

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1070/2019

Date of Institution ... 20.08.2019  
Date of Decision ... 24.06.2021

Naveed Qadir S/O Abdul Qadir R/O Shalimar Colony Warsak  
Road, Peshawar.

... (Appellant)

**VERSUS**

The Chief Secretary, Government of Khyber Pakhtunkhwa  
Peshawar and four others.

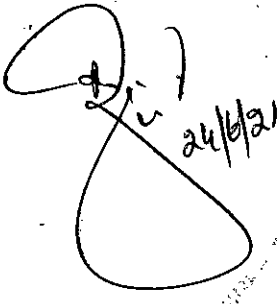
... (Respondents)

Naveed Qadir, ... Appellant in person.

Muhammad Adeel Butt,  
Additional Advocate General ... For respondents.

AHMAD SULTAN TAREEN ... CHAIRMAN  
ROZINA REHMAN ... MEMBER (J)

**JUDGMENT**

 24/6/21  
ROZINA REHMAN MEMBER (J): Briefly stating the facts necessary  
for the disposal of the lis in hand are that the appellant was appointed  
as Naib Tehsildar on the recommendation of the then N.W.F.P Public  
Service Commission. He was promoted to the post of Tehsildar. He  
was arrested by the NAB on the allegations of misuse of authority in  
connection with "Nathiagali Housing Scheme". He was released on  
bail by the Peshawar High Court, where-after, he submitted his report  
for arrival to the Khyber Pakhtunkhwa Board of Revenue Peshawar

while NAB Reference is still pending in the Accountability Court Peshawar. The appellant was issued a show cause notice while being confined in judicial lockup, however, no further action was taken against the appellant. After his release on bail, he was served with charge sheet and statement of allegations through the inquiry officer (Mr. Abdul Hameed Secretary-II Board of Revenue). After transfer of the inquiry officer one another Mr. Ikram Ullah Khan was appointed as inquiry officer. The appellant submitted an objection application on the proceedings of inquiry and did not submit written reply to the charge sheet. The appellant received yet another and fresh charge sheet alongwith fresh statement of allegations from Muhammad Asif, another inquiry officer. The charge sheet was confined only to the allegations about the voluntary return to NAB. He submitted written reply and denied being the beneficiary of V.R. He then received another show cause notice from the competent authority to impose penalty under Rule-4 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The appellant approached Hon'ble Peshawar High Court by filing Writ Petition to challenge the show cause notice which Writ Petition was partially accepted and charge relating to V.R with NAB was quashed. The competent authority then issued another show cause notice by amending previous show cause notice. He submitted his written reply highlighting his objections filed earlier. The competent authority without giving attention to appellant's stance, passed the impugned order dated 12.04.2019, whereby, the appellant was removed from



24/4/21

service. He filed departmental appeal which was rejected. Hence the present service appeal.

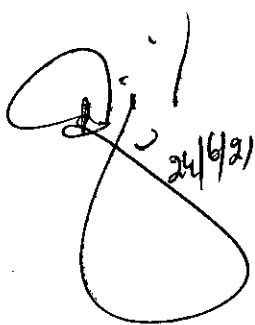
2. Appellant submits that the impugned orders dated 22.07.2019 and 12.04.2019 are against law and facts as both the orders are against the golden principle of natural justice. He submitted that he was made target and victim of repeated charge sheets, suspensions, inquiries and illegal removal purely on the basis of false and frivolous allegations and was being treated with discrimination because other employees of Board of Revenue and Establishment Department were under trial in NAB References but no such departmental inquiry on the same allegations was initiated against them and instead some have been promoted to high ranks. He submitted that substantial preliminary objections were raised on the charge sheet, appointment of inquiry officer and inquiry proceedings by the appellant which were required to be decided according to law and the decision was to be communicated to the appellant before any further action but this legal pre-requisite was not complied with. He further submitted that after submitting preliminary objections, he was under the bonafide impression that his objections have prevailed because neither next date of appearance was sent to him nor any notice was sent to appellant to join the inquiry proceedings. He further submitted that the competent authority transgressed mandatory provisions of relevant rules. That the competent authority once decided in case of appellant to skip over Rule-5 (a) and take further action under Rule-5(b) of the rules *ibid* to appoint an inquiry officer and hold inquiry

*24/6/21*

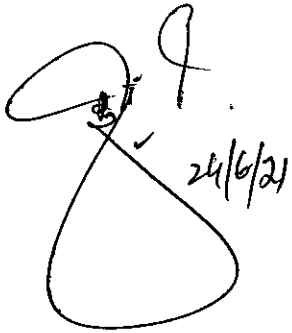
then the procedure under Rule-11 of the Rules was bound to be followed providing opportunity to appellant to defend himself, of which the appellant was deprived and legally, competent authority could not revert back to Rule-5(a) and go ahead to adopt the procedure and exercise the power under Rule-7 of the Rules. That as per law, he had some vested rights created under Rule-11 and 14 which were denied including the supply of the copy of inquiry report under Rule-14(4) (c) of the Rules (ibid).

3. Conversely, learned A.A.G representing the respondents, submits that appellant was given opportunity of personal hearing by serving show cause notice upon him on 16.03.2018 and subsequently, on 23.01.2019. He submitted that in reply to show cause notice, the appellant contended that since criminal proceedings were pending before NAB Court, therefore, request was made for deferment of the proceedings till the outcome of criminal proceedings but his reply was not found satisfactory, therefore, proceedings were kept continue and major penalty was imposed upon him.

4. We have heard learned counsel for parties and perused the record. Since the appellant faced protracted course of disciplinary proceedings stretching over a time span of almost six years and it was observed that the respondents have eluded the set norms of law and rules, hence, it would be expedient to examine this case on the yardstick of legal procedure drawn to this effect with a clamant review of the disciplinary proceedings conducted so far by the respondents against the appellant. It was noted that disciplinary proceedings

 24/6/21

against the appellant were initiated on the charges of Voluntary Return (V.R) of the alleged embezzled amount to National Accountability Bureau in pursuance of direction of the Apex Court in suo-moto case No.17 of 2016 dated 24.10.2016 and the competent authority while invoking jurisdiction of Rule-5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 dispensed with the inquiry and directly served him with a show cause notice dated 30.10.2016 in absentia as appellant was in judicial lockup at that particular time. Rule-5 (1) (a) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 provides that reasons are required to be recorded in writing in case the inquiry is dispensed with but the respondents while dispensing with the inquiry, failed to show any such reasons. It is interesting to note that the respondents kept mum over the issue for longer and did not pursue the proceedings until August, 2017. The respondents, however, were required under Rule-7 (c) of the Rules ibid to decide the case within a period of 90 days but such show cause notice went in hibernation for almost one year and no action whatsoever was taken further to this effect. It was on 25.08.2017 when the competent authority while leaving behind the proceedings initiated under Rule-5 of the Rules ibid, budged over the issue and appointed Mr. Abdul Hameed Secretary-II Board of Revenue as inquiry officer with directions to initiate disciplinary proceedings against the appellant under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and submit recommendations/report within 30 days, but in the meanwhile, inquiry officer was replaced by Mr. Ikram

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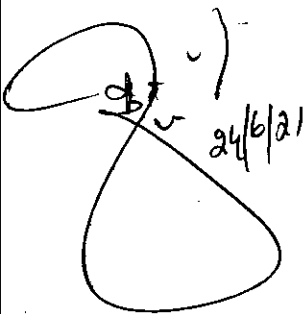
Ullah Khan vide order dated 30.10.2017. To this effect, an inquiry was conducted by Mr. Ikram Ullah Khan as well as served charge sheet and statement of allegations upon the appellant on 14.11.2017 containing same charges as he was facing in the Accountability Court to which the appellant responded with observations that since his case was pending in a Court of law on the same charges, therefore, inquiry proceedings were requested to be deferred till the outcome of NAB case, as disclosure of material facts would weaken the defense line of the appellant in the Accountability Court. The inquiry officer Mr. Ikram Ullah Khan submitted report with a delay of four months on 13.02.2018. Further proceedings to this effect were yet to be taken but in the meanwhile, another inquiry was initiated in the offing containing charges envisaged in the final show cause notice where allegations were abridged only to the extent of V.R. Mr. Muhammad Asif, Director Land Record was appointed as inquiry officer and charge sheet, statement of allegations were served upon appellant on 29.12.2017 which was responded by the appellant on 11.01.2018 but the competent authority again shifted directions, leaving behind the proceedings initiated under Rule-5 (b) of the Rules ibid and again served show cause notice on 16.03.2018 upon the appellant under Rule-5 (a) of the Rules ibid containing the same allegations as leveled in the earlier charge sheet/statement of allegation dated 14.11.2017. By doing so, the inquiry was once again dispensed with, despite the fact that Mr. Muhammad Asif was already appointed as inquiry officer. In a situation inquiry officer Mr. Muhammad Asif did not conduct any inquiry. The appellant challenged such proceedings in Writ Petition



24/6/18

No.1355-P of 2018 with prayers that V.R Option was recalled by the NAB and the appellant was arrayed as an accused, therefore, the appellant could not be proceeded departmentally on this score. In pursuance to the judgment of Apex Court as the NAB Authorities recalled the alleged V.R, the Writ Petition was partially allowed vide judgment dated 07.11.2018 and departmental proceedings only on the allegation of commitment of V.R was quashed, however, respondents were allowed to proceed against the appellant departmentally for the rest of charges leveled against him. In pursuance of the judgment, another show cause notice was served upon the appellant on 23.01.2019 under Rule-5 (a) of the Rules ibid and again inquiry was dispensed with and proceedings initiated by inquiry officer, were abandoned. The appellant responded to the show cause notice but his reply was not considered satisfactory and a result thereof, major penalty of removal from service was imposed upon appellant vide impugned order dated 12.04.2019. It merits a mention here that final proceedings were initiated against the appellant under Rule-5 (a) of the Rules ibid, whereas, perusal of impugned order would reveal that reference was made to the inquiry conducted by Mr. Ikram Ullah Khan, report whereof was submitted back on 13.02.2018.

5. It was imperative to go through the whole lot of proceedings conducted against the appellant which has exhumed numerous lacunas as well as deficiencies in the disciplinary proceedings conducted against the appellant. The respondents have very candidly violated the set norms and rules and conducted the proceedings in an authoritarian manner. We have observed that the appellant was kept

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deprived of affording appropriate opportunity of defense. In the whole process, only one inquiry was conducted by Mr. Ikram Ullah Khan which in fact was not a regular inquiry rather a fact finding inquiry whereby, appellant was not afforded an opportunity as is required under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. It is, however, a well-settled legal proposition duly supported by numerous judgments of Apex Court that for imposition of major penalty, regular inquiry is a must. In the instant case, the inquiry so conducted was without availability of the relevant record as the record was in the custody of NAB, hence, having no value in the eyes of law. We smack malafide on the part of respondents to the effect that transposing strategy repeatedly in disciplinary proceedings in violation of the prescribed rules has made the whole proceedings dubious. The appellant repeatedly requested for deferment of the proceedings until the result of the case lying pending in the Accountability Court, but this aspect of the issue was not taken care of which is contrary to the golden principle of natural justice. The competent authority repeatedly violated Rule-14 (6) of the Rules ibid and never recorded any reason for changing the mode of proceedings or disagreement with the earlier proceedings. It was also observed that the trial is still pending and the appellant's guilt has not yet been proved.

6. The preceding discussion vividly transpires that the appellant was not treated in accordance with law and he has been penalized for the charge, which is not yet proved and the case is still pending adjudication.

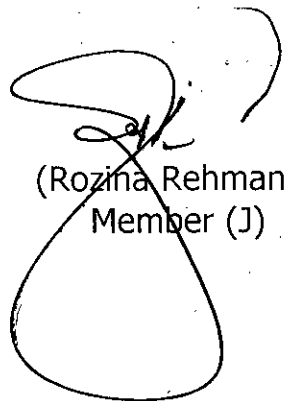


7. In view of the above, instant service appeal is partially accepted. Appellant is reinstated into service from the date of his removal from service. Case is remitted to the Department with direction to conduct de-novo inquiry within 90 days of the receipt of this judgment. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

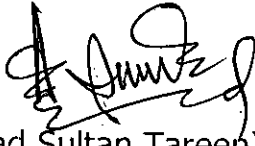
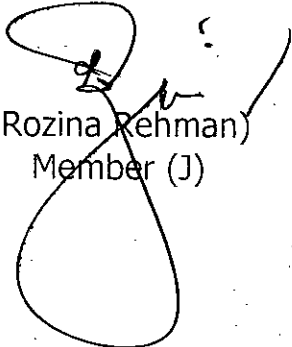
ANNOUNCED.

24.06.2021

  
(Ahmad-Sultan Tareen)  
Chairman

  
(Rozina Rehman)  
Member (J)

Service Appeal No. 1070/2019

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	24.06.2021	<p><u>Present:</u></p> <p>Naveed Qadir, ... Appellant in person</p> <p>Muhammad Adeel Butt, Additional Advocate General ... For respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, instant service appeal is partially accepted. Appellant is reinstated into service from the date of his removal from service. Case is remitted to the Department with direction to conduct de-novo inquiry within 90 days of the receipt of this judgment. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 24.06.2021</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">               (Ahmad Sultan Tareen)              Chairman         </div> <div style="text-align: center;">               (Rozina Rehman)              Member (J)         </div> </div>

29.10.2020 Due to public holiday, the matter is adjourned  
1.1.2021 for arguments before the D.B.

  
Reader

01.01.2021 Due to winter vacation, the case is adjourned to  
18.03.2021 for the same.

  
Reader

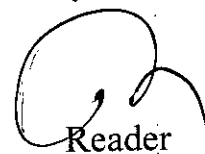
18.03.2021 Appellant in person and Addl. AG for the  
respondents present.

Former requests for adjournment as his learned <sup>counsel</sup> is  
indisposed today. Adjourned to 20.05.2021 for hearing  
before the D.B.

  
(Salah-ud-Din)  
Member (J)

  
Chairman

20.05.2021 Due to demise of the Worthy Chairman, the Tribunal is  
non-functional, therefore, case is adjourned to  
~~24.05~~ 2021 for the same as before.

  
Reader

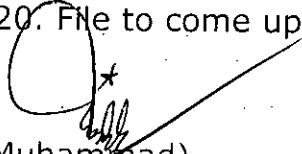
29.06.2020

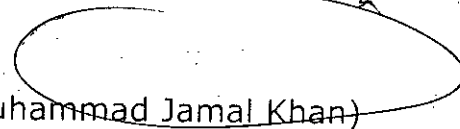
Due to COVID-19, the case is adjourned to 15.07.2020 for the same.

  
Reader

15.07.2020

Appellant Naveed Qadir is present. Mr. Ziaullah, Deputy District Attorney alongwith representatives of the department Mr. Attaullah, Assistant Secretary and Mr. Muhammad Arif, Superintendent are present. Mr. Mir Zaman Safi, Advocate also present, he submitted to have freshly been engaged by the appellant in the instant case and seeks adjournment. The record also reflects that arguments in the instant appeal were heard by the Members other than constituting the instant bench, therefore, appeal is adjourned to 04.09.2020. File to come up for re-arguments before D.B.


  
(Mian Muhammad)  
Member (Executive)

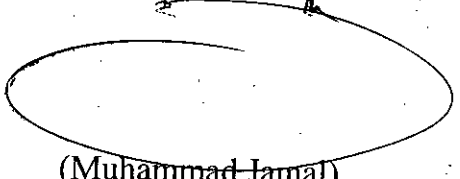
  
(Muhammad Jamal Khan)  
Member (Judicial)

04.09.2020

Appellant is present in person alongwith his counsel Mr. Noor Muhammad Advocate present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents is present.


The learned counsel for the appellant <sup>submitted</sup> power of attorney, placed on record and sought adjournment to have been freshly engaged. The request is genuine. The case is adjourned to 30.10.2020 for arguments before D.B.

  
(Mian Muhammad)  
Member (E)

  
(Muhammad Jamal)  
Member(J)

06.03.2020


Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on ~~restoration~~ on 12.03.2020 before D.B.

  
Member

  
Member

12.03.2020

Appellant with counsel present. Mr. Ziaullah, DDA alongwith Mr. Muhammad Arif, Supdt for respondents present. Arguments heard. To come up for order on 24.03.2020 before D.B.

  
Member

  
Member

24.03.2020

Due to public holiday on account of COVID19, the case is adjourned to 29.06.2020 for the same as before.

  
Reader

12.11.2019

Appellant with counsel and Mr. Muhammad Arif, Superintendent for respondents No. 1, 2 & 5 alongwith Addl. AG for the respondents present.

Representative of respondents requests for further time to submit the reply/comments on behalf of respondents as the same are yet to be vetted.

Adjourned to 25.11.2019 before S.B.


  
Chairman

25.11.2019

Appellant in person and Addl. AG alongwith Muhammad Arif, Superintendent for respondents No. 1, 2 and 5 present.

Parawise comments on behalf of respondents No. 1, 2 and 5 are submitted which are made part of the record. The appellant states that that respondents No. 3 & 4 were enquiry officers in two different enquiry proceedings, hence they are proforma respondents.


In view of the record and statement of appellant instant matter is placed before a D.B for arguments on 21.01.2020. The appellant may submit rejoinder, within one month, if so desired.

  
Chairman

21.01.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Usman Ghani, District Attorney for the respondents present. Case to come up for rejoinder, if any, and arguments on 06.03.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

02.10.2019

Counsel for the appellant present.

Contends that in the departmental proceedings the Competent Authority initially opted to appoint an enquiry officer who was accordingly appointed on 30.10.2017. On the other hand, in the show cause notice dated 23.01.2019, it was provided that the competent authority was pleased to dispense with the enquiry. That, once the jurisdiction and powers were exercised by the authority under a particular provision of the rules, it could not skip-over to other provisions which required different procedure. Further contends that Departmental Appellate Authority rejected the appeal of the appellant in a scanty manner without application of its independent mind to the case.

In view of the available record and arguments of learned counsel, instant appeal is admitted for regular hearing subject to all just legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/ comments on 12.11.2019 before S.B.

An application for suspension of operation of impugned order dated 12.04.2019 has been submitted alongwith the appeal. Notice of the application be also given to the respondents for the date fixed.

