. Besides this statement, I after receipt of inquiry report submitted to me by Jamsheed Khan and Nisar Alam Khan P.Ps, I directed Habibullah Jan Senior Clerk for deduction of his annual increment. My stated order is Annexure-K. Now he has reformed himself.



MUJARRAB KHAN

DISTRICT PUBLIC PROSECUTOR  
SWAT AT GULKADA

MOHAMMAD IBRAHIM  
DPP DIR LOWER / INQUIRY OFFICER

**Attested**  
  
**Advocate**

**STATEMENT OF MOHAMMAD ISMAIL S/O. AMIR ZARIN EX-NAIB QASID,  
OFFICE OF THE DISTRICT PUBLIC PROSECUTOR SWAT.**

During those days, I was serving as Naib Qasid in the office of District Public Prosecutor Swat and I was attached with Mr. Saeed Naeem Senior Public Prosecutor Swat. On 05-10-2013, I was present in my office. Senior Public Prosecutor Swat handed over to me, keys of his car with the direction to change mobil oil at the workshop. Thereafter, I came back to my office. Gunner Jan Alam of Senior Public Prosecutor was also with me. When I met Mr. Saeed Naeem Khan, he directed me to take his family to Peshawar. He also gave me some amount for CNG and miscellaneous expenses. Accordingly, I took the family of Saeed Naeem Sr. P.P Swat to Peshawar and on the next date, I returned on 06-10-2013 to Swat. When I returned to my home, my brother Tariq Aziz informed me that I have been implicated in the criminal case. Thereafter, I applied for BBA which was granted to me. On the date of confirmation of my BBA, the learned Sessions Judge called my service record and on examination nothing adverse was found by him against me. However, he did not confirm my BBA. I was handed over to police and during interrogation, nothing incriminating was recovered from my possession. After rejection of my post arrest bail by the learned Sessions Judge Swat, I applied for my release on bail in the Darul Qaza Swat and my bail was allowed and was released on bail. I was roped falsely in the criminal case. I am innocent and not involved in any criminal or other activities being a government servant. I always worked to the entire satisfaction of my superiors. The disciplinary proceedings initiated against me, may kindly be dropped and I may be exonerated from the inquiry. In the previous inquiry, I have already replied to the final show cause notice submitted to Mr. Asmatullah Khan Gandapur the Director General Prosecution, Khyber Pakhtunkhwa, I also rely on my said reply which is annexure-O (consisting on 02 pages) which is correct and correctly bears my signature.

XXX...

1. It is correct that I have been transferred from this district to district Torghar on the written order of Mr. Sharif Ahmad Khan Sessions Judge Swat.
2. It is also correct that I was charged in another criminal case. Explained that, that very matter was of dispute over amount of my cousin Sultan Zarin with the complainant party of that case, though initially I was charged but at the commencement of trial, I was honourably acquitted U/S 265-K Cr. PC by ASJ-III Swat.

**Attested**  
*[Signature]*  
**Advocate**

*[Signature]*  
MOHAMMAD ISMAIL  
ACCUSED/OFFICIAL

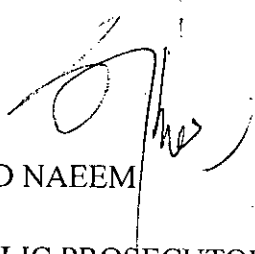
MOHAMMAD IBRAHIM

DPP DIR LOWER / INQUIRY OFFICER

**STATEMENT OF SAEED NAEEM SENIOR PUBLIC PROSECUTOR SWAT.**

Stated, that on the day of instant allegations, I sent Mohammad Ismail Naib Qasid with my family to Peshawar being a driver. On the following day, he told me that a criminal case has been registered against him on the day when he was in Peshawar along with my family. Mohammad Ismail is known to me since his attachment to my office, initially, I have found some irregularity in discharging of his duty, I instructed and advised him on different occasions to reform himself, he suffered a lot, particularly his family with the agony of his dismissal. Previously I made recommendation for the punishment just for his reformation but the punishment as rest on his dismissal from service is more than enough, I suggest that mercy may please be observed in his case. Now he has reformed himself and built his way.

XXX....Nil opportunity given.



SAEED NAEEM

SENIOR PUBLIC PROSECUTOR SWAT

MOHAMMAD IBRAHIM  
DPP DIR LOWER / INQUIRY OFFICER

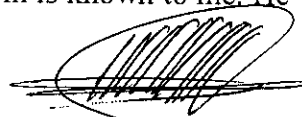
**Attested**  
  
**Advocate**

STATEMENT OF BAHRAM KHAN READER TO ASJ-I SWAT.

During those days, I was posted as Reader to the court of Additional Sessions Judge-I Swat, I had already recorded my statement in the instant inquiry which I own to be correct and correctly bears my signature. My previous statement is Annexure-N.

XXX....by accused official Mohammad Ismail.

1. It is correct that on the day when I lodged the report, I mentioned the name of accused as Ismail but did not mention his parentage, Ismail S/O Amir Zarin is known to me. He was not present in the court, on the day of my report.