Appellant Deposited  
Security & Process Fee

2/10/19


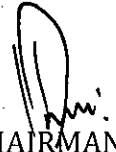
  
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No.- 1070/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/08/2019	<p>The appeal of Mr. Naveed Qadir presented today by Mr. Atiq-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 20/8/19</p>
2-	20/08/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/10/2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>



**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL, PESHAWAR**

*Appeal no 1070/2019*

Naveed Qadir.....Vs.....Chief Secretary and others.

**INDEX**

S.NO.	Description	Annex	Page
1.	Memo of Appeal.	----	1-11
2.	Affidavit	----	12
3.	Application for suspension of impugned orders.	----	13-14
4.	Show Cause Notice No. Estt: I/S-M/ Notice/Naveed Qadir/26411-A dated: 30.10.2016.	A	15
5.	Letter No. Estt: I/PF/Naveed Qadir/17988 dated: 25.08.2017.	B	16
6.	Charge Sheet.	C	17-18
7.	Statement of Allegations.	D	19-20
8.	Letter No. Estt: I/PF/Naveed Qadir/23649 dated: 30.10.2017.	E	21
9.	Objection Application dated: 02.01.2018.	F	22-24
10.	Objection Statement dated: 12.01.2018.	G	25-27
11.	Charge Sheet No. Estt: V/SuoMoto/ 2016/File2/31460-62.	H	28
12.	Statement of Allegations.	I	29
13.	Written Reply to Respondent No. 4	J	30-32
14.	Show Cause Notice Estt: I/PF/Naveed Qadir Tehsildar/4417 dated: 16.03.2018.	K	33-34
15.	Judgment dated: 07.11.2018 passed by Hon'ble Peshawar High Court, Peshawar in WP No. 1355-P/2018.	L	35-44
16.	Show Cause Notice Estt: I/PF/Naveed Qadir Tehsildar/2362 dated: 23.01.2019.	M	45-46
17.	Written Reply dated: 20.03.2019.	N	47-48
18.	Impugned Order dated: 12.04.2019.	O	49
19.	Departmental Appeal.	P	50-53

20.	Communicating Letter No. Estt:I/PF/Naveed Qadir/24820 dated: 22.07.2019. (Impugned Order)	Q	54
21.	List of the officers/officials.	R	55
22.	Vakalatnama.	----	56

**Date: 20/08/2019**

**Through:**

**Appellant**



**(Ateeq-Ur-Rehman)  
Advocate**

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL, PESHAWAR**

**Khyber Pakhtunkhwa  
Service Tribunal**

Service Appeal No. 1070 /2019

Diary No. 1175

Dated 9/8/2019


Naveed Qadir S/O: Abdul Qadir R/O: Shalimar Colony, Warsak Road  
Peshawar..... (Appellant)

**VERSUS**

1. The Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Senior Member Board of Revenue, Government of Khyber Pakhtunkhwa, Peshawar.
3. Ikramullah Khan, Ex. Member Board of Revenue – I, Government of Khyber Pakhtunkhwa, Peshawar.
4. Muhammad Asif, Ex. Director Land Record, Board of Revenue, Government of Khyber Pakhtunkhwa, Peshawar.
5. Assistant Secretary, Board of Revenue, Government of Khyber Pakhtunkhwa, Peshawar..... (Respondents)

**APPEAL**

UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH RULE 19 OF GOVT. SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 2011 AGAINST THE FINAL ORDER DATED: 12-04-2019, PASSED BY THE SENIOR MEMBER BOARD OF REVENUE (RESPONDENT No. 2) INCAPACITY OF THE COMPETANT AUTHORITY UNDER KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY AND DECIPLINE) RULES 2011 WHERE BY HE IMPOSED THE MAJOR PENALITY ON THE APPELLANT AND REMOVED HIM FROM SERVICE, AND THE ORDER COMMUNICATED ON 22-07-2019 PASSED BY THE CHIEF SECRETARY KHYBER PAKHTUNKHWA (RESPONDENT NO. 1) IN THE CAPACITY OF APELLATE AUTHORITY, UNDER THE AFORESAID RULES, WHEREBY THE APPELLANT'S APPEAL PREFERRED UNDER RULE: 17 (ibid) HAS BEEN REJECTED.

Filed to-day  
  
 Registrar  
 20/8/19

**PRAYER IN APPEAL**

**BY ACCEPTING THIS APPEAL, THE IMPUGNED ORDERS DATED: 12-04-2019, PASSED BY SENIOR MEMBER BOARD OF REVENUE (RESPONDENT NO. 2) AND THE ORDER OF CHIEF SECRETARY (RESPONDENT NO.1) COMMUNICATED ON: 22-07-2019, MAY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAY PLEASE BE REINSTATED WITH EFFECT FROM THE DATE OF REMOVAL, WITH ALL BACK BENEFITS, AND ANY OTHER RELIEF DEEMED APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE, NOT SPECIFICALLY ASKED FOR, MAY ALSO BE GRANTED TO THE APPELLANT.**

**RESPECTFULLY SHEWETH**

*Short facts giving rise to the present appeal are as under.*

1. That the appellant was appointed as Naib-Tehsildar on recommendation of the then N.W.F.P. Public Service Commission, on 01-07-1995. Later on, the appellant was promoted to the post of Tehsildar, in the year 2002.
2. That the appellant was arrested on 09-04-2014 by NAB KP, on the basis of incorrect allegations of misuse of authority in connection with 'Nathia Gali Housing Scheme'. The appellant was released on bail by the Hon'ble Peshawar High Court, Peshawar vide order dated: 30-05-2017 where after the appellant submitted his report of arrival on 01-06-2017, to the KP Board of Revenue, Peshawar. The NAB Reference, in this regard, instituted in the year 2015 against the appellant, is still pending in the Accountability Court, Peshawar.
3. That when the appellant was confined in judicial lock up, respondent No. 1 issued a show cause notice bearing No. Estt:I/S-M/Notice /NaveedQadir/ 26411-A: dated 30-10-2016, to impose upon him the penalty of dismissal from service on the following allegations:
  - a. That you have voluntarily returned the embezzled amount to the National

Accountability Bureau Authorities, which under the direction of the August Supreme Court of Pakistan, delivered in *suomoto* case No. 17 of 2016 dated: 14-10-2016, comes under misconduct under the service law and is liable to be proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

However, no further action was taken against the appellant on the basis of the aforesaid show cause notice. **(Copy of the Show Cause notice is annexed as Annexure A)**

4. That after release of the appellant on bail and submitting arrival report, the Respondent No. 2 served the appellant a 'Charge Sheet' and 'Statement of Allegations' on the basis of letter No. Estt:I/PF/NaveedQadir/ 17988: dated 25-08-2017 through the 'Inquiry Officer' Mr. Abdul Hameed Khan, Secretary-II Board of Revenue. **(Copies of the letter, Charge Sheet and Statement of Allegations are annexed as Annexure B, C and D)**
5. That thereafter, the inquiry officer Mr. Abdul Hameed Khan, who was appointed under Rule 5(1)(b) read with Rule 10 of Khyber Pukhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011, was transferred and therefore Mr. Ikram Ullah Khan Member Board of Revenue-I (Respondent No. 3) was appointed as inquiry officer vide letter No. Estt: I/ PF/NaveedQadir/ 23649 dated: 30-10-2017. **(Copy of letter dated 30/10/2017 is annexed as Annexure-E).**
6. That on receipt of 'Charge Sheet' and 'Statement of Allegations', the appellant submitted an '**Objection Application**' to the 'Competent Authority' (Respondent No.2) on 02-01-2018 containing '**preliminary objections**' on the proceedings of inquiry, 'inter-alia' raising the fundamental objection that while defending the charge sheet in these proceedings of inquiry, his line of defense would be prematurely disclosed and ultimately his defense in the pending Reference in the Accountability Court would badly suffer and resultantly the appellant would be

materially prejudiced. (Copy of the 'Objection Application' is annexed as Annexure-F)

- 7. That the appellant did not submit 'written reply' required to be submitted U/R: 11 (1) of the Rules (ibid) to the inquiry officer. Instead, an 'objection statement' dated: 12-01-2018, containing the similar 'preliminary objections', as mentioned in Para 6 above, was submitted because the appellant was not informed about the outcome of his 'Objection Application' submitted earlier to the 'Competent Authority' (Respondent No.2). (Copy of the objection statement is Annexed as Annexure-G)
  
- 8. That after submitting the abovementioned 'Objection Application' to the 'Competent Authority' (Respondent No.2) and the 'Objection Statement' to the 'Inquiry Officer' (Respondent No.3), the appellant was neither given next date of appearance, nor informed about disposal of objections at both forums, nor sent any call up notice, to participate in further inquiry proceedings. Here the inquiry officer Respondent No.3 did not demonstrate the 'bonfide' and 'fair play' at his part, as the principles of natural justice required that the accused appellant must have been intimated about resumption of further proceedings of inquiry in the said set of facts and circumstances. Hence, the appellant was under the 'bonfide impression' that his objections have prevailed at both the forums, and as he prayed, the proceedings of inquiry before Mr. Ikram Ullah Khan 'Inquiry officer' (Respondent No.3), have been abandoned.
  
- 9. That the abovementioned 'Bonfide Impression' of the Appellant further got strengthened because the appellant received yet another and fresh 'Charge Sheet' along with fresh 'Statement of Allegations' from Mr. Muhammad Asif, another 'Inquiry Officer' (Respondent No.4). This charge sheet was confined only to the allegation about 'Voluntary Return' (VR) to NAB. The appellant thus fairly concluded that the inquiry by Mr. Ikrama Ullah Khan had been deferred/ abandoned till the disposal of NAB Reference, as the appellant had already prayed. (Copies of fresh 'Charge Sheet' and fresh 'Statement of Allegations' are annexed as Annexure-H &I)

10. That the appellant submitted written reply wherein he strongly denied being the beneficiary of VR. Hence, vehemently refuted the charge leveled against him in said written reply submitted to the fresh 'inquiry Officer' (Respondent No. 4) who also recorded the statement of the appellant. **(Copy of the written reply is annexed as Annexure-J)**
11. That to the utter surprise of the appellant, he received another illegal 'Show Cause Notice' dated: 16-03-2018, from the 'Competent Authority' (Respondent No.2) to impose penalty U/Rule 4 of the KP Government Servants (E & D) Rules 2011. **(Copy of the Show Cause Notice is annexed as Annexure-K)**
12. That the appellant was thus constrained to approach Hon'ble Peshawar High Court by filing WP No. 1355-P/2018 to challenge the abovementioned illegal show cause notice. The Writ Petition was partially accepted by the Hon'ble Peshawar High Court vide the Judgment Dated: 07-11-2018 whereby the charge against the appellant relating to the VR with NAB was "Quashed," however the rest of the charges involving determination of questions of facts were left to be dealt with according to law. **(Copy of the of the Judgment dated: 07-11-2018 is annexed as Annexure-L)**
13. That again, to the utter surprise of the appellant, the 'Competent Authority' (Respondent No.2) instead of directing the 'Inquiry officer' (Respondent No.3) to resume the deferred inquiry from the stage where the appellant had submitted the 'Objection Statement' referred in Para 7 above, adopted illegal mode and manner to amended the illegal show cause notice mentioned in Para 11 above and served it on appellant as fresh show cause notice dated: 23-01-2019. **(Copy of the of the show cause notice dated: 23-01-2019 is annexed as Annexure-M)**
14. That at this stage, it revealed to appellant that Respondent No.3 had not deferred or abandoned the inquiry and without disposing of appellant's "Preliminary Objections" dated: 12-01-2018 (Annexure-G), which are still pending, carried on the proceedings of inquiry, in utter violation of law. So the appellant, in response to the illegal show cause notice dated: 23-01-2019, submitted his

written reply dated: 20-03-2019, specifically highlighting that the inquiry officer has neither disposed of appellant's objections nor intimated him about the result there of and allegedly submitted the inquiry report in utterly transgressing the law, procedure and the principles of natural justice. **(Copy of the of the written reply dated: 20-03-2019 is annexed as Annexure-N)**

15. That the 'Competent Authority' without paying attention to appellant's stance, based on sturdy legal grounds, passed the illegal impugned order dated: 12-04-2019 whereby the appellant was 'removed' from service. **(Copy of the of the order dated: 12-04-2019 is annexed as Annexure-O)**

16. That the appellant preferred departmental appeal U/R: 17 of the Government Servants (E & D) Rules 2011 before respondent No.1 which was illegally rejected, without giving the opportunity of personal hearing to appellant, vide the communication through letter No. Estt: I/PF/NaveedQadir/ 24820 dated: 22-07-2019. **(Copy of the of the Memo: of appeal & letter dated: 22-07-2019 is annexed as Annexure-P & Q)**

17. That the appellant now, very humbly, seeks the instant appeal, *inter alia*, on the following grounds:

### **GROUND**

- I. That the order of respondent No. 1 dated: 22-07-2019 and the order of respondent No.2 dated: 12-04-2019, both impugned herein, are against law, facts and the material available on record, hence not tenable.
- II. That the impugned orders and the impugned inquiry proceedings are not sustainable because they are against the "Golden Principles" of natural justice.
- III. That all the charge sheets, statements of allegations, consultation of any record, show cause notices addressed to the appellant, before appellant's impugned removal are against law and in violation of principles of natural justice and hence not tenable.



- IV. That the appellant has been booked by NAB authorities in the facts of matter which neither have been properly investigated nor its circumstances have been accurately appreciated in their true prospective. '*Actus reus*' of the matter discloses no '*mense rea*' at the part of the appellant. However, a reference has been instituted by NAB in the Accountability Court at Peshawar where the appellant has vested right to defend himself according to law. The trial is still pending and the appellant's guilt has not yet been proved. But, the respondents have made the same facts an excuse to launch premature departmental inquiry against him, which is unlawful.
- V. That the appellant has been singularly made target and victim of repeated charges sheets, suspension, inquiries and the illegal removal purely on the basis of false and frivolous allegations which are already "subjudice" before the competent Court of law and it indicates victimization due to departmental rivalries and ulterior motives, based on 'malafide' at the part of respondents.
- VI. That the appellant is being treated with discrimination because many other employees of Board of Revenue and Establishment Department are under trial in NAB References but no such departmental inquiry on the same charges have been initiated against them; and instead, some have been promoted to higher ranks. (**The list of a few such Govt. employees is Annexed as Annexure-"R"**).
- VII. That there may be no bar on the departmental inquiry but the arbitrary decision of respondent No. 2 to launch inquiry is surely against the golden principles of '**natural justice**' and '**fair play**'. The prolonged premature process on inquiries exposed the appellant and his family to continuous torture and agonies and he has been deprived to defend him during the so-called inquiry proceedings.
- VIII. That the departmental inquiry proceeding have been declared "**Judicial Proceedings**" under Rule:12 (2) of the

KP Governments Servants (E&D) Rules 2011 but the inquiry officer (Respondent No. 3) has dishonored and despoiled all the judicial norms and fundamental cannons of justice during impugned so-called inquiry proceedings.

- IX. That 'substantial preliminary objections' were raised, on the charge sheet, appointment of inquiry officer and the inquiry proceedings, by the appellant "in writing" and duly submitted to respondent No. 2 & 3 which were required by law and established principles governing the administration of justice to be decided and the decision was also essential to be communicated to appellant before any further action but this legal pre-requisite was not complied with and hence the inquiry proceeding are contrary to the law on the subject and not sustainable.
- X. That after submitting the 'preliminary objections' mentioned above, the appellant was under the "Bonafide Impression" that his objections have prevailed before the Respondent No. 2 & 3 because the respondent No. 3 (inquiry Officer) neither fixed the next date of appearance in appellant's presence nor sent any call up notice to appellant to join the inquiry proceeding onward. Conversely, he carried the proceedings in absentia and deprived the appellant from his vested right to defend him. It is substantial violation of law and principles of natural justice which has materially prejudiced the appellant. Hence, his proceedings have no legal value.
- XI. That the arbitrary decision of respondent No. 2 to serve the appellant with impugned charge sheet and carry out departmental inquiry through an inquiry officer about the matter pending for trial before an Accountability Court, put the appellant in a very difficult situation, because during the departmental inquiry his defense would have been disclose of which NAB prosecution could get benefit and it could have been materially prejudiced his right of a fair opportunity of defense before the Accountability Court in the criminal case. Needless to mention that the consequences in the said criminal case are more deterrent.

That is why he submitted preliminary objection in his written statement which was unlawfully ignored and the objections are still pending.

- XII. That the inquiry officer (Respondent No. 3) while unlawfully holding inquiry against the appellant 'in absentia', availed the opportunity to consult and rely on the unauthentic photo copies of record because the original record about the facts under inquiry was in the custody of NAB authorities. Hence, this act was also entirely illegal and the proceedings are not sustainable.
- XIII. That the "Competent Authority" has transgressed the mandatory provisions of relevant rules and acted in sheer violation of law as well as the basic principles governing the administration of justice.
- XIV. That it is established principle of law and justice that when law/Rules lays down a clear procedure for an act to be done, then the act shall have to be done strictly according to the laid down procedure. Otherwise, the proceeding shall vitiate and the final orders shall not be tenable. While passing the impugned order, the competent authority has adopted entirely novel and unlawful procedure which has materially prejudiced the appellant.
- XV. That the Competent Authority (Respondent No.2) once decided in the case of appellant to skip over Rule 5 (a) and take further action U/R: 5 (b) of the Rules (ibid) to appoint an inquiry officer and hold inquiry through him, then the procedure U/R: 11 of the Rules (ibid) was bound to be followed in letter and spirit providing fair opportunity to appellant to defend himself, of which the appellant was deprived, as explained above in Para X. **Furthermore**, and most pertinently, the Competent Authority (Respondent No. 2) could not legally, at this stage, revert back to Rule 5 (a) and go ahead to adopt the procedure and exercise the power in Rule 7 of the Rules(ibid).

- XVI. That once the competent authority exercised the discretion and categorically opted to follow the procedure in Rule 5 (b) and appointed the inquiry officer and served Charge Sheet and the Statement of Allegations on appellant U/R: 5 (1) (b) and R: 5 (2) of the Rules (ibid), some vested rights of appellant were created under Rule: 11 and 14 (besides the other rules) which were denied including the supply of the copy of inquiry report U/R: 14 (4) (c) of the Rules (ibid) and the Competent Authority, at this stage, could not revert back on his own whims to any proviso of Rule 5 to "dispense with the inquiry" being legally "Functus Officio". This act of the competent authority (respondent No.2) has deprived the appellant from his vested legal rights and materially prejudiced him. Hence the impugned show cause notice and the removal order based thereon, both are not sustainable.
- XVII. That the competent authority (respondent No.2) has based the final removal order dated: 12-04-2019 on the procedure referred in Rule 14 (5) (ii) of Rules (ibid) but prior to that he issued final show cause notice dated: 23-01-2019 to appellant under Rule 7 of the Rules (ibid). Moreover, he has dispensed with inquiry, after having decided it to be essential and having been conducted, which was utterly unlawful because of his being "Functus officio" in this behalf. The Competent Authority had one choice to either conduct inquiry or to follow the procedure given in the rule 7. It is unlawful to concurrently apply both said rules which lay down different procedures. The mandatory provision of Rule 14 (4) (c) of Rules (ibid) regarding supply of copy of inquiry report was also violated. Resultantly, the appellant was deceived, misled and materially prejudiced by the unlawful acts of the competent authority (Respondent No.2).
- XVIII. That the Respondent No.1 rejected the departmental appeal of the appellant without providing him proper opportunity of hearing which is against the established norms of natural justice.

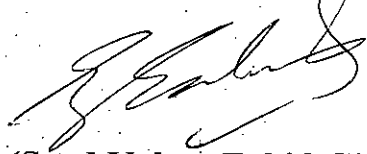
- XIX.** That the whole proceedings leading to the impugned removal of the appellant are in violation of Art: 10 (A) and 25 of the constitution of Islamic Republic of Pakistan, 1973.
- XX.** That any other ground will be raised at the time of arguments with the permission of this Hon'ble Tribunal.

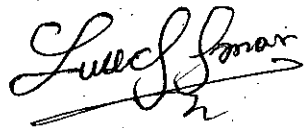
It is, therefore, humbly prayed that by accepting this appeal, the impugned orders dated: 12-04-2019, passed by Senior Member Board of Revenue (Respondent no. 2) and the order of Chief Secretary (Respondent no.1) communicated on: 22-07-2019, may graciously be set aside and the appellant may please be reinstated with effect from the date of removal, with all back benefits, and any other relief deemed appropriate in the circumstances of the case, not specifically asked for, may also be granted to the appellant.

**Date:** 20/08/2019

**Through:**

Appellant

  
(Syed Yahya Zahid Gilani)  
Advocate

  
(Muhammad Zahid Aman)  
Advocate

  
(Ateeq-Ur-Rehman)  
Advocate

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

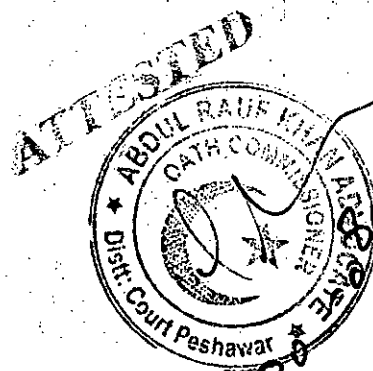
Naveed Qadir.....Vs.....Chief Secretary and others.

**AFFIDAVIT**

*I, Naveed Qadir, S/O: Abdul Qadir, R/O: Shalimar Colony Warsak Road, Peshawar do hereby solemnly affirm and state on oath that the contents of accompanied appeal are true and correct to the best of my knowledge and belief, nothing has been concealed or withheld from this Hon'ble Tribunal and no other such like appeal has been moved prior to this appeal.*

**DEPONENT**

**CNIC No. 14301-5009415-7**



**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL, PESHAWAR**

Naveed Qadir.....Vs.....Chief Secretary and others.

**Application for suspension of orders dated: 12-04-2019, passed by Senior Member Board of Revenue (Respondent no. 2) and the order of Chief Secretary (Respondent no.1) communicated on: 22-07-2019, till final disposal of main appeal.**

**Respectfully Sheweth,**

1. That the applicant/appellant has filed the captioned appeal today in this Hon'ble Tribunal in which no next date yet has been fixed.
2. That the applicant/appellant seeks the suspension of orders dated 12-04-2019, passed by senior member board of revenue (Respondent no. 2) and the order of chief secretary (Respondent no.1) communicated on: 22-07-2019 under the following amongst other grounds:

**GROUND:**

- i. That the applicant/appellant has strong *prima facie* case.
- ii. That the balance of convenience is in favour of applicant/appellant.
- iii. That the contents of the main appeal be considered an integral part of this application.
- iv. That there is a great likely hood that the main appeal will be decided in favour of applicant/appellant.
- v. That since the date of impugned order the salary and other physical benefits of the applicant/appellant have been stopped, due to which the applicant/appellant and his

family are facing severe hardships in their daily life and if the impugned orders not suspended these hardships will increase further and the applicant/appellant and his family will be at the stage of starvation.

vi. That the salary of the applicant/appellant is the only source of livelihood for him and his family and the applicant/appellant is the only bread earner for his entire family.

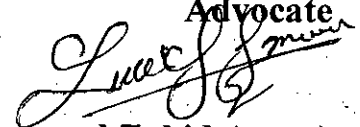
It is, therefore, humbly prayed that on acceptance of this application impugned orders dated 12-04-2019, passed by Senior Member Board of Revenue (Respondent no. 2) and the order of Chief Secretary (Respondent no.1) communicated on: 22-07-2019 may please be suspended till the final disposal of main appeal.

Date: 20/08/2019

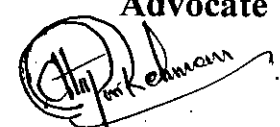
Applicant

Through:

(Syed Yahya Zahid Gilani)  
Advocate



(Muhammad Zahid Aman)  
Advocate

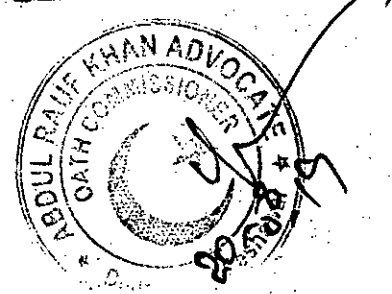


(Ateeq-Ur-Rehman)  
Advocate

**AFFIDAVIT**

I, Naveed Qadir, S/O: Abdul Qadir, R/O: Shalimar Colony Warsak Road, Peshawar do hereby solemnly affirm and state on oath that the contents of this application are true and correct to the best of my knowledge and belief, nothing has been concealed or withheld from this Hon'ble Tribunal and no other such like application has been moved prior to this application.

**ATTESTED**



**DEPONENT**

CNIC No. 14301-5009415-7





GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

**SHOW CAUSE NOTICE.**

I, Afzal Latif Senior Member Board of Revenue Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Naveed Qadir, the then Tehsildar (BS-16) now in Jail as follows:-

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

- a. That you have voluntarily returned the embezzled amount to the National Accountability Bureau authorities, which under the direction of the august Supreme Court of Pakistan delivered in Suo Moto case No. 17 of 2016 dated 24.10.2016 comes under misconduct under the service law and is liable to be proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

In terms of Rule-5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, I, as Competent Authority, dispense with the inquiry and serve you with a show cause notice under Rule-7 of the ibid Rules:

As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of dismissal from service under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

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

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

*[Signature]*  
Senior Member

Attested  
*[Signature]*

No. Estt./S-M/Notice/ Naveed Qadir / 26411-A  
Peshawar dated 27/10/2016.  
Tehsildar now in Jail.

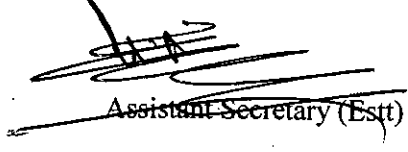
GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENTNo. Estt./PF/Naveed Qadir/ 17988  
Peshawar dated the 25 708/2017

To

Mr. Abdul Hameed Khan,  
Secretary-II,  
Board of Revenue.SUBJECT: DISCIPLINARY ACTION AGAINST TEHSILDAR

I am directed to refer to the captioned subject and to state that the Competent Authority has been pleased to approve initiation of disciplinary proceedings against Mr. Naveed Qadir, Tehsildar under suspension under Government Servants (Efficiency & Discipline) Rules, 2011.

Consequently, the Competent Authority has further been pleased to appoint you as Inquiry Officer to investigate the charges / conduct inquiry under the provision of the said rules against the aforesaid Officer in light of the attached charge sheets / statement of allegations with the request to submit your findings / recommendations / report within a period of 30 days positively.

  
Assistant Secretary (Estt)Attested  
JW

Annexure (C) (17)  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

**CHARGE SHEET**

I, Zafar Iqbal, Senior Member Board of Revenue Khyber Pakhtunkhwa as ~~Competent~~ Authority, hereby charge you; Mr. Naveed Qadir Tehsildar posted as Land ~~Acquisition~~ Collector Provincial Housing Authority Peshawar (CCB) as follows:

- a) That you while posted as Land Acquisition Collector (CCB) in Provincial Housing Authority Peshawar, despite of knowing the fact that Section-4 of Land Acquisition Act, 1894 was signed by the former Land Acquisition Collector comprising of land not approved by Provincial Government you malafidely neither issued any corrigendum for correction of Khasra Numbers nor forwarded the case for approval of the Competent Authority rather issued notification under section 6/17 and award under section 11 of Land Acquisition Act, 1894 and started payment in order to fulfill nefarious design while in league with cronies accused person.
- b) That you malafidely made no payment to the local landowners or their representatives rather evidence collected revealed that payment were received by you and other persons such as Ghazi Gul Muhammad Salah, Ehsan Ullah, Farhad Ali Ex-Junior Clerk PHA and Azmat Ali Khan Ex-Driver Provincial Housing Authority who were not the landowners at all of the land acquired by the PHA, without any justification.
- c) That you in award under section 11 mentioned that the land compensation will be paid on the basis of last Ausat-yak-Sala, but with malafide intention change the kind of land and thus caused colossal loss to public exchequer. You himself mentioned in cost reasonability certificate submitted with notification u/s 6 & 17 to DOR, Abbottabad that total cost of 161 kanaal 03 marla land was RS. 269.580 million and paid an amount of RS. 394 million by transferring the fund for other schemes and to this account.
- d) That you with malafide intention notified price negotiation committee despite the fact that price negotiation committee was already constituted by the Secretary Housing. You constituted committee comprising of Land Acquisition Collector as Chairman, DD Planning Provincial Housing Authority and Gardawar Provincial Housing Authority were the members of the committee. This Committee constituted in violation of Board of Revenue Notification issued on 17.08.2016. The said committee so as to maneuver land acquisition process and extend illegal benefit in shape of 15% extra-compulsory acquisition charges.
- e) That you with malafide intention paid complete amount rather paid excess amount for alternate illegal site in 2012 but no land was mutated in favour of Provincial Housing Authority thus violated Land Acquisition Act, 1894. The complete paid amount may be termed as embezzled and not utilized for the purpose approved by the Competent Authority thus, primarily responsible for loss caused to the public exchequer.
- f) That you accepted guilt at the inquiry stage regarding illegal gains in the acquisition of land at Mouza Darwaza Nathiagali, etc and voluntarily came forward and opted for voluntary Return within the meaning of Section-25 (a) of NAO, 1999, amounting to Rs.68.5 million which was accepted by the Competent Authority after fulfilling legal formalities.
- g) Your this act tantamount to misconduct and guilty of corruption on your part and liable to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules. 2011.

By reason of the above, you appear to be guilty of misconduct and in ~~the~~ ~~charge~~ ~~sheet~~ ~~under~~ ~~rules~~ ~~3~~ ~~of~~ ~~the~~ ~~Khyber~~ ~~Pakhtunkhwa~~ ~~Government~~ ~~Servants~~ ~~(Efficiency~~ ~~and~~ ~~Discipline)~~ ~~Rules~~, 2011 and have rendered yourself liable to all or any of the penalties specified in rules 4 of the rules *ibid*.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Inquiry Officer.

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

5. Intimate as to whether you desire to be heard in person or otherwise.

6. Statement of allegations in enclosed.



Senior Member

Attested  
[Signature]

DISCIPLINARY ACTION

Annexure (10)

(19)

I, Zafar Iqbal, Senior Member Board of Revenue Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Naveed Qadir Tehsildar as posted Land Acquisition Collector, PHA has rendered himself liable to be proceeded against, as he committed the following acts / omission, within the meaning of rules 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- a) That you while posted as Land Acquisition Collector (CCB) in Provincial Housing Authority Peshawar, despite of knowing the fact that Section-4 of Land Acquisition Act, 1894 was signed by the former Land Acquisition Collector comprising of land not approved by Provincial Government you malafidely neither issued any corrigendum for correction of Khasra Numbers nor forwarded the case for approval of the Competent Authority rather issued notification under section 6/17 and award under section 11 of Land Acquisition Act, 1894 and started payment in order to fulfill nefarious design while in league with cronies accused person.
- b) That you malafidely made no payment to the local landowners or their representatives rather evidence collected revealed that payment were received by you and other persons such as Ghazi Gul Muhammad Salah, Ehsan Ullah, Farhad Ali Ex-Junior Clerk PHA and Azmat Ali Khan Ex-Driver Provincial Housing Authority who were not the landowners at all of the land acquired by the PHA, without any justification.
- c) That you in award under section 11 mentioned that the land compensation will be paid on the basis of last Ausat-yak-Sala, but with malafide intention change the kind of land and thus caused colossal loss to public exchequer. You himself mentioned in cost reasonability certificate submitted with notification u/s 6 & 17 to DOR, Abbottabad that total cost of 161 kanal 03 marla land was RS. 269.580 million and paid an amount of RS. 394 million by transferring the fund for other schemes and to this account.
- d) That you with malafide intention notified price negotiation committee despite the fact that price negotiation committee was already constituted by the Secretary Housing. You constituted committee comprising of Land Acquisition Collector as Chairman, DD Planning Provincial Housing Authority and Gardawar Provincial Housing Authority were the members of the committee. This Committee constituted in violation of Board of Revenue Notification issued on 17.08.2016. The said committee so as to maneuver land acquisition process and extend illegal benefit in shape of 15% extra-compulsory acquisition charges.
- e) That you with malafide intention paid complete amount rather paid excess amount for alternate illegal site in 2012 but no land was mutated in favour of Provincial Housing Authority thus violated Land Acquisition Act, 1894. The complete paid amount may be termed as embezzled and not utilized for the purpose approved by the Competent Authority thus, primarily responsible for loss caused to the public exchequer.
- f) That you accepted guilt at the inquiry stage regarding illegal gains in the acquisition of land at Mouza Darwaza Nathiagali, etc and voluntarily came forward and opted for voluntary Return within the meaning of Section-25 (a) of NAO, 1999, amounting to Rs.68.5 million which was accepted by the Competent Authority after fulfilling legal formalities.
- g) Your this act tantamount to misconduct and guilty of corruption on your part and liable to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules. 2011.

Attested  
[Signature]

2. For the purpose of inquiry against the said accused with reference to the above allegations, **Mr. Abdul Hameed Khan, Secretary-II, Board of Revenue** is appointed as Inquiry Officer under rule 10(1)(a) of the ibid rules.

3. The inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

Attested  
[Signature]

(21)

**Annexure (E)**  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Estt: I/PF/Naveed Qadir/ 23649  
Peshawar dated the 30 /10/2017

To

Mr. Ikramullah Khan,  
Member-I,  
Board of Revenue.

SUBJECT: DISCIPLINARY ACTION AGAINST TEHSILDAR

I am directed to refer to the captioned subject and to state that the Competent Authority has been pleased to approve initiation of disciplinary proceedings against Mr. Naveed Qadir, Tehsildar under suspension under Government Servants (Efficiency & Discipline) Rules, 2011.

Consequently, the Competent Authority has further been pleased to appoint you as Inquiry Officer to investigate the charges / conduct inquiry under the provision of the said rules against the aforesaid Officer in light of the attached charge sheets / statement of allegations with the request to submit your findings / recommendations / report within a period of 30 days positively.

Assistant Secretary (Estt)

g/c Ans  
Attested  
Jaw

Received By  
[Signature]  
30/10/2017

\*TRO

SMBR, BOR,  
K, PK, Peshawar.

Subject: Inquiry

Respected Sir,

With due respect I want to lay down a few lines for your kind and sympathetic consideration

(A) I was arrested by NAB K, PK on 09-04-2014 during inquiry and was released on bail by High Court, Peshawar on 27-05-2017.

(B) I reported to BOR, KPK on 1st June, 2017 for further duty.

(C) NAB, KPK filed references against me in Accountability Court No III, PK and I am being tried.

(D) You yourself ordered inquiry against me under Khyber Pakhtoonkhwa ETD rules 2011 and I was handed over in charge sheet by inquiry officer SMBR-E on 20-11-2017.

(E) The charge sheet contains the same charges as I am facing in the Criminal Court.

(F) I had requested the inquiry officer in writing on 20-11-2017 to defer the inquiry till the outcome of Criminal cases against me but it was turned down.

Encl on P(2)

Attested  
[Signature]



- (G) If department conduct inquiry in the matter against an official which are being tried in Criminal Court, then the status of inquiry changes to Quasi Judicial Inquiry.
- (H) In order to prove my innocence, the witnesses are to be confronted and cross examined and further more original record is in the custody of NAB.
- (I) - The Criminal Case is also tried against officers of PMA and Private Persons.
- (J) In this respect I want to bring SI NO 53 of Compendium of E & D rules issued by Establishment Division Islamabad <sup>into your kind notice</sup> of 2012 which states

" Scope of Departmental Proceedings under the Efficiency & Discipline Rules in cases referred to Court."

In 2(i) of said SI 53 it is stated that

" There is no legal bar on <sup>holding</sup> holding of Departmental Inquiry against a Government Servant who is being prosecuted in a Criminal Court. It may, however, be pointed out that where the holding of departmental inquiry side by side with the criminal proceedings may have the effect of impeding the course of justice or of prejudicing the trial the inquiry should be deferred till the termination of Criminal Proceedings"

Contd on P(3)

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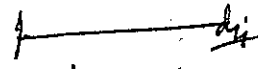
(K)

Furthermore, almost all the officers, officials arrested in the same periods in the same matter or in other cases likewise are reinstated and are posted without being inquired about in criminal charges soon after their release.

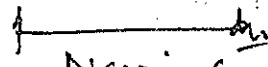
In light of above and fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan, it is humbly requested that inquiry proceedings may be deferred till the termination of Criminal Proceedings and I may be reinstated. I shall be thankful to you for this act of kindness and justice.

2nd Jan, 2018.

Yours Obedient Servant.

  
 NAVIA QADIR s/o Abdul Qadir  
 Tehsildar BOR, KPK.

Copy forwarded to SMBR-I (Inquiry office)  
 for information and consideration please.