BAHRAM KHAN READER

10-10-15

MOHAMMAD IBRAHIM

DPP DIR LOWER / INQUIRY OFFICER

**Attested**



**Advocate**

24

OFFICE OF THE  
DISTRICT PUBLIC PROSECUTOR  
DIR LOWER AT TIMERGARA

No. 660 /D.P.P/Dir/Lower

Dated Timergara, The 06-11-2015


To,

The Director General Prosecution,  
Directorate of Prosecution,  
Khyber Pakhtunkhwa

Subject:

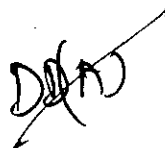
INQUIRY REPORT AGAINST MOHAMMAD ISMAIL NAIB  
QASID.

Reference letter No. DP/E&A/1(60)/7888-89 dated 03-09-2015 of the Directorate of Prosecution the subject inquiry was conducted per your honor order by the undersigned against Mohammad Ismail Naib Qasid DPP Office, Swat/Torghar therefore; inquiry report consisting on 10 pages along with annexures is hereby submitted for your honor further order, please.

  
6/11/2015  
Mohammad Ibrahim (Inquiry Officer)  
District Public Prosecutor,  
Dir Lower at Timergara.

DA


16/11/15



ADCA

Process with relevant papers  
16/11

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Pot on R.F.C. Pt  
ES.  
DK

Attested  
  
Advocate

**INQUIRY REPORT:-**

25

The Honorable Director General Prosecution, Khyber Pakhtunkhwa, vide his order No. DP/E&A/1(60)7883-85 dated 3<sup>rd</sup> September, 2015 appointed me as inquiry officer to conduct a de-novo inquiry against Mohammad Ismail, Naib Qasid, Office of the District Public Prosecutor, Swat (hereinafter referred to as accused official) under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for committing the acts of commission, omission and forgery for which a criminal case vide FIR No. 587 dated 05-10-2013 U/S 419/420/468/471PPC PS Saidu Sharif, Swat was registered (Annex-1).

The Competent Authority served upon him a charge sheet and statement of allegations in the following terms (Annex-2&3):-

1. That you prepared forged documents for the release of accused namely Maaz with the intention to cheat the staff of Additional Sessions Judge Swat and a case was registered against you vide FIR No. 587 dated 05-08-2013 U/S 419/420/468/471PPC in Police Station Saidu Sharif Swat and committed to prison.

In the charge sheet, the accused official was asked to submit his written defense to the Inquiry Officer within seven days of the receipt of charge sheet and statement of allegations failing which he would be proceeded ex-parte.

A notice was issued to the accused official as well as District Public Prosecutor, Swat to appear before the inquiry officer on 10-10-2015 at 10:00 a.m in the office of District Public Prosecutor Swat to probe the allegations (Annex-4).

Pursuant to the direction, the accused official submitted his written statement in response to the directions in the charge sheet and statement of allegations which is reproduced as under :-

"It is submitted that all the charges and allegations leveled against me are baseless, incorrect and mala fide. I have never committed any act of commission or omission which may constitute any offence under any law. Furthermore, I have regularly attending my duties prior and after to the case and have neither been absent nor any complaint from public or officials/officers have been made against me, I have an unblemished service record. I have falsely been involved in a criminal case, which is still under investigation and the sureties who have prepared and presented the disputed document have not been proved to be false and fabricated.

**Attested**  
*[Signature]*  
**Advocate**

Integrità

© 2000

(26)

This is a settled principles of law that non could be axed twice particularly in a matter where the criminal case is pending at any stage and finally a court has to reach a conclusion as to whether accused person is guilty or innocent, the disciplinary proceedings are dependent upon the verdict of the court trying the case. Therefore, initiation of disciplinary proceedings prior to the judicial proceedings is not warranted under the law. There is no likelihood of the accused to be convicted as the charges and allegation leveled against them are frivolous and could not stand judicial scrutiny.

Keeping in view the above facts it is requested that the charges and allegations leveled against me and the proceedings initiated may kindly be dropped and I may kindly be exonerated of the charges and allegations.

I wish to be heard in person as well and also request for allowing me to engage a counsel to properly defend my case, if need be. (Annex-5)".

It is pertinent to mention here that prior to the instant de-novo inquiry in the instant case, inquiry under rule 3 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 was also conducted by Mr. Zafar Abbas Mirza, Deputy Director Monitoring Directorate of Prosecution Peshawar. His inquiry report along with enclosures is annex-"6" available on the file. His findings and recommendations are hereby reproduced as under:-


**1. Findings**

"The official has attempted to deceive the Court and have brought bad name for the Prosecution in District Swat. He has also attempted to shatter the public interest by his activities. This is not his first instance, as discussed in the preceding paras there are series of such like complaints against the official by superiors which at this juncture cannot be ignore.

The Service record of the official under inquiry provides that he ceases to be efficient, is guilty of misconduct, is an habitual absentee from the duties and engaged in the activities not warranted by the Law and as such his case falls within the ambit of rule 3(a) (b) & (d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules 2011.

**Recommendations**

Keeping in view all above, I recommend the Major Penalty of Removal from Service for him within the meaning of Section 4 (b) (iii)

**Attested**  
  
**Advocate**