  
 Navia Qadir

Attested



Written Statement regarding charge sheet served  
by Inquiry officer dated 14/11/2017.

25

Annexure (G)

Reference my Oral statement and application submitted to Writing SMBR dated 02/01/2018 (Copy is placed on file) I am unable to reply in allegations levelled against me on following grounds:

(A) I am facing reference filed by NAB, KPK which is being tried in Accountability Court III, KPK and the same charges are framed against me. Hence the Departmental Inquiry is Quasi Judicial proceedings and pre-judicial and falls in double jeopardy. Furthermore, the original record is in the custody of Court and there are other co-accused involved having specific role. In order to prove my innocence, the witnesses in the case are to be examined and without these elements these proceedings can damage my defence in the Criminal case. Hence the rules cited by me in the application submitted to SMBR, amount to deferment of Inquiry till the decision of Criminal case.

Attested  
*[Signature]*

(Contd on P-2)

The Inquiry is against the rule of natural justice and is in violation of Article 23 of Constitution of Pakistan.

(C) There are number of officials/officers of Revenue Department as well as Administration department against whom Criminal proceedings are in process in courts but they are re-instated and posted without being inquired about in same Criminal charges departmentally. I am being a citizen of Pakistan, I am being deprived of Law of Equality for all citizens as described in Article 14 of Constitution of Islamic Republic of Pakistan. I have been made victim of torture and leniency.

(D) The matter has clearly been elaborated in Compendium of EED Rules 2012 and various Court verdict of August High Courts and Apex Court of Pakistan. Reference 2007 SCMR 192 (rel) 2008 PLC (CS) 877 etc.

(E) Another Inquiry is being conducted against me regarding VR by Director Land Record B

Attested

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(Contd on P-3)



on suo.Moto Action of Supreme Court of Pakistan.

Respected Inquiry officer, the abnormal and Unique treatment to me causes mental torture, tension and hardship to me and my entire family.

In the light of above, it is requested that this Inquiry may please be deferred till conclusion of Criminal Case against me in NAB Court.

Submitted please.

12th Jan, 2018.

Navia Qadir

S/o

Abdul Qadir

Tehsildar (BOR), KPK.

MBR-I

BOR, KPK

Inquiry officer.

Attested  




Annexure (H)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

CHARGE SHEET

I, Zafar Iqbal, Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, hereby charge you Mr. Naveed Qadir Tehsildar / waiting for posting in Board of Revenue as follow:

That you while posted as Land Acquisition Collector committed the following irregularities.

That on going through the judgment of Supreme Court of Pakistan in Suo Moto Case No. 17/2016 (Suo Moto action to examine the vires of Section 25(a) of NAB Ordinance 1999 and report of NAB filed as CMA No. 6376 of 2016 you availed Voluntary Return facility of NAB and deposited an amount as per details given below:-

S No.	SR.# in report of NAB	Name of individual	Designation	Year	Amount Recovered
1.	758	Mr. Naveed Qadir	Tehsildar	2014	13500,000/-

2. By reason of the above, you appear to be guilty of inefficiency & misconduct under rules - 3 (a & b) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rules 4 of the rules ibid.

3. You are, therefore, required to submit your written defense within (07) seven days of the receipt of this charge sheet to the Inquiry Officer / Committee, as the case may be.

4. Your written defense, if any should reach the Inquiry Officer / Inquiry Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

5. Intimate as to whether you desire to be heard in person.

6. Statement of allegations is enclosed.

*Rov*  
*Zafar Iqbal*  
14/5/19  
Assistant Secretary  
Revenue & Estate Deptt  
Khyber Pakhtunkhwa.

*Zafar Iqbal*  
(Zafar Iqbal)  
Senior Member

No. Estt:V/Suo Moto/2016/File 2/ 31460-62  
Mr. Naveed Qadir  
Tehsildar / waiting for posting in Board of Revenue.



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

**DISCIPLINARY ACTION**

I, Zafar Iqbal, Senior Member, Board of Revenue as Competent Authority, am of the opinion that Mr. Naveed Qadir Tehsildar / waiting for posting in Board of Revenue has rendered himself liable to be proceeded against, as he committed the following acts / omission within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

**STATEMENT OF ALLEGATION**


That on going through the judgment of Supreme Court of Pakistan in Suo Moto Case No. 17/2016 (Suo Moto action to examine the vires of Section 25(a) of NAB Ordinance 1999 and report of NAB filed as CMA No. 6376 of 2016 you availed Voluntary Return facility of NAB and deposited an amount as per details given below:-

S.No.	SR.# in report of NAB	Name of individual	Designation	Year	Amount Recovered
1.	758	Mr. Naveed Qadir	Tehsildar	2014	13500,000/-

2. For the purpose of inquiry against the said accused with reference to the above allegations Mr. Mohammad Asif, Director Land Records Khyber Pakhtunkhwa is appointed as Enquiry Officer under Rule 10(1)(a) of the rules ibid.

3. The Inquiry Officer shall, in accordance with the provisions of the rules, ibid provide reasonable opportunity of hearing to the accused record its findings and make, within 30 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

  
 Assistant Secretary  
 Revenue & Estate Deptt  
 Khyber Pakhtunkhwa

subject: Reply in response to Charge Sheet Served on dated 29/12/2017 bearing no 2/31460-62 Estt: V/PF/Suo Moto/Fid.

In response to above mentioned Inquiry / Charge Sheet mentioned above, my written reply is as follows:

I was arrested by NAB, KPK on 9-4-2014 in connection with Inquiry in respect of Acquisition of Land for Housing Scheme in Mauza Darwaza, Nethin Gali, District Abbottabad

I remained in Physical Custody of NAB for thirty days, during which I was pressurised and was compelled to apply for Voluntary Return during the Physical Remand period. Later on I, was directed to deposit Rs 6,85,00,000/- without assessing the actual liabilities.

Due to Pressure and Torture, I deposited Rs 1,35,00,000/- while I was in judicial Custody in Central Prison, Peshawar. Since I did purely on Pressure of NAB, I refused to deposit the remaining amount and subsequently My VR was recalled by NAB in 2016. (Copy attached)

So I remained in Judicial Custody and Reference was filed against me and others in Accountability Court No III, KPK. My VR under S 25(a) of National Accountability Act 1999 was not actualised and neither proceedings against me were Ceased.

Under Section 25(a), the person / official who

(Contd on p-2)

Attested  
[Signature]

turned into voluntary Return, are exempted from further proceedings and no action is taken by NAB, i.e. filing of reference in the matter for conviction. I have right to go to court for return of the deposited amount and will file writ petition in DHC for return of that amount as my VR is recalled and I am being tried in the same matter.

Therefore I do not fall in the purview of August Supreme Court of Pakistan Suo Moto Action dated 24-10-2016 as by no means I am beneficiary of VR under Section 25(A) of NAB ordinance.

I have already been in custody of NAB for 3 years and still facing trial, which has not been concluded and not been convicted and I am sure to prove my innocence in the case.

The department proceedings against me in the matter which does not apply on me causes depression and hardship to me and my family and deprive me of my fundamental and Constitutional rights.

As I do not fall in the scope of Section 25(a) and Suo-Moto action, therefore it is humbly requested

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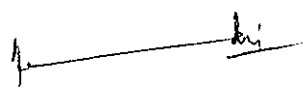

all charges against me in the said inquiry may  
please be withdrawn and the inquiry may please  
be filed.

The officials who availed VR under 25(a)  
were let off by NAB and no reference against them  
is filed and still serving fall in the purview  
of suo moto action by Supreme Court of Pakistan.

I am willing to be heard in person  
for clarification of charges and my position if  
inquiry officer or authorised officer deem it necessary.


Submitted please.

11th Jan, 2018.



Navid Qadri  
Tehsildar BOR, KPK

Attested

  
DLR 11.1.2018

Attested  


GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

SHOW CAUSE NOTICE

I, Zafar Iqbal Senior Member, Board of Revenue, as Competent Authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Naveed Qadir Tehsildar as follows:-

I am satisfied that you have committed the following acts / omissions specified in rule – 5 of the specified rules:-

- a) That you while posted as Land Acquisition Collector (CCB) in Provincial Housing Authority Peshawar, despite of knowing the fact that Section-4 of Land Acquisition Act, 1894 was signed by the former Land Acquisition Collector comprising of land not approved by Provincial Government you malafidely neither issued any corrigendum for correction of Khasra Numbers nor forwarded the case for approval of the Competent Authority rather issued notification under section 6/17 and award under section 11 of Land Acquisition Act, 1894 and started payment in order to fulfill nefarious design while in league with cronies accused person.
- b) That you malafidely made no payment to the local landowners or their representatives rather evidence collected revealed that payment were received by you and other persons such as Ghazi Gul Muhammad Salah, Ehsan Ullah, Farhad Ali Ex-Junior Clerk PHA and Azmat Ali Khan Ex-Driver Provincial Housing Authority who were not the landowners at all of the land acquired by the PHA, without any justification.
- c) That you in award under section 11 mentioned that the land compensation will be paid on the basis of last Ausat-yak-Sala, but with malafide intention change the kind of land and thus caused colossal loss to public exchequer. You himself mentioned in cost reasonability certificate submitted with notification u/s 6 & 17 to DOR, Abbottabad that total cost of 161 kanal 03 marla land was RS. 269.580 million and paid an amount of RS. 394 million by transferring the fund for other schemes and to this account.
- d) That you with malafide intention notified price negotiation committee despite the fact that price negotiation committee was already constituted by the Secretary Housing. You constituted committee comprising of Land Acquisition Collector as Chairman, DD Planning Provincial Housing Authority and Gardawar Provincial Housing Authority were the members of the committee. This Committee constituted in violation of Board of Revenue Notification issued on 17.08.2016. The said committee so as to maneuver land acquisition process and extend illegal benefit in shape of 15% extra-compulsory acquisition charges.
- e) That you with malafide intention paid complete amount rather paid excess amount for alternate illegal site in 2012 but no land was mutated in favour of Provincial Housing Authority thus violated Land Acquisition Act, 1894. The complete paid amount may be termed as embezzled and not utilized for the purpose approved by the Competent Authority thus, primarily responsible for loss caused to the public exchequer.
- f) That you accepted guilt at the inquiry stage regarding illegal gains in the acquisition of land at Mouza Darwaza Nathiagali, etc and voluntarily came forward and opted for voluntary Return within the meaning of Section-25 (a) of NAO, 1999, amounting to

Assistant Secretary  
Revenue & Estate Deptt  
Khyber Pakhtunkhwa

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Rs.68.5 million which was accepted by the Competent Authority after fulfilling legal formalities.

- g) Your this act tantamount to misconduct and guilty of corruption on your part and liable to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules. 2011.

In terms of Rule – 5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule, 2011, I as Competent Authority, dispense with the inquiry and serve you with show cause notice under Rule – 7 of the Rules ibid.

3. As a result thereof, I as Competent Authority have tentatively decided to impose upon you the penalty under Rule – 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

4. You are therefore, required to show cause as to why the afcresaid penalty should not be imposed upon you. Furthermore, you are directed to appear on

21.3.2018 at 11:00 A.M before the undersigned for personal hearing.

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

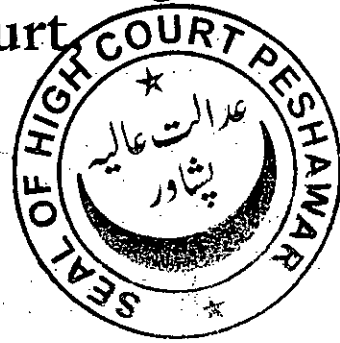
*[Signature]* 14/5/18  
 To. Assistant Secretary  
 Revenue & Estate Deptt  
 Khyber Pakhtunkhwa.

*[Signature]*  
 Senior Member  
 13.

No.Estt:1/PP/Naveed Qadir Tehsildar 14417  
 Peshawar, dated 16/03/2018

Before the Peshawar High Court  
Peshawar

Writ Petition No. \_\_\_\_\_ -P of 2018



Naveed Qadir son of Abdul Qadir,  
Tehsildar, Board of Revenue Department,  
Resident of House opposite Circuit House, Sector-IV,  
Kohat Development Authority, Kohat.

..... Petitioner

Versus

1. Senior Member Board of Revenue,  
Revenue and Estate Department,  
Civil Secretariat, Peshawar.
2. Member-1 Board of Revenue,  
Revenue and Estate Department,  
Civil Secretariat, Peshawar.
3. Director Land Records Khyber Pakhtunkhwa,  
Revenue and Estate Department,  
Civil Secretariat, Peshawar.
4. Secretary-II Board of Revenue,  
Revenue and Estate Department,  
Civil Secretariat, Peshawar.
5. National Accountability Bureau (NAB),  
Through its Chairman,  
Attaturk Avenue, G-5/2,  
Islamabad.
6. National Accountability Bureau (Khyber Pakhtunkhwa),  
Through its Director General,  
PDA Building, Phase - V, Hayatabad,  
Peshawar.

..... Respondents

**Petition under Article 199 r/w Article 187**

**Of the Constitution of Islamic Republic of Pakistan, 1973**

ATTESTED  
EXAMINER  
Peshawar High Court  
JAN 2019

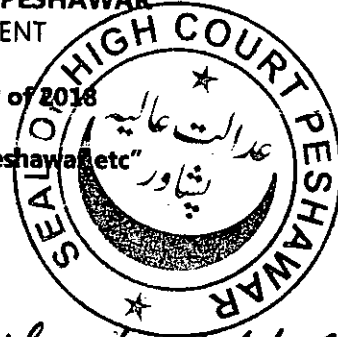
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The

JUDGMENT SHEET  
PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

Writ Petition No.1355-P of 2018

"Naveed Qadir Vs. SMBR, Peshawar etc"

**JUDGMENT**



Date of hearing **07.11.2018**

Petitioner by:

*Shumail Ahmad Butt, Advocate*

Respondent(s) by:

*Umar Farooq, ADP/ Advocate*

**IKRAMULLAH KHAN, J.-** Through the instant constitutional petition, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has prayed for the following relief:-

"It is therefore, very humbly prayed that on acceptance of this writ petition, this Hon'ble Court may very magnanimously hold, declare and order that:

- I. Impugned Disciplinary action/proceedings initiated against petitioner by the respondent No.1, wherein he has authorized the respondent No.2 to proceed and consequent proceedings thereupon, if any, that are made so far are illegal, unlawful, without lawful authority and thus liable to be set aside and reversed.
- II. The respondent No.1,2 and 4 be directed to defer the disciplinary proceedings till the outcome by the Accountability Court No.III.
- III. The impugned proceedings arises out of the so called Voluntary Return by quashed as neither the petitioner is beneficiary of the Voluntary Return nor has he signed any statement admitting his guilt before the concerned Magistrate under Section 164/364 of Cr.P.C.

ATTESTED  
EXAMINER  
Peshawar High Court

5 JAN 2019

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*[Signature]*



- IV. The impugned proceedings in garb of the order in Suo Moto # 17 being exceedingly excessive qua the scope of judgment of the apex court and thus liable to be set aside, reversed, quashed and put at naught.
- V. Interim Relief: In view of existence of all the requisite ingredients, the respondents may be restrained from adversely proceeding against the petitioner till the final disposal of the main writ petition.
- VI. Any other relief, not specifically prayed may also graciously be granted, if appears just, necessary and appropriate.

02. As per contents of the instant petition, on account of corruption and corrupt practices, allegedly committed by petitioner, in matter of land acquisition, required for public purposes at Mauza Darwaza Nathiagali District Abbottabad, the NAB Authorities, after approval by the competent authorities, initiated inquiry against the petitioner.

03. During course of inquiry, the petitioner, not only made confession before a Judicial Magistrate but also opted Voluntary Return (VR) of an amount of Rs.68.5 million. The offer was accepted by the NAB authorities, in view of Section 25 (a) of the National Accountability Ordinance, 1999, whereby the petitioner was required to deposit an amount of Rs.23.29 million immediately after approval of the VR and rest of the amount will be

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EXAMINER  
Peshawar High Court  
03 JAN 2019

deposited in two equal quarterly installments within six months. However, petitioner deposited only 13.500 million after a lapse of more than a year and thereafter, turned hostile to deposit rest of the amount agreed upon thereto, the VR.

04. Therefore, the competent authority of the NAB, were constrained to recall the "VR" and petitioner was arrayed as an accused in the Reference No.2 already placed before the Accountability Court, against other co-accused.

05. It is pertinent to be stated herein that in the meanwhile, the Hon'ble Supreme Court of Pakistan, while taking cognizance of abuse of authority by the NAB in matter of petty nature cases, made direction in Suo Moto case No.17 of 2016 on 24.10.2016 that Establishment Division and the Chief Secretaries of all the four Provinces shall ensure initiative of departmental proceeding against the accused persons who had voluntary returned the amounts under Section 25 (a) of the National Accountability Ordinance, 1999.

06. Consequent upon the direction of the Apex Court, respondent No.1, initiated departmental proceedings against petitioner vide issuance of Notice in this regard dated 14.11.2017.

ATTESTED  
EXAMINER  
Peshawar High Court

03 JAN 2019

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The petitioner was later on, in pursuance of the notice ibid was charge sheeted accordingly for various charges well mentioned, not only in the statement of allegation, but also in the charge sheet respectively.

07. Learned counsel for petitioner contended that as, the VR opted by petitioner, had recalled by the competent authority and he had been arrayed as an accused in Reference No.2 of the year, 2015, therefore, he could not be proceeded departmentally on this score in pursuance to the judgment of the Apex Court, as, the NAB authorities had themselves, recalled the alleged VR and as petitioner is facing trial, in Reference No.2, before the learned Accountability Court, therefore, the departmental proceeding initiated by respondents amounts to double jeopardy.

08. On the other hand, learned counsel for respondents argued that the offence of corruption and corrupt practices falling under Section 9 of the NAB Ordinance, and departmental proceedings under Government Servant (Efficiency & Discipline) Rules, 2011 both were independent proceedings having different effect, if either or

ATTESTED  
EXAMINER  
Peshawar High Court

03 JAN 2019

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both were proved; that different proceedings for offences, falling in different statutes could be tried or proceeding may be initiated by different forum in view of Section 26 of the General Clauses Act, 1897 and such proceeding ending in different end, could not be treated in term of Article 13 of the Constitution or the provisions, contained in Section 403 Cr.P.C.

09. We have heard learned counsel for the parties in light of their respective submissions made at the bar and law on the subject.

10. It is admitted fact, that petitioner had opted for Voluntary Return (VR) of the amount allegedly misappropriated, and that regard, an amount of Rs.13.5 million had also returned by the petitioner. However, on account of default of conditions of re-payment, the NAB authorities had recalled the settlement effected with the petitioner in term of Section 25 (a) of the NAB Ordinance, 1999.

11. So, without, dilating upon, merit of the case, lest it would prejudice, the case of either party, petitioner could not be proceeded on the score of entering into VR, in light of the judgment

ATTESTED  
EXAMINER  
Peshawar High Court

03 JAN 2019

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of the Apex Court, rendered on 24.10.2016 in *Suo Moto* case No.17 of 2016.

12. While petitioner has been charge sheeted by respondent/department on that very charges also. Therefore, this Writ Petition is allowed only to the extent that departmental proceeding only on the allegation of commitment of VR, is quashed, however, respondent would be at liberty to proceed against the petitioner departmentally for rest of the charges leveled against him in view of Government Servant (Efficiency & Discipline) Rules, 2011, which is an independent jurisdiction, not hit by doctrine of principle of law, envisaged there-under 403 Cr.P.C. or the principle of double jeopardy, enshrined in Article 13 of the Constitution.

13. Departmental proceeding could not be equated with the term prosecution, that of a criminal case.

14. Even, the provisions contained in section 26 of the General Clauses Act, 1897, does not bar, prosecution of such cases, which falls, within the jurisdiction of two different jurisdiction which reads as:-

"26. Provisions as to offences punishable under two or more

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EXAMINER  
Peshawar High Court  
03 JAN 2019

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enactments - Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence".

15. The Apex Court in case titled "*Shahid Masood Malik Vs. Habib Bank Ltd and another*" (2008 SCMR 1151), is held that:-

"13. It has also come on record and has been established in the inquiry that the petitioner in connivance with other accomplices was engaged in opening fictitious accounts and withdrawing the amount therefrom fictitiously in the fake names, thus, misappropriated the bank drafts and was rightly found guilty of the misconduct. The contention of the petitioner's counsel that the dismissal of petitioner consequent to the departmental proceedings, would be of no legal consequence as he had been already acquitted by the competent Court of law in criminal proceedings is devoid of force in view of the dictum laid down by this Court in the case of *Inspector-General of Police, Punjab, Lahore and others v. Muhammad Tariq* 2001 SCMR 789 wherein it has been held that the acquittal in criminal cases would not debar the departmental authority to take action against delinquent in accordance with law and rules. Such acquittal does not give to a delinquent clean certificate of his absolvment from the departmental proceedings. Both the proceedings are conducted respecting the case registered against delinquent while the departmental proceedings are regarding the charges of malversation and misconduct. Both the proceedings, however, can go side by side as their nature is totally different. It has also been observed that penalty imposed on a civil servant as a consequence of departmental proceedings under the Efficiency and Discipline Rules, after

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EXAMINER  
Peshawar High Court  
3 JAN 2019

the accused officer has been acquitted of a criminal charge, is not barred".

16. In case titled "*Shahid Wazir Vs. Secretary, Kashmir Affairs and Northern Areas and States of Frontier Regions Division, Government of Pakistan, Islamabad and another*" (2006 SCMR 1653), the Apex Court is held as:-

"7. The departmental penalty was imposed on the petitioner, not on account of criminal proceedings but, as a consequence of departmental inquiry having been conducted in which the petitioner was found guilty of the charge though he was afforded full opportunity of defence. The departmental and criminal proceedings can be taken simultaneously and independent of each other. In this context, this Court in the case reported as *Dawood Ali Vs. Superintendent of Police and others* 2005 SCMR 948 while dealing with the same aspect has held as under:

"The departmental penalty was imposed on the petitioner, not on account of criminal proceedings but, as a consequence of departmental inquiry having been conducted in which the petitioner was found guilty of the charge. It is well-settled that the departmental and criminal proceedings can be taken simultaneously and independently of each other".

17. Keeping in view, the above mentioned principles of law, enunciated by the Apex Court, this appeal is partially allowed and the charge No.(F) leveled against the petitioner is quashed accordingly

ATTESTED  
EXAMINER  
Peshawar High Court

03 JAN 2019

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while respondent would be at liberty to proceed against the petitioner in regard to rest of the charges.

**ANNOUNCED:**  
**07.11.2018.**

JUDGE

JUDGE

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DB  
Hon'ble Mr. Justice Ikramullah Khan  
Hon'ble Mr. Justice Ishtiaq Ibrahim  
Humayat

**CERTIFIED TO BE TRUE COPY**

**EXAMINER**  
Peshawar High Court, Peshawar  
Authorised Under Article 87 of  
The Genun-e-Shahadat Order 1984

03 JAN 2019

Attested  
*[Signature]*

No. 130  
 Date of Presentation of Application 3-1-19  
 No of Pages 140  
 Copying Fee \_\_\_\_\_  
 Urgent Fee \_\_\_\_\_  
 Total 40  
 Date of Preparation of Copy 3-1-18  
 Date of Delivery of Copy 3-1-18  
 Received By [Signature]





Annexure (M)

45

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE AND ESTATE DEPARTMENT

**SHOW CAUSE NOTICE**

I, Fakhre Alam Senior Member, Board of Revenue, as Competent Authority,, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Naveed Qadir Tehsildar as follows:-

I am satisfied that you have committed the following acts / omissions specified in rule -- 5 of the specified rules:-

- a) That you while posted as Land Acquisition Collector (CCB) in Provincial Housing Authority Peshawar, despite of knowing the fact that Section-4 of Land Acquisition Act, 1894 was signed by the former Land Acquisition Collector comprising of land not approved by Provincial Government you malafidely neither issued any corrigendum for correction of Khasra Numbers nor forwarded the case for approval of the Competent Authority rather issued notification under section 6/17 and award under section 11 of Land Acquisition Act, 1894 and started payment in order to fulfill nefarious design while in league with cronies accused person.
- b) That you malafidely made no payment to the local landowners or their representatives rather evidence collected revealed that payment were received by you and other persons such as Ghazi Gul Muhammad Salah, Ehsan Ullah, Farhad Ali Ex-Junior Clerk PHA and Azmat Ali Khan Ex-Driver Provincial Housing Authority who were not the landowners at all of the land acquired by the PHA, without any justification.
- c) That you in award under section 11 mentioned that the land compensation will be paid on the basis of last Ausat-yak-Sala, but with malafide intention change the kind of land and thus caused colossal loss to public exchequer. You himself mentioned in cost reasonability certificate submitted with notification u/s 6 & 17 to DOR, Abbottabad that total cost of 161 kanal 03 marla land was RS. 269,580 million and paid an amount of RS. 394 million by transferring the fund for other schemes and to this account.
- d) That you with malafide intention notified price negotiation committee despite the fact that price negotiation committee was already constituted by the Secretary Housing. You constituted committee comprising of Land Acquisition Collector as Chairman, DD Planning Provincial Housing Authority and Gardawar Provincial Housing Authority were the members of the committee. This Committee constituted in violation of Board of Revenue Notification issued on 17.08.2016. The said committee so as to maneuver land acquisition process and extend illegal benefit in shape of 15% extra-compulsory acquisition charges.
- e) That you with malafide intention paid complete amount rather paid excess amount for alternate illegal site in 2012 but no land was mutated in favour of Provincial Housing Authority thus violated Land Acquisition Act, 1894. The complete paid amount may be termed as embezzled and not utilized for the purpose approved by the Competent Authority thus, primarily responsible for loss caused to the public exchequer.

*[Handwritten Signature]*  
14/5/19  
Assistant Secretary  
Revenue & Estate Deptt  
Khyber Pakhtunkhwa

f) Deleted in pursuance of decision dated 07.11.2018 of Peshawar High Court Peshawar in writ petition No.1355-P of 2018 titled Naveed Qadir VS SMBR, Peshawar etc.

g) Your this act tantamount to misconduct and guilty of corruption on your part and liable to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules. 2011.

In terms of Rule – 5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule, 2011, I as Competent Authority, dispense with the inquiry and serve you with show cause notice under Rule – 7 of the Rules ibid.

3. As a result thereof, I as Competent Authority have tentatively decided to impose upon you the penalty under Rule – 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

4. You are therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you. Furthermore, you are directed to appear on 31-01-2019 at 11:00 Am before the undersigned for personal hearing.

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

*[Signature]*  
14/1/19  
Assistant Secretary  
Revenue & Estate Deptt  
Khyber Pakhtunkhwa

*[Signature]*  
Senior Member

No.Estt:I/PF/Naveed Qadir Tchsildar 2362  
Peshawar, dated 23/01/2019

Received on  
29/11/2019  
2/30 pm  
*[Signature]*

Annexure (N)

47

Before Honourable Senior Member, Board of Revenue, KPK

Subject: Charge Sheet.

Please refer to your charge sheet dated x/x/xx.

In this respect it is humbly stated that High Court, Peshawar vide WP NO 1355/2018-P has quashed my VR and directed to drop para (f) of charge sheet regarding availing of VR.

While regarding the rest of charges, it is stated that I had requested to defer the Departmental Inquiry on the grounds that I am facing the same Criminal charges vide Ref 03/2016 in Accountability Court NO III, KPK and the outcome of Departmental Inquiry at this stage may seriously damage my defence in the Criminal case where the penalty is of higher intensity and that same has been elaborated in S NO 53 of Compendium of ESD rules of 2012.

Furthermore more than 400 officers / officials of Establishment Department and Board of Revenue have also been tried in Accountability Courts in Criminal cases but no such Inquiry has been initiated against any of them except me.

14/10/19  
Assistant Secretary  
Revenue & Estate Department  
Khyber Pakhtunkhwa

Every citizen of Pakistan is liable to be treated equally as guaranteed by Constitution of Pakistan, therefore I may also be treated as an officer and officials are treated.

I was proceeded ex-parte by the Inquiry officer without serving me any notice which is against the rules furthermore, in Departmental Inquiry regarding the Criminal Charges the Inquiry officer acts as court and proceedings are quasi-judicial in which original record and all the witnesses are examined thoroughly by the Presiding officer, which has never been done in this case.

To  
 14/5/19  
 Assistant Secretary  
 Revenue & Estate Deptt  
 Khyber Pakhtunkhwa.

It is therefore requested that the charges levelled against me by Inquiry officer may please be set aside and although Departmental Proceedings and Criminal case may run side by side, the Department proceedings may please be deferred till the outcome of Criminal case.

Thanking You.

20th March, 2019.

Yours Sincerely Servant.  
 Navid Qadir

Annexure (O)

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,

REVENUE & ESTATE DEPARTMENT.

Facebook ID: [www.facebook.com/bor.kpk92](http://www.facebook.com/bor.kpk92)

Twitter ID: @RevenueBoardkp

Fax No: 091.9213989

(Annex. E)

Peshawar dated the 12/04/2019.

NOTIFICATION.

No. Estt: I/PF/Naveed Qadir/ 15901 WHEREAS: Mr. Naveed Qadir Tehsildar was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Charge Sheet & Statement of Allegations.

AND WHEREAS Mr. Ikramullah Member-I Board of Revenue was appointed as Inquiry Officer to probe into the charges leveled against the said Officer and submit findings and recommendations.

AND WHEREAS the Inquiry Officer having examined the charges, evidence produced before him and statement of accused officer, submitted his report whereby the charges against the accused officer stands proved.

AND WHEREAS the accused officer was given opportunity of personal hearing by serving of Show Cause upon him on 16.03.2018 but he challenged the same before the Peshawar High Court, succeeded in quashing charge No. F (regarding entering VR with NAB) on 07.11.2018 accordingly the said charge was removed from the show cause notice and he was again given a chance of hearing on 23.01.2019.

In reply to show cause notice the accused official contended that since criminal proceedings are also pending before a criminal/NAB court: therefore the office defer the proceedings till the outcome of pending NAB proceedings. and since as per page 217 of Esta Code, Khyber Pakhtunkhwa (Revised Edition) 2011, Court and Departmental proceedings may start from an identical charge(s) and can run parallel to each other and it is not necessary to pend departmental proceedings till the finalization of judicial proceedings and secondly based upon Peshawar High Court order the department has also deleted the charge regarding embezzlement and financial corruption and thirdly the compendium referred by accused official pertains to Federal Government, hence not applied to the Provincial Government Employees. *partial identification / NAB, FIA?*

NOW THEREFORE I Dr. Fakhre Alam, Senior Member, Board of Revenue after having examined the charges, evidence produced, statement of accused, report of Inquiry Officer and after personal hearing concur with the findings / recommendation of the Inquiry Officer, I as Competent Authority in exercise of powers conferred by Rule-14 (5)(ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 impose major penalty of "Removal from Service" under the Rule-4(b)(iii) of the rules ibid, upon Mr. Naveed Qadir Tehsildar Board of Revenue with immediate effect.

No. Estt: I/PF/Naveed Qadir/ 15902-08  
Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Additional Director (Coord) Prosecution Wing, National Accountability Bureau Khyber Pakhtunkhwa Peshawar.
3. PSO to Chief Secretary Khyber Pakhtunkhwa.
4. PS to Senior Member, Board of Revenue.
5. Bill Assistant Board of Revenue.
6. Mr. Naveed Qadir Tehsildar son of Abdul Qadir resident of House opposite Circuit House Sector IV Kohat Development Authority Kohat.
7. Office order file.

Attested  
*[Signature]*

*[Signature]*  
14/5/19  
Assistant Secretary  
Revenue & Estate Deptt.  
Khyber Pakhtunkhwa.

Sd/-  
Senior Member

*[Signature]*  
Assistant Secretary (Estt)

Annexure (P)

Ref/Diry No. 4498/19  
Diary No. 59021/W/3  
Dated 3/5/19

PS/C.S Khyber Pakhtunkhwa  
Diary No. 59021/W/3  
Date 3/5/19 (50)

**BEFORE HONOURABLE CHIEF SECRETARY, KPK, PESHAWAR.**

Appeal against order of SMBR, KPK Order No.15901 dated: 12-04-2019 under E&D Rules 2011. U/S 17.4, KPK (E&D) Rules 2011

**Navid Qadar S/o Abdul Qadar**

VS

1. Senior Member Board of Revenue (SMBR) KPK, Peshawar
2. Member Board of Revenue -I (MBR-I) KPK, Peshawar

Regulation No.	1287
Department	3/6/19

Respected Sir,

Through this appeal it is prayed that SMBR, KPK Order No. ESH-I/PF/Navid Qadir /15901 dated: 12-04-2019, in which the appellant, serving as Tehsildar BPS-16 in BOR, KPK was removed from services on account of inquiry conducted by MBR-I, KPK, may be set aside and appellant be reinstated on service in light of following facts and grounds:

**(A) Facts**

(a) I was appointed as Naib Tehsildar on recommendation of Public Service Commission, KPK on 1-7-1995. Later on I was promoted on the post of Tehsildar in 2002.

(b) I was arrested by NAB, KPK on allegation of misuse of authority in connection with Nathia Gali Housing Scheme on 09-04-2014. The reference against me in this connection is being tried in Accountability Court KPK Peshawar.

(c) I was released on bail on 30<sup>th</sup> May 2017 and I submitted my arrival report to the Board of Revenue KPK on 01-06-2017.

(d) An Inquiry was ordered by SMBR, KPK declaring me the beneficiary of VR and apart of that I was charged with same criminal charges, which were the part of the reference filed against me in Accountability Court. (Copy of Charge Sheet is Attached as Annex-A).

(e) I was summoned by Inquiry Officer and I submitted my reply in which I requested to differ the Inquiry on I was not beneficiary of VR and since same criminal charges were the part of reference being tried against me. This provision is made in SI No 53 of compendium of E&D Rules 2012, which is published especially for the Officers/Officials involved in NAB,

B-G PCE-IV  
SACAD. Diary No. 340  
Dated 3-6-19

DS (G/III)  
3/5/19  
SSR


Copy: Cstb  
Attested  
Cstb

FIA and Anti-Corruption Establishment cases (copy attached as Annex-B).

- (f) Secondly, no such inquiry was initiated against more than 500 Officers/Official, arrested and tried by NAB and it is the violation of Constitution of Pakistan (Article - 25) which guaranteed equal rights to all citizens of Pakistan.
- (g) But without informing me the outcome or any written notice, the Inquiry Officer submitted Ex-Parte report against me to the Authorized Officer without adopting proper procedure described for such cases.
- (h) SMBR, The Authorized Officer, issued show cause notice to me (copy attached as Annex-C).
- (i) I appeared before the SMBR and submitted my detailed written statement and also challenged the Ex-Parte Inquiry Report of Inquiry Officer (photocopy is attached as Annex-D).
- (j) But I came to know on 02-05-2019 that I have been removed from services by SMBR, at that time I did not receive the copy of order. I applied for the record and copy of the order which were handed over to me on 14-05-2019 (copy of my application is attached is Annex-E).

**Grounds:-**

- (A) The inquiry proceedings were not followed properly in light of E&D Rules 2011, and accordance with law showing malafide intentions of Authorized Officer as well as Inquiry Officer.
- (B) Proper procedure was not followed by Inquiry Officer, as prescribed in Section-12 especially 12<sup>1</sup>(b), 12<sup>1</sup>(c) and 12(2) of KPK (E&D) Rules 2011. (copy of said rules attached as Annex-F)
- (i) In response to my written request before Inquiry Officer and Competent Authority, I was not informed through notice or written reply about the outcome.
- (ii) Before proceeding Ex-Parte against me neither Inquiry Officer nor Authorized Officer informed me through written notice to re-appear before Inquiry Officer to defend the charges, otherwise Ex-Parte proceedings will be initiated against me.

Attested  


Contd P-3

- (iii) The show cause notice issued to me by Competent Authority is not in accordance with the procedure order Section-14 (a),14(b),14(c) & 14(d) of KPK E&D Rules 2011.

I was not informed that charges against me were proved and even I was not provided with the copy of Inquiry Report submitted by the Inquiry Officer.

- (C) In response to my submission of SI 53 of compendium of E&D rules 2012 the Competent Authority just mentioned that it was for Federal Government Employees while he totally neglected the fact in the preface where it was categorically mentioned that it will be applicable to the Government Servants involved in NAB, FIA cases.

Though Departmental Inquiry and Criminal Reference in Court can run side by side but if the Departmental Inquiry effect the outcome of the criminal case and therefor for the sake of justice the Departmental Inquiry may be kept pending (not withdrawn) till the verdict of criminal case and Department can continue the Inquiry even it accused is acquitted by the criminal court.

Since NAB itself is Federal Institution so these rules may be applied in inquiries related to NAB cases. (copy of said rules attached as Annex-G)

- (D) Since there is no mention of such instance in KPK (E&D) rules 2011, hence the compendium of E&D rules 2012 should have been followed (General Class Act).

- (E) More than 500 hundreds of Government Officials/Officers were arrested and facing criminal references in Accountability Courts but no one was dealt with like me. Even hundreds of employee of BOR/Revenue Deptt are facing NAB references but no such action were taken against those, which deprive me of my constitutional rights and is violation of Article - 25 of Constitution of Pakistan ((copy attached as Annex-I).

- (F) The proper procedure of departmental inquiry relating to criminal charges being tried in the criminal court was also not adopted as described in Section 12(2) of E&D rules 2011. In such cases the Departmental Inquiry is carried out following Quasi-Judicial

Attested  
[Signature]



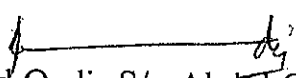
procedure where Inquiry Officer acts as a Judge and all the witnesses in the case are examined and cross examined by accused. Secondly the Inquiry Officer submitted his report by consulting the original documents upon which the charges were framed and he can never recommend accused for penalty on the basis of photocopies. In this record several judgment and authorities of SECP and High Courts exist. The Learned Inquiry Officer is a ranker and promoted from Lower Revenue Official Capacity and he has no knowledge of Law and rules.

- (G) In his order, the SMBR had given reference of Page 2011 of ESTA Code KPK but he forgot that the procedure or directions were for E&D rules 1973 and removal from services rules KPK 2000, which by introduction KPK E&D rules 2011 the above mentioned rules have been ~~repealed~~ <sup>and are not</sup> applicable after 2011. The only rules available for guidance in such cases are described in compendium E&D 2012.

Hence light of above facts and grounds it is prayed that:-

- i. The order No. 15901 dated: 12-04-2018 issued by SMBR KPK may be set aside.
- ii. The Appellant may be reinstated to my services and the Inquiry proceeding if department want to continue may be kept pending till the final decision of criminal reference being tried against the appellant in accountability court KPK.
- iii. The order mentioned above may be suspended till the decision of my appeal.
- iv. Any other relief which the appellate authority consider appropriate may be given to the appellant.

Appellant

  
 Navid Qadir S/o Abdul Qadir  
 R/o Shalimar Street Warsak Road  
 Peshawar  
 Mob: 0092-3331302422

Attested  


Dated: 30<sup>th</sup> May 2019

Annexure (Q)

54



GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT.  
Facebook ID: [www.facebook.com/bor.kpk92](https://www.facebook.com/bor.kpk92)  
Twitter ID: [@RevenueBoardkp](https://twitter.com/RevenueBoardkp)  
Fax No: 091.9213989

No.Estt:I/PF/Navid Qadir/ 24820

Peshawar dated the 22/07/2019.

To

Mr. Navid Qadir,  
Ex-Tehsildar,  
Son of Abdul Qadir resident of Shalimar Street,  
Warsak Road Peshawar.  
(Cell No. 0333-1302422).

SUBJECT: DEPARTMENTAL APPEAL / REPRESENTATION.

Your Departmental appeal dated 30.05.2019 has been examined and rejected  
by the appellate authority.

  
Assistant Secretary (Estt)

Attested  


**LIST OF SOME OF THE OFFICERS/OFFICIALS OF REVENUE AND ESTABLISHMENT DEPARTMENTS OF KHYBER PAKHTUNKHWA, AGAINST WHOM CRIMINAL PROCEEDINGS IN ACCOUNTABILITY COURTS ARE PENDING.**

- 1) Arshad Khan (Special Secretary Education, KPK, Peshawar)
- 2) Masood Shah (Deputy Secretary/Ex. DOR)
- 3) Adil Waseem (Tehildar BOR)
- 4) Fazal Hussain (PMS in BPS-18/Ex. Tehsildar)
- 5) Tilawat Khan (Patwari)
- 6) ILYas Khan (Patwari)
- 7) Muhammad ILYas (Settlement Clerk)
- 8) Mahmood Shah (Tehildar BOR)
- 9) Tariq Hassan (Tehsildar)
- 10) Dildar Muhammad (PMS, BPS-19)

*da*  
Appellant

*Navia Qadir*

*21/08/2019*

قیمت 50 روپے	26271			
ایڈوکیٹ: <u>مید محمد زاہد گیلانی / عتیق الرحمن / محمد زاہد امان</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر:		رابطہ نمبر:		

بعدالت جناب: چیمبرین خیبر پختونخواہ سروسز ٹریبونل پشاور

Appellant	منجانب:	دعوی:
نوید قادر		علت نمبر:
بنام		مورخہ:
		جرم:
		تھانہ:

**باعت تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی کاروائی متعلقہ  
 آن مقام پشاور کیلئے مید محمد زاہد گیلانی / عتیق الرحمن / محمد زاہد امان کیس کو وکیل مقرر  
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
 مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا  
 دوران مقدمہ میں جو خرچہ ہر جائد التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے  
 المرقوم:

بد گواہ شد بد

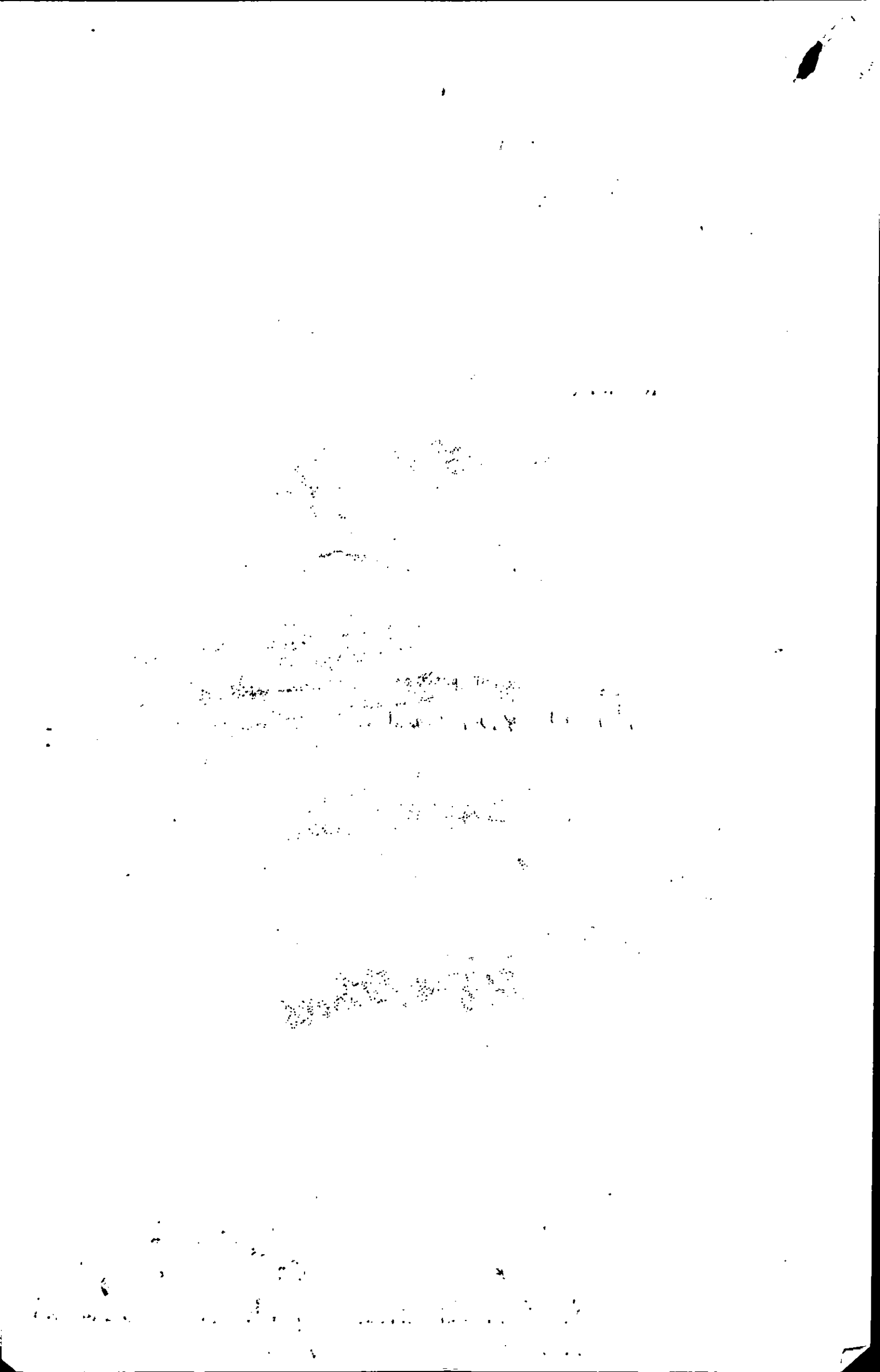
خیبر پختونخواہ سروسز ٹریبونل پشاور

کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

Syed Yahya Zahid Gillani, Atteeq-Ur. Rehman, Muhammad Zahid Aman  
 Advocate Advocate Advocate.

نوید قادر ولد عبد القادر



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

Service Appeal No. 1070/2019.

Naveed Qadir ..... Appellant.

**VERSUS**

Senior Member Board of Revenue and other..... Respondents.

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1, 2 & 5 ARE AS UNDER:-**

**RESPECTFULL SHEWETH.**

**PRELIMINARY OBJECTIONS.**

1. That the appellant has got no cause of action.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the Appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is time barred.

**ON FACTS.**

1. Pertains to record.
2. Correct to the extent that the appellant was arrested by NAB authority and a reference against him is still pending in NAB Court.
3. Correct to the extent that show cause notice was served upon the appellant on 30.10.2016.
4. Correct to the extent that Mr. Abdul Hameed Khan Secretary-II was appointed as Inquiry Officer but on his transfer (Annexure-A), the said enquiry was entrusted to Mr. Ikramullah Khan the then Member-I, Board of Revenue (Annexure-B).
5. Correct to the extent that on transfer of Mr. Abdul Hameed Khan the said enquiry was entrusted to Mr. Ikramullah Member-I, Board of Revenue. In pursuance of his report (Annexure-C), show cause notice was served upon the appellant against which the appellant succeeded getting stay from Peshawar High Court (Annexure-D) therefore further proceedings were stopped. The Peshawar High Court passed order on 07.11.2018 (Annexure-E) to the effect that charge – F of Voluntary Return be deleted and a fresh show cause notice deleting the charge of VR was served upon him (Annexure-F). After affording chance of personal hearing, major penalty of removal from service was imposed upon the appellant by the Competent Authority (Annexure-G).
6. Incorrect. The appellant was given opportunity of personal hearing by serving Show Cause notice upon him on 16.03.2018 and subsequently on 23.01.2019. In reply to show cause notice the appellant contended that since criminal proceedings are also pending before a criminal/NAB court; therefore, the office may defer the proceedings till the outcome of

criminal proceedings, but his reply was not found satisfactory, therefore proceedings were kept continued and major penalty was imposed upon him

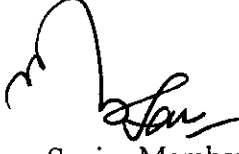
7. As in Para-6 above.
8. Incorrect. Proper proceedings were initiated against the appellant under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 and his objection petition was turn down by the Inquiry Officer as well as by the Competent Authority.
9. As in Para-9 above.
10. Correct to the extent of penalty imposed upon the appellant.
11. Correct. On receipt of order of Peshawar High Court the charge of VR was deleted from show cause notice.
12. Incorrect. Fresh show cause notice was served upon the appellant by deleting the charge of VR.
13. Incorrect. Proper opportunity of personal hearing before the Competent Authority was afforded to the appellant.
14. Incorrect. Penalty of removal from service was imposed upon the appellant on the basis of recommendation of Inquiry Officer.
15. Incorrect. Departmental appeal of the appellant was rejected by the appellate authority.
16. Appeal of the appellant is not maintainable.

### GROUNDS

- I. Incorrect. Orders dated 12.04.2019 & 22.07.2019 are according to law.
- II. All the proceedings have been carried out according to law/rules.
- III. As in Para I & II.
- IV. The proceedings have been initiated against all the officers/officials who entered into VR with National Accountability Bureau.
- V. Incorrect. All the proceedings have been carried out according to rule.
- VI. Incorrect. No discrimination has been done with the appellant.
- VII. Incorrect. Proper enquiry was conducted under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.
- VIII. Incorrect. As in Para VII above.
- IX. Incorrect. His written statement was not found satisfactory, therefore he was removed from service in pursuance of Government Servants (Efficiency & Discipline) Rules, 2011.
- X. Incorrect. No violation of the rules / regulation has been committed.
- XI. Correct to the extent of reference pending against the appellant in Accountability Court. Penalty was imposed upon the appellant by the Competent Authority on the basis of recommendation of the Inquiry Officer in departmental proceedings.

- XII. Incorrect. The enquiry proceedings were conducted strictly in accordance with Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.
- XIII. Incorrect. No violation of any rules law committed with the appellant.
- XIV. As in Para XIII above.
- XV. Incorrect. Proper opportunity of personal hearing was given to the appellant.
- XVI. Incorrect. The copies of all enquiry proceedings were given to the appellant.
- XVII. Incorrect. His reply to the show cause notice was not found satisfactory, therefore the Competent Authority imposed major penalty of removal from service on the appellant under Government Servants (Efficiency & Discipline) Rules, 2011.
- XVIII. Incorrect. His Departmental appeal was properly examined by the appellate authority which was not found satisfactory, therefore his appeal was rejected accordingly.
- XIX. Incorrect. No violation of article 10(A) and 25 of the constitution of Islamic Republic of Pakistan 1973 has been committed.
- XX. The respondent will also submit additional grounds at the time of arguments.

Keeping in view the above, the appeal of the appellant having no legal grounds may be dismissed with costs.

  
Senior Member,  
Board of Revenue  
Respondent No. 1, & 2, 5.



(A)

Annexure (B)

(16)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Estt: I/PF/Naveed Qadir/ 17988  
Peshawar dated the 25 708/2017

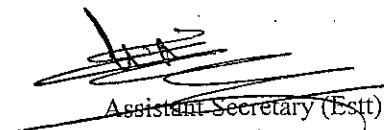
To

Mr. Abdul Hameed Khan,  
Secretary-II,  
Board of Revenue.

SUBJECT: DISCIPLINARY ACTION AGAINST TEHSILDAR

I am directed to refer to the captioned subject and to state that the Competent Authority has been pleased to approve initiation of disciplinary proceedings against Mr. Naveed Qadir, Tehsildar under suspension under Government Servants (Efficiency & Discipline) Rules, 2011.

Consequently, the Competent Authority has further been pleased to appoint you as Inquiry Officer to investigate the charges / conduct inquiry under the provision of the said rules against the aforesaid Officer in light of the attached charge sheets / statement of allegations with the request to submit your findings / recommendations / report within a period of 30 days positively.

  
Assistant Secretary (Estt)

Attested  


Annexure (C)

17

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

CHARGE SHEET

I, Zafar Iqbal, Senior Member Board of Revenue Khyber Pakhtunkhwa as ~~Competent~~ Authority, hereby charge you; Mr. Naveed Qadir Tehsildar posted as Land ~~Acquisition~~ Collector Provincial Housing Authority Peshawar (CCB) as follows:

- a) That you while posted as Land Acquisition Collector (CCB) in Provincial Housing Authority Peshawar, despite of knowing the fact that Section-4 of Land Acquisition Act, 1894 was signed by the former Land Acquisition Collector comprising of land not approved by Provincial Government you malafidely neither issued any corrigendum for correction of Khasra Numbers nor forwarded the case for approval of the Competent Authority rather issued notification under section 6/17 and award under section 11 of Land Acquisition Act, 1894 and started payment in order to fulfill nefarious design while in league with cronies accused person.
- b) That you malafidely made no payment to the local landowners or their representatives rather evidence collected revealed that payment were received by you and other persons such as Ghazi Gul Muhammad Salah, Ehsan Ullah, Fârhad Ali Ex-Junior Clerk PHA and Azmat Ali Khan Ex-Driver Provincial Housing Authority who were not the landowners at all of the land acquired by the PHA, without any justification.
- c) That you in award under section 11 mentioned that the land compensation will be paid on the basis of last Ausat-yak-Sala, but with malafide intention change the kind of land and thus caused colossal loss to public exchequer. You himself mentioned in cost reasonability certificate submitted with notification u/s 6 & 17 to DOR, Abbottabad that total cost of 161 kanal 03 marla land was RS. 269.580 million and paid an amount of RS. 394 million by transferring the fund for other schemes and to this account.
- d) That you with malafide intention notified price negotiation committee despite the fact that price negotiation committee was already constituted by the Secretary Housing. You constituted committee comprising of Land Acquisition Collector as Chairman, DD Planning Provincial Housing Authority and Gardawar Provincial Housing Authority were the members of the committee. This Committee constituted in violation of Board of Revenue Notification issued on 17.08.2016. The said committee so as to maneuver land acquisition process and extend illegal benefit in shape of 15% extra-compulsory acquisition charges.
- e) That you with malafide intention paid complete amount rather paid excess amount for alternate illegal site in 2012 but no land was mutated in favour of Provincial Housing Authority thus violated Land Acquisition Act, 1894. The complete paid amount may be termed as embezzled and not utilized for the purpose approved by the Competent Authority thus, primarily responsible for loss caused to the public exchequer.
- f) That you accepted guilt at the inquiry stage regarding illegal gains in the acquisition of land at Mouza Darwaza Nathiagali, etc and voluntarily came forward and opted for voluntary Return within the meaning of Section-25 (a) of NAO, 1999, amounting to Rs.68.5 million which was accepted by the Competent Authority after fulfilling legal formalities.
- g) Your this act tantamount to misconduct and guilty of corruption on your part and liable to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

Attested  
[Signature]

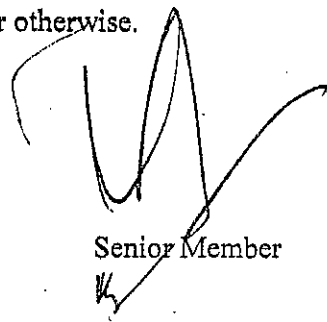
1. By reason of the above, you appear to be guilty of misconduct and in ~~violation~~ ~~of~~ ~~the~~ ~~provision~~ under rules 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rules 4 of the rules *ibid*.

2. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Inquiry Officer.

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

4. Intimate as to whether you desire to be heard in person or otherwise.

5. Statement of allegations is enclosed.



Senior Member

Attested  
[Signature]

DISCIPLINARY ACTION

Annexure (D)

(19)

I, Zafar Iqbal, Senior Member Board of Revenue Khyber Pakhtunkhwa Competent Authority, am of the opinion that Mr. Naveed Qadir Tehsildar as posted Land Acquisition Collector, PHA has rendered himself liable to be proceeded against, as he committed the following acts / omission, within the meaning of rules 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- a) That you while posted as Land Acquisition Collector (CCB) in Provincial Housing Authority Peshawar, despite of knowing the fact that Section-4 of Land Acquisition Act, 1894 was signed by the former Land Acquisition Collector comprising of land not approved by Provincial Government you malafidely neither issued any corrigendum for correction of Khasra Numbers nor forwarded the case for approval of the Competent Authority rather issued notification under section 6/17 and award under section 11 of Land Acquisition Act, 1894 and started payment in order to fulfill nefarious design while in league with cronies accused person.
- b) That you malafidely made no payment to the local landowners or their representatives rather evidence collected revealed that payment were received by you and other persons such as Ghazi Gul Muhammad Salah, Ehsan Ullah, Farhad Ali Ex-Junior Clerk PHA and Azmat Ali Khan Ex-Driver Provincial Housing Authority who were not the landowners at all of the land acquired by the PHA, without any justification.
- c) That you in award under section 11 mentioned that the land compensation will be paid on the basis of last Ausat-yak-Sala, but with malafide intention change the kind of land and thus caused colossal loss to public exchequer. You himself mentioned in cost reasonability certificate submitted with notification u/s 6 & 17 to DOR, Abbottabad that total cost of 161 kanal 03 marla land was RS. 269.580 million and paid an amount of RS. 394 million by transferring the fund for other schemes and to this account.
- d) That you with malafide intention notified price negotiation committee despite the fact that price negotiation committee was already constituted by the Secretary Housing. You constituted committee comprising of Land Acquisition Collector as Chairman, DD Planning Provincial Housing Authority and Gardawar Provincial Housing Authority were the members of the committee. This Committee constituted in violation of Board of Revenue Notification issued on 17.08.2016. The said committee so as to maneuver land acquisition process and extend illegal benefit in shape of 15% extra-compulsory acquisition charges.
- e) That you with malafide intention paid complete amount rather paid excess amount for alternate illegal site in 2012 but no land was mutated in favour of Provincial Housing Authority thus violated Land Acquisition Act, 1894. The complete paid amount may be termed as embezzled and not utilized for the purpose approved by the Competent Authority thus, primarily responsible for loss caused to the public exchequer.
- f) That you accepted guilt at the inquiry stage regarding illegal gains in the acquisition of land at Mouza Darwaza Nathiagali, etc and voluntarily came forward and opted for voluntary Return within the meaning of Section-25 (a) of NAO, 1999, amounting to Rs.68.5 million which was accepted by the Competent Authority after fulfilling legal formalities.
- g) Your this act tantamount to misconduct and guilty of corruption on your part and liable to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules. 2011.

Attested  
Jhu

2. For the purpose of inquiry against the said accused with reference to the above allegations, **Mr. Abdul Hameed Khan, Secretary-II, Board of Revenue** is appointed as Inquiry Officer under rule 10(1)(a) of the ibid rules.
3. The inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

Attested  
JW

B  
Annexure (E)

21

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Estt./PF/Naveed Qadir/ 23649  
Peshawar dated the 30/10/2017

To

Mr. Ikramullah Khan,  
Member-I,  
Board of Revenue.

SUBJECT: DISCIPLINARY ACTION AGAINST TEHSILDAR

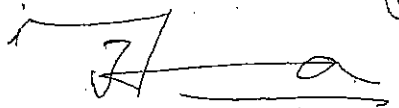
I am directed to refer to the captioned subject and to state that the Competent Authority has been pleased to approve initiation of disciplinary proceedings against Mr. Naveed Qadir, Tehsildar under suspension under Government Servants (Efficiency & Discipline) Rules, 2011.

Consequently, the Competent Authority has further been pleased to appoint you as Inquiry Officer to investigate the charges / conduct inquiry under the provision of the said rules against the aforesaid Officer in light of the attached charge sheets / statement of allegations with the request to submit your findings / recommendations / report within a period of 30 days positively.

Assistant Secretary (Estt)

9c  
Ass  
Attested  
Pw

Received By

  
30/10/2017

C

Re- 68584

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE AND ESTATE DEPARTMENT.

No. MBR-I/Inquiry/Naveed Qadir/ 10483  
Peshawar dated the 13/02/2018.

To

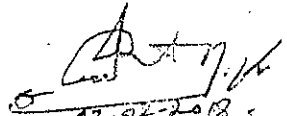
The Assistant Secretary (Establishment),  
Board of Revenue, Khyber Pakhtunkhwa.

Subject: INQUIRY AGAINST TEHSILDAR NAVID QADIR.


Dear Sir,

I am directed to refer to your office letter bearing No. Estt:I/PF/Naveed Qadir/23649 dated 30.10.2017 and to state that the subject inquiry has been completed by Mr. Ikramullah Khan, MBR-I / Inquiry Officer which is forwarded herewith for further necessary action please.

Encl: Inquiry report (05 pages) alongwith enclosures (84 pages)

  
PS to Member-I

S/E

  
14/2/18

## ENQUIRY REPORT

An enquiry was entrusted to the undersigned to investigate the allegation leveled against the accused Tehsildar Naveed Qadir when he was posted as Land Acquisition Collector Provincial Housing Authority Peshawar (CCB) under Government Servants (Efficiency & Disciplinary) Rules 2011.

### FACTS

As per documents attached with charge sheet, the Provincial Housing Authority (PHA) Khyber Pakhtunkhwa planned to acquire land for project namely Procurement of Land for launching Housing Schemes in Mouza Darwaza Nathiagali District Abbottabad for which PC-I was approved. As per approved PC-1, the site of Nathiagali Scheme was on main Ayubia Nathiagali Road, but the accused persons illegally changed the site and acquired land about 2.0 KM away from the proposed site through a private person namely Muhammad Asif alias Arif on very exorbitant rates, despite the clear cut direction of the DG PHA that, to stop acquisition process as feasibility study is yet to be carried out and till that the land not be acquired. The land acquired by PHA Collector was situated in the area where no vehicle approach road which was not approved by the Competent Authority, no NOC from Environment Department or Galiyhat Development Authority (GDA) was obtained by PHA. The accused officer illegally opened an un-authorized bank account in JS (Private) Bank Cantt: branch Peshawar with account title "Land Acquisition Collector PHA" and deposited the cheque of Rs. 600 million allocated amount of Nathiagali and Swat housing schemes for the alternate site. The accused officer issued award u/s 11, of the Land Acquisition Act 1894, of Nathiagali Housing Scheme for measuring 161 kanals and 3 marlas amounting to Rs. 266.269 million, but he paid 350.100 million to the persons who were not the actual land owners despite the fact that 227.580 million was total amount allocated for Mouza Darwaza Schem, without getting possession of the land. The accused illegally enhanced the award amount as there was no court order for enhancement which caused huge loss to the public exchequer.

### PROCEEDINGS

Summon was issued to the accused Tehsildar Naveed Qadir and Land Acquisition Collector Provincial Housing Authority with the direction to appear before the Inquiry Officer and submit their replies (Annexure-A).



The accused Tehsildar instead of replication to the charge sheet, submitted an application with the request to defer the Inquiry till the decision of reference filed by the NAB Authority against him which was pending before the Accountability Court No.III, Khyber Pakhtunkhwa. He further stated that volunteer return was applied under pressure of NAB during his remand which was recalled and reference was filed against him in Accountability Court III, Peshawar, which was still pending. In his application he stated that all other charges were part of the reference pending before the Accountability Court. The Inquiry Officer forwarded the application to Competent Authority who turned down the same (Annexure-B).

The accused officer submitted written statement wherein he stated that departmental enquiry is Qausi Judicial proceedings and pre-judicial and falls in double jeopardy. The original record is in the custody of Court and there are other co-accused involved having specific role. Proceedings in the Accountability Court are in progress in which witnesses are to be examined and these proceedings can damage his defence. The inquiry is against the rule of natural justice and is in violation of Article 23 of the Constitution of Pakistan. He further stated that he had deprived of law of equality as described in Article 14 of Constitution of Pakistan. The matter has clearly been elaborated in compendium of E&D Rules 2012 and various court verdict of August High Court and Apex Supreme Court of Pakistan. He referred 2007 SCMR 192 and 2008 PLC (CS) 877. He stated that another inquiry is being conducted against him regarding VR by Director Land Record on SUO-MOTO action of Supreme Court of Pakistan, therefore this inquiry may please be deferred till conclusion of criminal case against him in NAB court (Annexure-C).

According to the statement of Land Acquisition Collector Provincial Housing Authority, the accused officer despite of knowledge that section 4 was signed by the former Land Acquisition Collector issued notification u/s 6 & 17 and award u/s 11 of the Land Acquisition Act 1894 without any corrigendum for correction of khasra and former approval of the Competent Authority and started payment. The accused officer would have to make payment to land owners through cross cheque but he did not do so and paid complete rather that excess amount to Muhammad Asif alias Arif. The accused officer received the amount himself and other persons such as Ghaffar Ali, Ghazi Gul, Muhammad Salah, Ehsan Ullah, Farhad Afi, Ex-Junior Clerk PHA and Azmat Ali Khan Ex-Driver PHA which were not the landowners. The award u/s 11 mentioned that land compensation will be paid on the basis of Ausat (average) Yaksala but the accused officer changed the kind of land which caused gigantic loss to government exchequer which was evident from the notification u/s 6 & 17 that total cost of 161 kanals and 3 marlas land was Rs.269.605 million on the basis of Ausat Yaksala and exceeded the said amount by

transferring the funds for other scheme into the said account. The accused officer with malafide intention notified price negotiation committee in his chairmanship comprising DD Planning PHA and Gardawar PHA as its members which was in violation of the Board of Revenue Notification issued on 17.08.2006 and despite the fact that price negotiation committee was already constituted by the Secretary Housing Khyber Pakhtunkhwa. The accused officer i.e. Naveed Qadir Tehsildar PHA had paid the complete rather that excess amount for alternate illegal site in 2012, but no land was mutated in favour of Provincial Housing Authority and thus he violated the Land Acquisition Act.

Land Acquisition Collector Provincial Housing Authority Peshawar further stated that four references i.e. Surizai Housing Scheme PHA, Jalojai Housing Scheme PHA, Nathia Gali Housing Scheme and Bank reference related to Nathia Gali Housing Scheme, Jalojai Housing Scheme, Surizai Housing Scheme, against Mr. Naveed Qadir Ex-LAC PHA are under trail in Accountability Court Peshawar. Furthermore the accused Tehsildar had made payment to private persons M/S Ghaffar Ali, Ghazi Gul, Mohammad Salih, and Ihsanullah to tune of Rs. 34758462/- who were not land owners, while Rs.92077044/- over payment made to the land owners M/S Biradar Khan, Nisar Hussain, Momin Khan, Kinhaj Ali, Bakhtiar-ul-Haq, Sultan Begum and Asmat Ara as per following Goshwara (Annexure-D).

S.No.	Name/Father Name	Payment	Cheque No.	Date
1	Ghaffar Ali s/o Muhammad Ayub	Rs. 2167736/-	1669340	12.07.2013
2	-do-	Rs. 1015237/-	1669345	06.08.2013
3	-do-	Rs. 1520273/-	1669344	06.08.2013
<b>Total:-</b>		<b>Rs. 4703246/-</b>		
4	Mohammad Salih s/o Mutabar	Rs.1800000/-	1667611	12.09.2012
5	-do-	Rs. 4000000/-	1667641	18.01.2013
6	-do-	Rs. 3223000/-	10656441-	07.03.2013
7	-do-	Rs. 8400000/-	10656474	01.04.2013
8	-do-	Rs. 700000/-	1669342	19.07.2013
<b>Total:-</b>		<b>Rs.18123000/-</b>		
9	Ghazi Gul	Rs.1750000/-	1667606	25.07.2012
10	-do-	Rs. 1800000/-	1667609	10.08.2012
<b>Total:-</b>		<b>Rs. 3550000/-</b>		
		Rs. 2382216/-	1669343	29.07.2013

12	Beradar Khan s/o Dilbar Khan	Rs.74500000/-	9136243 9136242	18.10.2012
13	Nisar Hussain s/o Gula Khan	Rs. 3470625/-	3426081	18.10.2012
14	Momin Khan s/o Umar Khan	Rs.2682191/-		
15	Minhaj Ali s/o Dilawar Khan	Rs.2586192/-	3421406	11.10.2012
16	Bakhtiarul Haq s/o Sahibul Haq	Rs.6889744/-	3426877 3426878 3426879	
17	Sultan Begum d/o Mir Alam	Rs.1693340/-	1669339	
18	Asmat Ara d/o Mir Alam	Rs. 423335/-	7813321	
<b>Total:-</b>		<b>Rs. 92077044/-</b>		

**FINDINGS:-**

Keeping in view the position explained above and perusal of record submitted by the Collector Land Acquisition Provincial Housing Authority Peshawar it transpire that site for launching Nathia Gali Housing Scheme was changed illegally and acquired land without the approached road away from the main road on cheaper rate through private person, while the accused acquired the said land on higher price. Record shows that despite the fact that Price Committee was constituted by the Secretary Housing Authority on 14.03.2012, the accused Tehsildar constituted Private Negotiation Committee headed by himself which was against the law and notification of the Board of Revenue dated 17.08.2006. Record further shows that the accused Tehsildar had made payment to persons who were not land owners and some people were made over payment. Record shows that the released amount of Rs. 600 million for Housing Schemes in Districts Swat, Abbottabad and along Motorway was deposited by the accused officer in his private account in JS (Private Bank).

Records further shows that the accused Tehsildar had made payment to private persons M/S Ghaffar Ali, Ghazi Gul, Mohammad Salih, and Ihsanullah to the tune of Rs. 34758462/- who were not land owners, while Rs.92077044/- over payment made to the land owners M/S Biradar Khan, Nisar Hussain, Momin Khan, Kinhaj Ali, Bakhtiar-ul-Haq, Sultan Begum and Asmat Ara as per Goshwara submitted by the Land Acquisition Collector HHA, therefore total over payment comes Rs.126835506/-

The accused officer admitted that he alongwith other co-accused are involved having specific role in the scam. The accused officer in his statement also confessed volunteer return and stated that it was under pressure of NAB which also proves his involvement and mis-conduct.

345

**RECOMMENDATION:-**

The accused Tehsildar when he was posted as Land Acquisition Collector Provincial Housing Authority Peshawar (CCB) illegally changed the site which caused huge loss to the public exchequer. The accused officer illegally opened an un-authorized bank account in JS (Private) Bank Cantt: Branch Peshawar with account title "Land Acquisition Collector PHA" and deposited the cheque of Rs. 600 million allocated amount of Nathiagali and Swat housing schemes for the alternate site. The accused officer issued award u/s 11 of the Land Acquisition Act 1894 worth Rs. 266.269 million of Nathiagali Housing Scheme and he paid excess amount worth Rs. 350.100 million to the persons who were not the actual land owners and without getting possession of the land.

In view of the foregoing discussion and as per record/statement of the accused submitted to the Inquiry Officer, the charges leveled against the accused Tehsildar have been proved and found him guilty of mis-conduct. However, the Establishment Department (Regulation Wing) letter bearing No.SOR-V(E&AD)/ Instruction/2014 dated 28<sup>th</sup> March 2014 restricted the Inquiry Officer to recommend any recommendation of punishment, unless otherwise specifically asked for (Annexure-E), therefore Inquiry Report is submitted for further necessary action.

*Ibrahim*  
IKRAMULLAH KHAN  
MEMBER-I  
INQUIRY OFFICER

Annexure (K)

23

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

SHOW CAUSE NOTICE

I. Zafar Iqbal Senior Member, Board of Revenue, as Competent Authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011. do hereby serve you, Mr. Naveed Qadir Tehsildar as follows:-

I am satisfied that you have committed the following acts / omissions specified in rule - 5 of the specified rules:-

- a) That you while posted as Land Acquisition Collector (CCB) in Provincial Housing Authority Peshawar, despite of knowing the fact that Section-4 of Land Acquisition Act, 1894 was signed by the former Land Acquisition Collector comprising of land not approved by Provincial Government you malafidely neither issued any corrigendum for correction of Khasra Numbers nor forwarded the case for approval of the Competent Authority rather issued notification under section 6/17 and award under section 11 of Land Acquisition Act, 1894 and started payment in order to fulfill nefarious design while in league with cronies accused person.
- b) That you malafidely made no payment to the local landowners or their representatives rather evidence collected revealed that payment were received by you and other persons such as Ghazi Gul Muhammad Salah, Ehsan Ullah, Farhad Ali Ex-Junior Clerk PHA and Azmat Ali Khan Ex-Driver Provincial Housing Authority who were not the landowners at all of the land acquired by the PHA, without any justification.
- c) That you in award under section 11 mentioned that the land compensation will be paid on the basis of last Ausat-yak-Sala, but with malafide intention change the kind of land and thus caused colossal loss to public exchequer. You himself mentioned in cost reasonability certificate submitted with notification u/s 6 & 17 to DOR, Abbottabad that total cost of 161 kanal 03 marla land was RS. 269.580 million and paid an amount of RS. 394 million by transferring the fund for other schemes and to this account.
- d) That you with malafide intention notified price negotiation committee despite the fact that price negotiation committee was already constituted by the Secretary Housing. You constituted committee comprising of Land Acquisition Collector as Chairman, DD Planning Provincial Housing Authority and Gardawar Provincial Housing Authority were the members of the committee. This Committee constituted in violation of Board of Revenue Notification issued on 17.08.2016. The said committee so as to maneuver land acquisition process and extend illegal benefit in shape of 15% extra-compulsory acquisition charges.
- e) That you with malafide intention paid complete amount rather paid excess amount for alternate illegal site in 2012 but no land was mutated in favour of Provincial Housing Authority thus violated Land Acquisition Act, 1894. The complete paid amount may be termed as embezzled and not utilized for the purpose approved by the Competent Authority thus, primarily responsible for loss caused to the public exchequer.
- f) That you accepted guilt at the inquiry stage regarding illegal gains in the acquisition of land at Mouza Darwaza Nathiagali, etc and voluntarily came forward and opted for voluntary Return within

Attested  
J. Iqbal

19/8/19  
J. Iqbal

Rs.68.5 million which was accepted by the Competent Authority after fulfilling legal formalities.

- g) Your this act tantamount to misconduct and guilty of corruption on your part and liable to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

In terms of Rule - 5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule, 2011, I as Competent Authority, dispense with the inquiry and serve you with show cause notice under Rule - 7 of the Rules ibid.

3. As a result thereof, I as Competent Authority have tentatively decided to impose upon you the penalty under Rule - 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

4. You are therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you. Furthermore, you are directed to appear on 21.3.2018 at 11:00 A.M before the undersigned for personal hearing.

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

*Handwritten signature and date: 14/5/18*

*Handwritten signature*  
Senior Member

No.Estt:I/PF/Naveed Qadir Tehsildar 14417  
Peshawar. dated 16/03/2018

Annexure (L)

35

Before the Peshawar High Court  
Peshawar



Writ Petition No. \_\_\_\_\_ -P of 2018

Naveed Qadir, son of Abdul Qadir,  
Tehsildar, Board of Revenue Department,  
Resident of House opposite Circuit House, Sector-IV,  
Kohat Development Authority, Kohat.

..... Petitioner

Versus

1. Senior Member Board of Revenue,  
Revenue and Estate Department,  
Civil Secretariat, Peshawar.
2. Member-1 Board of Revenue,  
Revenue and Estate Department,  
Civil Secretariat, Peshawar.
3. Director Land Records Khyber Pakhtunkhwa,  
Revenue and Estate Department,  
Civil Secretariat, Peshawar.
4. Secretary-II Board of Revenue,  
Revenue and Estate Department,  
Civil Secretariat, Peshawar.
5. National Accountability Bureau (NAB),  
Through its Chairman,  
Attaturk Avenue, G-5/2,  
Islamabad.
6. National Accountability Bureau (Khyber Pakhtunkhwa),  
Through its Director General,  
PDA Building, Phase - V, Hayatabad,  
Peshawar.

..... Respondents

**Petition under Article 199 r/w Article 187**  
**Of the Constitution of Islamic Republic of Pakistan, 1973**

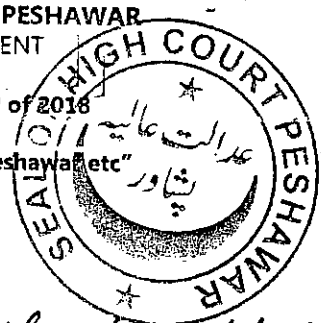
ATTESTED  
EXAMINER  
Peshawar High Court  
JAN 2019

Attested  
The

JUDGMENT SHEET  
PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

Writ Petition No.1355-P of 2018

"Naveed Qadir Vs. SMBR, Peshawar etc"



JUDGMENT

Date of hearing 07.11.2018

Petitioner by: Shumail Ahmad Butt, Advocate

Respondent(s) by: Umar Farooq, ADP/ Advocate

IKRAMULLAH KHAN, J.- Through the instant constitutional petition, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has prayed for the following relief:-

"It is therefore, very humbly prayed that on acceptance of this writ petition, this Hon'ble Court may very magnanimously hold, declare and order that:

- I. Impugned Disciplinary action/proceedings initiated against petitioner by the respondent No.1, wherein he has authorized the respondent No.2 to proceed and consequent proceedings thereupon, if any, that are made so far are illegal, unlawful, without lawful authority and thus liable to be set aside and reversed.
- II. The respondent No.1,2 and 4 be directed to defer the disciplinary proceedings till the outcome by the Accountability Court No.III.
- III. The impugned proceedings arises out of the so called Voluntary Return by quashed as neither the petitioner is beneficiary of the Voluntary Return nor has he signed any statement admitting his guilt before the concerned Magistrate under Section 164/364 of Cr.P.C.

Handwritten mark resembling a stylized 'M' or 'S'.

ATTESTED  
EXAMINER  
Peshawar High Court

- 5 JAN 2019

Attested  
[Signature]



- IV. The impugned proceedings in garb of the order in *Suo Moto* # 17 being exceedingly excessive qua the scope of judgment of the apex court and thus liable to be set aside, reversed, quashed and put at naught.
- V. Interim Relief: In view of existence of all the requisite ingredients, the respondents may be restrained from adversely proceeding against the petitioner till the final disposal of the main writ petition.
- VI. Any other relief, not specifically prayed may also graciously be granted, if appears just, necessary and appropriate.

02. As per contents of the instant petition, on account of corruption and corrupt practices, allegedly committed by petitioner, in matter of land acquisition, required for public purposes at Mauza Darwaza Nathiagali District Abbottabad, the NAB Authorities, after approval by the competent authorities, initiated inquiry against the petitioner.

03. During course of inquiry, the petitioner, not only made confession before a Judicial Magistrate but also opted Voluntary Return (VR) of an amount of Rs.68.5 million. The offer was accepted by the NAB authorities, in view of Section 25 (a) of the National Accountability Ordinance, 1999, whereby the petitioner was required to deposit an amount of Rs.23.29 million immediately after approval of the VR and rest of the amount will be

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*[Signature]*

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 Peshawar High Court  
 03 JAN 2019

deposited in two equal quarterly installments within six months. However, petitioner deposited only 13.500 million after a lapse of more than a year and thereafter, turned hostile to deposit rest of the amount agreed upon thereto, the VR.

04. Therefore, the competent authority of the NAB, were constrained to recall the "VR" and petitioner was arrayed as an accused in the Reference No.2 already placed before the Accountability Court, against other co-accused.

05. It is pertinent to be stated herein that in the meanwhile, the Hon'ble Supreme Court of Pakistan, while taking cognizance of abuse of authority by the NAB in matter of petty nature cases, made direction in Suo Moto case No.17 of 2016 on 24.10.2016 that Establishment Division and the Chief Secretaries of all the four Provinces shall ensure initiative of departmental proceeding against the accused persons who had voluntarily returned the amounts under Section 25 (a) of the National Accountability Ordinance, 1999.

06. Consequent upon the direction of the Apex Court, respondent No.1, initiated departmental proceedings against petitioner vide issuance of Notice in this regard dated 14.11.2017.

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Jhw

The petitioner was later on, in pursuance of the notice *ibid* was charge sheeted accordingly for various charges well mentioned, not only in the statement of allegation, but also in the charge sheet respectively.

07. Learned counsel for petitioner contended that as, the VR opted by petitioner, had recalled by the competent authority and he had been arrayed as an accused in Reference No.2 of the year, 2015, therefore, he could not be proceeded departmentally on this score in pursuance to the judgment of the Apex Court, as, the NAB authorities had themselves, recalled the alleged VR and as petitioner is facing trial, in Reference No.2, before the learned Accountability Court, therefore, the departmental proceeding initiated by respondents amounts to double jeopardy.

08. On the other hand, learned counsel for respondents argued that the offence of corruption and corrupt practices falling under Section 9 of the NAB Ordinance, and departmental proceedings under Government Servant (Efficiency & Discipline) Rules, 2011 both were independent proceedings having different effect, if either or

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Peshawar High Court

03 JAN 2019

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both were proved; that different proceedings for offences, falling in different statutes could be tried or proceeding may be initiated by different forum in view of Section 26 of the General Clauses Act, 1897 and such proceeding ending in different end, could not be treated in term of Article 13 of the Constitution or the provisions, contained in Section 403 Cr.P.C.

09. We have heard learned counsel for the parties in light of their respective submissions made at the bar and law on the subject.

10. It is admitted fact, that petitioner had opted for Voluntary Return (VR) of the amount allegedly misappropriated, and that regard, an amount of Rs.13.5 million had also returned by the petitioner. However, on account of default of conditions of re-payment, the NAB authorities had recalled the settlement effected with the petitioner in term of Section 25 (a) of the NAB Ordinance, 1999.

11. So, without, dilating upon, merit of the case, lest it would prejudice, the case of either party, petitioner could not be proceeded on the score of entering into VR, in light of the judgment

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Peshawar High Court  
03 JAN 2019

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enactments - Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence".

15. The Apex Court in case titled "*Shahid Masood Malik Vs. Habib Bank Ltd and another*" (2008 SCMR 1151), is held that:-

"13. It has also come on record and has been established in the inquiry that the petitioner in connivance with other accomplices was engaged in opening fictitious accounts and withdrawing the amount therefrom fictitiously in the fake names, thus, misappropriated the bank drafts and was rightly found guilty of the misconduct. The contention of the petitioner's counsel that the dismissal of petitioner consequent to the departmental proceedings, would be of no legal consequence as he had been already acquitted by the competent Court of law in criminal proceedings is devoid of force in view of the dictum laid down by this Court in the case of Inspector-General of Police, Punjab, Lahore and others v. Muhammad Tariq 2001 SCMR 789 wherein it has been held that the acquittal in criminal cases would not debar the departmental authority to take action against delinquent in accordance with law and rules. Such acquittal does not give to a delinquent clean certificate of his absolvment from the departmental proceedings. Both the proceedings are conducted respecting the case registered against delinquent while the departmental proceedings are regarding the charges of malversation and misconduct. Both the proceedings, however, can go side by side as their nature is totally different. It has also been observed that penalty imposed on a civil servant as a consequence of departmental proceedings under the Efficiency and Discipline Rules, after

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EXAMINER  
Peshawar High Court

3 JAN 2019

the accused officer has been acquitted of a criminal charge, is not barred".

43

16. In case titled "*Shahid Wazir Vs. Secretary, Kashmir Affairs and Northern Areas and States of Frontier Regions Division, Government of Pakistan, Islamabad and another*" (2006 SCMR 1653), the Apex Court is held as:-

"7. The departmental penalty was imposed on the petitioner, not on account of criminal proceedings but, as a consequence of departmental inquiry having been conducted in which the petitioner was found guilty of the charge though he was afforded full opportunity of defence. The departmental and criminal proceedings can be taken simultaneously and independent of each other. In this context, this Court in the case reported as *Dawood Ali Vs. Superintendent of Police and others* 2005 SCMR 948 while dealing with the same aspect has held as under:

"The departmental penalty was imposed on the petitioner, not on account of criminal proceedings but, as a consequence of departmental inquiry having been conducted in which the petitioner was found guilty of the charge. It is no well-settled that the departmental and criminal proceedings can be taken simultaneously and independently of each other".

17. Keeping in view, the above mentioned principles of law, enunciated by the Apex Court, this appeal is partially allowed and the charge No.(F) leveled against the petitioner is quashed accordingly

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Peshawar High Court

03 JAN 2019

42

while respondent would be at liberty to proceed against the petitioner in regard to rest of the charges.

**ANNOUNCED.**  
**07.11.2018.**

JUDGE

*[Handwritten signature]*  
JUDGE

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DB  
Hon'ble Mr. Justice Ikramullah Khan  
Hon'ble Mr. Justice Ishtiaq Ibrahim  
Himayat

**CERTIFIED TO BE TRUE COPY**

**EXAMINER**  
Peshawar High Court, Peshawar  
Authorised Under Article 87 of  
The Genung-Shahadat Order 1983

03 JAN 2019

*Attested*  
*[Signature]*

No.	130
Date of Presentation of Application	3-1-19
No of Pages	12/1
Copying Fee	
Urgent Fee	
Total	60
Date of Preparation of Copy	3-1-19
Date of Delivery of Copy	3-1-19
Received By	<i>[Signature]</i>



Annexure (M)

45

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE AND ESTATE DEPARTMENT

**SHOW CAUSE NOTICE**

I, Fakhre Alam Senior Member, Board of Revenue, as Competent Authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Naveed Qadir Tehsildar as follows:-

I am satisfied that you have committed the following acts / omissions specified in rule - 5 of the specified rules:-

- a) That you while posted as Land Acquisition Collector (CCB) in Provincial Housing Authority Peshawar, despite of knowing the fact that Section-4 of Land Acquisition Act, 1894 was signed by the former Land Acquisition Collector comprising of land not approved by Provincial Government you malafidely neither issued any corrigendum for correction of Khasra Numbers nor forwarded the case for approval of the Competent Authority rather issued notification under section 6/17 and award under section 11 of Land Acquisition Act, 1894 and started payment in order to fulfill nefarious design while in league with cronies accused person.
- b) That you malafidely made no payment to the local landowners or their representatives rather evidence collected revealed that payment were received by you and other persons such as Ghazi Gul Muhammad Salah, Ehsan Ullah, Farhad Ali Ex-Junior Clerk PHA and Azmat Ali Khan Ex-Driver Provincial Housing Authority who were not the landowners at all of the land acquired by the PHA, without any justification.
- c) That you in award under section 11 mentioned that the land compensation will be paid on the basis of last Ausat-yak-Sala, but with malafide intention change the kind of land and thus caused colossal loss to public exchequer. You himself mentioned in cost reasonability certificate submitted with notification u/s 6 & 17 to DOR, Abbotabad that total cost of 161 kanal 03 marla land was RS. 269.580 million and paid an amount of RS. 394 million by transferring the fund for other schemes and to this account.
- d) That you with malafide intention notified price negotiation committee despite the fact that price negotiation committee was already constituted by the Secretary Housing. You constituted committee comprising of Land Acquisition Collector as Chairman, DD Planning Provincial Housing Authority and Gardawar Provincial Housing Authority were the members of the committee. This Committee constituted in violation of Board of Revenue Notification issued on 17.08.2016. The said committee so as to maneuver land acquisition process and extend illegal benefit in shape of 15% extra-compulsory acquisition charges.
- e) That you with malafide intention paid complete amount rather paid excess amount for alternate illegal site in 2012 but no land was mutated in favour of Provincial Housing Authority thus violated Land Acquisition Act, 1894. The complete paid amount may be termed as embezzled and not utilized for the purpose approved by the Competent Authority thus, primarily responsible for loss caused to the public exchequer.

Signature  
14/5/19  
Secretary  
Khyber Pakhtunkhwa



F

46

- 1) Deleted in pursuance of decision dated 07.11.2018 of Peshawar High Court Peshawar in writ petition No.1355-P of 2018 titled Naveed Qadir VS SMBR, Peshawar etc.
- 2) Your this act tantamount to misconduct and guilty of corruption on your part and liable to be proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules. 2011.

In terms of Rule – 5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule, 2011, I as Competent Authority, dispense with the inquiry and serve you with show cause notice under Rule – 7 of the Rules ibid.

3. As a result thereof, I as Competent Authority have tentatively decided to impose upon you the penalty under Rule – 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

4. You are therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you. Furthermore, you are directed to appear on 31.01.2019 at 11:00 Am before the undersigned for personal hearing.

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

*[Handwritten signature]*  
14/1/19

*[Handwritten signature]*  
Senior Member

No.Estt:I/PF/Naveed Qadir Tehsildar 2362  
Peshawar, dated 23/01/2019

received on  
29/1/2019  
2/30 pm

*[Handwritten signature]*

6

Annexure (O)

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT,  
Facebook ID: [www.facebook.com/box.kpk92](http://www.facebook.com/box.kpk92)  
Twitter ID: [@RevenueBoardkp](https://twitter.com/RevenueBoardkp)  
Fax No: 091.9213989

49/14

(Annex - E)

Peshawar dated the 12/04/2019.

NOTIFICATION.

No.Estt:/PF/Naveed Qadir/ 15901. WHEREAS; Mr. Naveed Qadir Tehsildar was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Charge Sheet & Statement of Allegations.

AND WHEREAS Mr. Ikramullah Member-I Board of Revenue was appointed as Inquiry Officer to probe into the charges leveled against the said Officer and submit findings and recommendations.

AND WHEREAS the Inquiry Officer having examined the charges, evidence produced before him and statement of accused officer, submitted his report whereby the charges against the accused officer stands proved.

AND WHEREAS the accused officer was given opportunity of personal hearing by serving of Show Cause upon him on 16.03.2018 but he challenged the same before the Peshawar High Court, succeeded in quashing charge No. f (regarding entering VR with NAB) on 07.11.2018 accordingly the said charge was removed from the show cause notice and he was again given a chance of hearing on 23.01.2019.

In reply to show cause notice the accused official contended that since criminal proceedings are also pending before a criminal/NAB court; therefore the office defer the proceedings till the outcome of pending NAB proceedings. and since as per page 217 of P.E.S.A. Code, Khyber Pakhtunkhwa (Revised Edition) 2011 Court and Departmental proceedings may start from an identical charge(s) and can run parallel to each other and it is not necessary to pend departmental proceedings till the finalization of judicial proceedings and secondly based upon Peshawar High Court order the department has also deleted the charge regarding embezzlement and financial corruption and thirdly the compendium referred by accused official pertains to Federal Government; hence not applied to the Provincial Government Employees. partial identification / NAB, FIA ?

repeal

NOW THEREFORE I Dr. Fakhre Alam, Senior Member, Board of Revenue after having examined the charges, evidence produced, statement of accused, report of Inquiry Officer and after personal hearing concur with the findings / recommendation of the Inquiry Officer, I as Competent Authority in exercise of powers conferred by Rule-14 (5)(ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 impose major penalty of "Removal from Service" under the Rule-4(b)(iii) of the rules ibid, upon Mr. Naveed Qadir Tehsildar Board of Revenue with immediate effect.

*[Signature]*  
14/5/19  
Assistant Secretary  
Revenue & Estate Deptt,  
Khyber Pakhtunkhwa.

Sd/-  
Senior Member

No. Estt:/PF/Naveed Qadir/ 15902-08  
Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Additional Director (Coord) Prosecution Wing, National Accountability Bureau Khyber Pakhtunkhwa Peshawar.
3. PSO to Chief Secretary Khyber Pakhtunkhwa.
4. PS to Senior Member, Board of Revenue.
5. Bill Assistant Board of Revenue.
6. Mr. Naveed Qadir Tehsildar son of Abdul Qadir resident of House opposite Circuit House Sector IV Kohat Development Authority Kohat.
7. Office order file.

Attested  
*[Signature]*

*[Signature]*  
Assistant Secretary (Estt)



**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

No. 144.9 / ST

Dated: 29/07 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

To

The Senior Member Board of Revenue,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 1070/2019, MR. NAVEED QADIR.

I am directed to forward herewith a certified copy of Judgement dated 24.06.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR

KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR