

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 609/2015

Date of Institution ... 05.06.2015

Date of Decision ... 05.12.2017

Mir Liaq, Tehsildar Bank of Khyber,
 Khyber Pakhtunkhwa, State Life Building, 5th Floor, Peshawar.
 ... (Appellant)

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Chief Secretary Khyber
 Pakhtunkhwa, civil Secretariat Peshawar and 2 others.
 ... (Respondents)

 MR. MIAN TAJAMMAL SHAH,
 Advocate --- For appellant.

MR. ZIAULLAH,
 Deputy District Attorney --- For respondents.

MR. AHMAD HASSAN, ... MEMBER(Executive)
 MR. MUHAMMAD AMIN KHAN KUNDI ... MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for
 the parties heard and record perused.

FACTS

2. The brief facts are that the appellant is serving as Tehsildar and vide
 impugned order dated 04.02.2015 minor penalty of withholding of two increments
 for two years was imposed on him. That he preferred departmental appeal on
 24.02.2015 which was rejected on 13.05.2015, hence, the instant service appeal on
 04.07.2014.

ARGUMENTS

3. Learned counsel for the appellant argued that disciplinary proceedings were initiated against him on account of giving illegal gratification to Minister for Revenue Khyber Pakhtunkhwa and upon conclusion minor penalty of withholding of two annual increments was imposed on him vide impugned order dated 04.02.2015. He preferred departmental appeal on 24.02.2015 which was rejected on 13.05.2015. He further argued that enquiry proceedings were not conducted according to prescribed procedure contained in E&D Rules 2011. Statements of witnesses were not recorded nor opportunity of cross examination was provided to the appellant. Though show cause notice was imposed on him before imposition of penalty but copy of the enquiry report was not attached with it which is a violation of the given procedure. It appears that the appellant was victimized for unknown reasons.

4. On the other hand learned Deputy District Attorney argued that all codal formalities were observed before passing the impugned order. He was treated according to law and rules, hence, there is no illegality in the said order.

CONCLUSION.

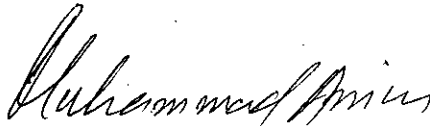
5. Careful perusal of record would reveal that enquiry was not conducted according to the spirit of the in vogue rules. Neither statement of witnesses were recorded nor the appellant was provided opportunity of cross examining those who had deposed against him. Show cause notice was served on the appellant without providing the copy of the enquiry report which is a serious departure from the laid down procedure and makes the entire proceedings unfair and against the principles of natural justice. We are of the considered view that opportunity of fair trial was

denied to the appellant and as such he was condemned unheard. In order to meet the ends of justice de-novo inquiry is required to be conducted in this case.

6. As a sequel to above, the appeal is accepted and the department is directed to conduct de-novo enquiry within a period of 120 days after receipt of this judgment. The issue of back benefits shall be subject to outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
MEMBER





(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

ANNOUNCED
05.12.2017

17.04.2017


Counsel for the appellant present. Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Ziaullah, Government Pleader for the respondents also present. Original inquiry record of the appellant is not on file. The respondents are directed to produce the original inquiry record of the appellant on or before the next date of hearing. To come up for record and arguments on 02.08.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

02.08.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for respondents present. Learned DDA seeks adjournment for producing the original record. Adjourned. To come up for such record and arguments on 05.12.2017 before D.B.


Member


Chairman

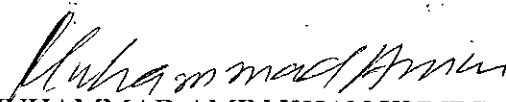
Order

05.12.2017

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the appeal is accepted and the department is directed to conduct de-novo enquiry within a period of 120 days after receipt of this judgment. The issue of back benefits shall be subject to outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.

Announced:
05.12.2017


(MUHAMMAD AMIN KHAN KUNDI)
Member


(AHMAD HASSAN)
Member

19.04.2016

Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Addl: AG for respondents present. Rejoinder not submitted and requested for further time for submission of rejoinder. To come up for rejoinder and arguments on ~~31-8-16~~



MEMBER



MEMBER

31.08.2016

Appellant with counsel and Mr. Mukhtiar Ali, Supdt. alongwith Mr. Ziaullah, GP for the respondents present. Counsel for the appellant seeks adjournment. To come up for rejoinder and final hearing before the D.B on 30.12.2016.



Member



Chairman

30.12.2016

Clerk to counsel for the appellant and Mr. Muhammad Ibrar, Assistant Secretary alongwith Addl. AG for respondents present. Rejoinder submitted which is placed on file. Arguments could not be heard due to incomplete bench. Case adjourned to 17.04.2017 for arguments before D.B.



Chairman

4

25.06.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as Tehsildar and vide impugned order dated 4.2.2015 he was punished by imposition of withholding of two increments for 2 years on the ground of involvement in corrupt practises regarding which he preferred departmental appeal on 24.2.2015 which was rejected on 13.5.2015 and hence the instant service appeal on 5.6.2015.


That no opportunity of hearing was afforded to the appellant and moreover, no evidence was recorded in the prescribed manners substantiating the allegations against the appellant.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 30.9.2015 before S.B.

Appellant Deposited
Security & Process Fee



2-201


Chairman

5

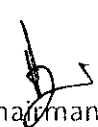
30.09.2015

Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 1.12.2015 before S.B.


Chairman

01.12.2015




Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Addl: A.G for respondents present. Para-wise comments by respondents No. 1 and 2 submitted. The learned Addl: AG relies on the same on behalf of respondent No. 3. The appeal is assigned to D.B for rejoinder and final hearing for 19.4.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 609/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	05.06.2015	<p>The appeal of Mr. Mir Laiq Tehsildar presented today by Mr. Ghulam Nabi Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	5-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>9-6-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	09.06.2015	<p>None present for appellant. Notice to counsel for the appellant be issued for 25.6.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No.

609 / of 2015

Mir Laiq Tehsildar Bank of Khyber...

Appellant

VERSUS

Govt of KPK through Chief Secretary & others...


Respondents

INDEX

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Appellant

Through:


(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan
B-17, Haroon Mansion
Khyber Bazar, Peshawar
Cell # 0300-5845943

And

Dated: 11.06.2015


(Mian Tajammal Shah)
Barrister, Peshawar

ARGUMENTS

3. Learned counsel for the appellant argued that disciplinary proceedings were initiated against him on account of giving illegal gratification to Minister for Revenue Khyber Pakhtunkhwa and upon conclusion minor penalty of withholding of two annual increments was imposed on him vide impugned order dated 25.02.2015. He preferred departmental appeal on 24.02.2015 which was rejected on 13.05.2015. He further argued that enquiry proceedings were not conducted according to prescribed procedure contained in E&D Rules 2011. Statements of witnesses were not recorded nor opportunity of cross examination was provided to the appellant. Though show cause notice was imposed on him before imposition of penalty but copy of the enquiry report was not attached with it which is a violation of the given procedure. The respondents were required not only to lodge criminal case against the appellant but should have also referred the matter to the Anti Corruption for investigation. It appears that the appellant was victimized for unknown reasons.

4. On the other hand learned Deputy District Attorney argued that all codal formalities were observed before passing the impugned order. He was treated according to law and rules, hence, there is no illegality in the said order.

CONCLUSION.

5. Careful perusal of record would reveal that enquiry was not conducted according to the spirit of the in vogue rules. Neither statement of witnesses were recorded nor the appellant was provided opportunity of cross examining those who had deposed against him. Show cause notice was served on the appellant without providing the copy of the enquiry report which is a serious departure from the laid down procedure and makes the entire proceedings unfair and against the principles

INQUIRY INTO THE ALLEGATIONS FRAMED AGAINST MR. MIR LAIQ EX-TEHSILDAR PESHAWAR

Background

The Senior Member Board of Revenue Khyber Pakhtunkhwa/competent authority has issued a charge sheet to Mr. Mir Laiq Tehsildar for the following charges (Flag-A):-

“that he approached Minister for Revenue at his residence and handed over an envelope containing rupees 150000 (illegal gratification) about a week back. This act of his tantamount to gross misconduct on his part”.

The undersigned has been appointed as inquiry officer to conduct formal enquiry against mr. mir laiq for the above charges under-E&D rules 2011 (Flag-B).

Proceedings

Mr. Mir Laiq, the accused officer was directed to submit his written reply and appear before the inquiry officer for personal hearing on 10.06.2014 (Flag-C).

The accused officer submitted his reply on 09.06.2014 (Flag-D). In his written statement the accused officer denied the charges and stated that he had neither visited the residence of the minister for revenue nor tendered/offered any envelop or amount to him. He termed the charges as a drama plotted against him by some miscreant with malafide intentions to damage his integrity and career. He has pleaded that if had given him envelop a week ago then why he did not report on the same day.

He was granted personal hearing on 10.06.2014. In his personal hearing, the accused officer stated on oath that he even did not meet the minister for revenue for the last month nor did he pay him the said amount. He however, said that he had a meeting with the minister in Deputy Commissioner Peshawar camp office in the presence of Deputy Commissioner Peshawar on 11.04.2014. During this meeting the minister for revenue did not raise this issue. Then on 15.04.2014 the minister reported the said charge to SMBR (Flag-E). On 14.07.2014, the accused has submitted an additional statement wherein he has stated that he has taken over charge as tehsildar Peshawar on 26.11.2013 and had not yet completed even a year tenure. In case he was overstayed at Peshawar he could presumably do so for his retention but in the present scenario no such question arises (Flag-F)

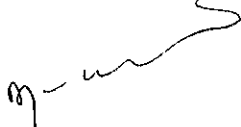
The private secretary to minister for revenue was frequently asked telephonically to fix time for recording the statement of Minister for Revenue. Then he was requested in writing on 11.09.2014 (Flag-G) and on

25.09.2014 (Flag-H). The Minister for Revenue recorded his statement on 24.10.2014 (Flag-I). In his statement the minister stated on oath that frequent complaints were pouring in against Mr. Mir Laiq then he contacted my secretary Muhammad Arif and offered bribe to press complaints against him. He said that he warned his Secretary to be careful and to ask Tehsildar that no compromise will be mad on corruption. The Tehsildar then contacted my cousin Khuram Gandapur and offered him bribe. Then one day in the evening the tehsildar came to my residence and discussed corruption in the name of "Rewaj". The tehsildar swore and requested pardon for the complaints received against him so for and offered me bribe and monthly gratification. I clarified to him that I had no intentions of corruptions and directed him to mend his ways and serve the public. The tehsildar while leaving my guest room left an envelope on the table containing the said amount which came to my knowledge later at night. I returned the said envelop to SMBR on next working day and informed him of the whole episode. SMBR telephonically called the accused officer but he denied any such act. The minister in his statement stated that he had brought this issue into the notice of Chief Minister and Chief Secretary as well. The Minister denied on oath any demand or any receipt of the said amount from the tehsildar/accused officer.

The accused officer in his rejoinder to the above statement of the minister has stated that even a single complaint has not been referred to or produced against him. All allegations are hearsay. He has stated that he has neither meet Khuram Gandapur nor offered illegal gratifications to the Minister (Flag-J).

Conclusion

Analyzing the statements of both the complainant i.e. Minister and the accused officer, it is concluded that the charges leveled against the accused officer stand proved.


Musarrat Hussain
Special Secretary (BPS-20 PCS-EG)
E&SE/Inquiry officer

19/12/2014

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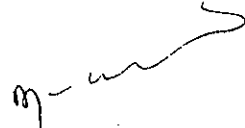


25.09.2014 (Flag-H). The Minister for Revenue recorded his statement on 24.10.2014 (Flag-I). In his statement the minister stated on oath that frequent complaints were pouring in against Mr. Mir Laiq then he contacted my secretary Muhammad Arif and offered bribe to press complaints against him. He said that he warned his Secretary to be careful and to ask Tehsildar that no compromise will be mad on corruption. The Tehsildar then contacted my cousin Khuram Gandapur and offered him bribe. Then one day in the evening the tehsildar came to my residence and discussed corruption in the name of "Rewaj". The tehsildar swore and requested pardon for the complaints received against him so for and offered me bribe and monthly gratification. I clarified to him that I had no intentions of corruptions and directed him to mend his ways and serve the public. The tehsildar while leaving my guest room left an envelope on the table containing the said amount which came to my knowledge later at night. I returned the said envelop to SMBR on next working day and informed him of the whole episode. SMBR telephonically called the accused officer but he denied any such act. The minister in his statement stated that he had brought this issue into the notice of Chief Minister and Chief Secretary as well. The Minister denied on oath any demand or any receipt of the said amount from the tehsildar/accused officer.

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 Musarrat Hussain
 Special Secretary (BPS-20 PCS-EG)
 E&SE/Inquiry officer

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 609 / of 2015

N.W.F. Province
Service Tribunal
Diary No. 649
Dated 05-6-2015

Mir Laiq, Tehsildar Bank of Khyber,
Khyber Pakhtunkhwa, State Life Building,
5th Floor, Peshawar...

... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through
Chief Secretary Khyber Pakhtunkhwa,
Civil Secretariat Peshawar.

2. Senior Member of Board of Revenue
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

3. Secretary Establishment, Board of Revenue
and Estate Department, Peshawar...

... Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORIGINAL ORDER OF SENIOR MEMBER BOARD OF REVENUE KHYBER PAKHTUNKHWA PESHAWAR DATED 4.2.2015, WHEREBY THE SAID RESPONDENT HAS BEEN PLEASED TO IMPOSE PENALTY OF WITHDRAWAL OF 2 INCREMENTS FOR A PERIOD OF TWO YEARS AND AGAINST THE ORDER OF CHIEF SECRETARY KHYBER PAKHTUNKHWA WHO HAS DISMISSED DEPARTMENTAL APPEAL OF THE APPELLANT THROUGH A NOTIFICATION DATED 13.5.2015.

Prayer: On acceptance of this Service Appeal the above said order of punishment dated 4.2.2015 passed by the Senior Member Board of Revenue Khyber Pakhtunkhwa as well as the order of Chief Secretary Khyber Pakhtunkhwa dated 13.5.2015, whereby appeal of the appellant has been rejected, may please be set aside and the punishment awarded to the appellant may very graciously be withdrawn.

Filed to the

Registrar

5/6/15

2

Respectfully Sheweth:

1. That the appellant was appointed at the post of Tehsildar on 26.11.2013 and was deputed to the Office of Board of Revenue Khyber Pakhtunkhwa Peshawar on 16.4.2011.
2. That the appellant was serving on the above said post and to the astonishment of the appellant he was handed over a charge sheet dated 26.5.2014, whereby some baseless and vague allegations were levelled against the appellant. (Copies of the Charge Sheet alongwith Statement of allegations are attached herewith as annexures 'A' & 'B').
3. That the appellant duly replied to the above said Charge Sheet within the stipulated time and thereby he rebutted all the allegations levelled against him. (Copy of the Reply is attached herewith as annexure 'C').
4. That a so called inquiry proceeding was initiated against the appellant whereby his statement was recorded alongwith the statement of Minister Revenue Khyber Pakhtunkhwa. (Copies of the relevant documents, Inquiry Proceedings, Findings of the inquiry, Statement of the appellant and Statement of Minister Revenue Khyber Pakhtunkhwa are attached herewith as annexures 'D', 'E', 'F', & 'G' respectively).
5. That the appellant was then served with Second Show Cause Notice which was again duly replied by the appellant. (Copies of the Second Show Cause Notice alongwith the Reply are attached herewith as annexures 'H' & 'I').

- 3
6. That finally respondent No.2 issued a letter, thereby he was pleased to impose penalty of withdrawal of 2 increments for a period of 2 years upon the appellant vide Notification dated 4.2.2015. (Copy of the impugned Notification dated 4.2.2015 is attached herewith as annexure 'J').
 7. That the appellant then filed a Departmental Appeal before the Appellate Authority on 24.2.20-15, however, the said appeal was rejected authority on 13.5.2015. (Copies of the Departmental Appeal alongwith the impugned order dated 13.5.2015 are attached herewith as annexures 'K' and 'L' respectively).
 8. That being aggrieved of the above said orders of both the respondents the appellant now approaches this Honourable Service Tribunal on the following grounds amongst the others:-

GROUND:

- a. That the order of punishment of the appellant by respondent No.2 and rejection of the Appeal by respondent No.1 is an act illegal, unlawful, without authority/jurisdiction and being based on the malafide intention of the respondent department, are liable to be set aside.
- b. That no allegation as levelled in the Charge Sheet whatsoever has been proved by the Inquiry Officer against the appellant and he has been punished without any fault at his part.

- 4
- c. That not a single witness with regard to the meeting with the said Minister has been produced before the Inquiry Officer, nor any person has identified the appellant with regard to the above noted allegations.
 - d. That a simple statement has been recorded by the said minister without producing any witness in support of his statement, nor the appellant has been given any chance to cross examine the said Minister, which illegality has turned the whole proceedings against the appellant into a nullity.
 - e. That it was the duty of Inquiry Officer to probe the matter in detail and to go into the depth of the matter and to produce all the witnesses in support of allegations levelled against the appellant, however, no such requirement has been fulfilled by the Inquiry Officer and the whole proceedings were carried on as according to the pleasure and sweet will of the concerned Minister.
 - f. That the appellant has not been given any chance to defend himself and he has been condemned unheard which shows clear malafide on the part of the respondents authorities.
 - g. That if the Civil Servants are to be punished on a simple statement of the Minister without following the proper procedure as engraved in the relevant laws then it will be come easier for the said Minister to target the persons whom he wants to punish for their legal ends.


- 5
- h. That the appellant is innocent and has committed no misconduct as is defined in the relevant rules nor any thing has been proved against the appellant as alleged in the above noted Show Cause Notices, hence the respondents were not supposed to punish the appellant without proving any guilt at his part.

Under the above facts it is most humbly prayed that on acceptance of this service Appeal the respondents may please be directed to set aside the impugned Notification dated 4.2.2015 whereby the appellant has been awarded the penalty of stoppage of 2 increments for the period of 2 years, the order of the respondent No.1 dated 13.5.2015 whereby the Departmental Appeal of the appellant has been rejected, may also please be set aside and the appellant may please be returned all his benefits which has been stopped under the shadow of above noted impugned order.

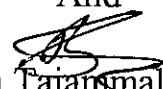
Any other relief deemed fit and proper but has not specifically been asked for may also very graciously be granted to the appellant.

Appellant

Through:


(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan
B-17, Haroon Mansion
Khyber Bazar, Peshawar
Cell # 0300-5845943

And


(Mian Tajamal Shah)
Barrister, Peshawar

Dated: .06.2015

CERTIFICATE:

Certified that as per instructions of my client no such Service Appeal on behalf of the appellant has earlier been filed in this Honourable Service Tribunal on the subject matter.


Advocate.

6/

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No. _____ / of 2015

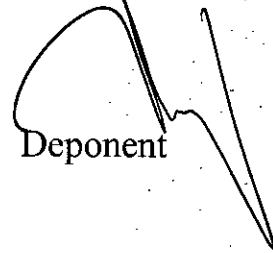
Mir Laiq Tehsildar Bank of Khyber... .. Appellant

VERSUS


Govt of KPK through Chief Secretary & others... .. Respondents

AFFIDAVIT

I, Mir Laiq Tehsildar Bank of Khyber, Khyber Pakhtunkhwa, 5th Floor, State Life Building Peshawar, do hereby solemnly affirm and declare that the contents of the Accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.


Deponent

IDENTIFIED BY:


(Ghulam Nabi Khan)
Advocate, Peshawar.



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

7

IN RE:
Service Appeal No. _____ / of 2015

Mir Laiq Tehsildar Bank of Khyber... .. Appellant

VERSUS

Govt of KPK through Chief Secretary & others... .. Respondents

MEMO OF ADDRESSES

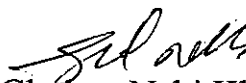
Mir Laiq, Tehsildar Bank of Khyber,
Khyber Pakhtunkhwa, State Life Building,
5th Floor, Peshawar... .. Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through
Chief Secretary Khyber Pakhtunkhwa,
Civil Secretariat Peshawar.
2. Senior Member of Board of Revenue
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Secretary Establishment, Board of Revenue
and Estate Department, Peshawar... .. Respondents

Appellant

Through:


(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan

A H AH

8

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No. Estt: I/PF/Mir Laiq/ 11234
Peshawar dated the 26/05/2014

To

Mr. Mussarat Hussain,
Special Secretary,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.


SUBJECT: DISCIPLINARY ACTION AGAINST MR. MIR LAIQ THE THEN
TEHSILDAR PESHAWAR.

I am directed to refer to the subject noted above and to inform that the Competent Authority has been pleased to appoint you as Enquiry Officer to conduct enquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline Rules, 2011) against Mr. Mir Laiq the then Tehsildar Peshawar.

Copies of charge sheet and statement of allegations against the accused official duly signed by the Competent Authority are enclosed for further necessary action.

I am further directed to request you to kindly conduct the enquiry and submit report within 20 days positively.

(Encl: 02)



Assistant Secretary (Estt)
a/k/ Ars

End: No. Estt: I/PF/Mir Laiq/ 11235

Copy alongwith copies of charge sheet and statement of allegations are forwarded to Mr. Mir Laiq Tehsildar waiting for posting in Board of Revenue with the direction to submit written repl^y to the Enquiry Officer and attend the proceedings as and when directed the Enquiry Officer.

(Encl: 02)




Assistant Secretary (Estt)
a/k/ Ars

B

"B"

9

CHARGE SHEET

I, Waqar Ayub Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Mir Laiq, Tehsildar on account of the following acts of omission and commission.

That you, while posted as Tehsildar Peshawar committed the following irregularities:

That you approached Minister for Revenue ^{at} his residence and handed over an envelope containing Rs.150, 000/- (illegal gratification), about a week back. This act of yours tantamounts to gross mis-conduct on your part.

2. By reason of the above, you appear to be guilty of misconduct in terms of Rule 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 Rule 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. Also intimate whether you desire to be heard in person.

6. Statement of allegations is enclosed.



Senior Member



10

DISCIPLINARY ACTION

I, Waqar Ayub Senior Member, Board of Revenue Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Mir Laiq, Tehsildar on account of the following acts of omission and commission.

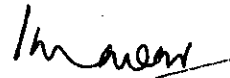
That you, while posted as Tehsildar Peshawar committed the following irregularities:

That you approached Minister for Revenue his residence and handed over an envelope containing Rs.150, 000/- (illegal gratification), about a week back. This act of yours tantamounts to gross mis-conduct on your part.

2. For the purpose of inquiry against the said accused with reference to the above allegations, Mr. Musarrat Hussain, Special Secretary, Elementary & Secondary Education Department is appointed as Enquiry Officer under Rule 10(1)(a) of the ibid rules.

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 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 Deputy Commissioner, Peshawar shall join the proceedings on the date, time and place fixed by the Inquiry Officer.



Senior Member



The Special Secretary E & SE Department (Inquiry Officer)
Government of Khyber Pakhtunkhwa Peshawar.

PS/SMIR
3696
9-6-2014

SUBJECT: INQUIRY INTO THE ALLEGATION FRAMED IN THE CHARGE SHEET.

Sir,

Reference Govt. of Khyber Pakhtunkhwa Board of Revenue,
Revenue & Estate Department Notification No. Essit: I/PP/Mir Laig/11234 dated
26.05.2014, and your office letter No PS/E&SE/MIR LAIQ/1-2/204, dated
28.05.2014.

Seny-I

With due respect my reply to the above captioned charge sheet is as
under: - Beside the other aspect of the case it is humbly submitted that the
allegation leveled in the charge sheet is not correct and false and vehemently
denied.

It is worth mentioning that I had neither visited the residence of the
honorable Minister for Revenue nor tendered / offered any envelop or amount to
him as wrongly mentioned against me. If I had given him envelop a week ago then
why he did not report on the same day or action taken against me.

Therefore I deny the charges as leveled against me. The incidence
seems to have been staged by some miscreant with malaide intention to damage
my integrity and career.

I reserve the right of proper personal hearing in accordance with the
provision of law.

It is requested that closing the case favourably I may kindly be
exonerated from the charges leveled against me and obliged.

Yours Obediently

Mir Laig (Tehsildar)
Waiting for posting in Board of
Revenue Peshawar

Dated: 9th June 2014

Copy of the above is forwarded to the Senior Member Board of Revenue

Government of KP, Peshawar.

(11)

HC

C

To

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To

The Special Secretary E & SE Department (Inquiry Officer)
Government of Khyber Pakhtunkhwa Peshawar.

SUBJECT: ADDED STATEMENT.

Sir,

This is in continuation to my written statement dated 9.6.2014.

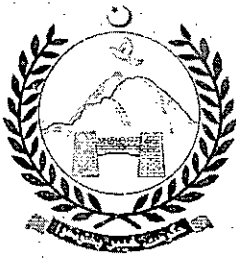
Tehsildars and other Revenue staff are interested in their posting/transfer to the stations of their choice for which they normally approach higher ups. But in my case, I had recently been posted to Peshawar from Mardan keeping in view my integrity and performance and no place is better than Peshawar for a Tehsildar. I have taken over charge on 26.11.2013 and as such I have not even completed a year over here. In case I might have overstayed here, I could do so for my retention but in the present scenario, no such question arises. So why and for what sake I could do it. I believe in good performance and not in pleasing my higher ups through illegal gratifications.

It is requested that closing the case favourably I may kindly be excused from the charges leveled against me and obliged.

Your's Obediently

Mir Laiq (Tehsildar)
Waiting for posting in Board of
Revenue Peshawar

Dated: 9th June 2014



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
BLOCK "A" CIVIL SECRETARIAT PESHAWAR

No. PS/E&SE/INQ/MIR LAIQ/1-2/2014

DATED PESHAWAR THE 28-5-2014

D "11" "11" "11"

13

To

Mr. Mir Laiq
Ex-Tehsildar Peshawar
Through Assistant Secretary (Estab.)
Board of Revenue
Revenue & Estate Department
Peshawar.

SUBJECT:- INQUIRY INTO THE ALLEGATIONS FRAMED IN THE CHARGE SHEETS.

Memo:-

Reference Govt. of Khyber Pakhtunkhwa Board of Revenue, R&E Department
Peshawar Notification No. Estt-I/PF/Mir Laiq/11234, dated 26-05-2014.

2. The undersigned has been appointed as Inquiry Officer to conduct formal inquiry against you into the charges, framed in the Charge Sheet & Statement of Allegation.
3. You are, therefore, directed to submit your written defence within stipulated period as mentioned in the Charge Sheet, failing which it will be presumed that you have nothing to offer in your defence.
4. You are further directed to attend this office personally on 10-06-2014 at 11.00 AM.

MUSARRAT HUSSAIN
SPECIAL SECRETARY
E & SE DEPARTMENT
INQUIRY OFFICER.

Endst. No. & Date as above.

Copy forwarded to Deputy Commissioner Peshawar for information with the request to depute a well conversant representative along with relevant record to attend this office on 10-6-2014 at 11.00 AM.

SEPCIAL SECRETARY
E & SE DEPARTMENT.
INQUIRY OFFICER.

Handwritten signature

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سینٹرل ایئر لائنز کے سابق ڈائریکٹر جنرل اور حلقہ بیاں کرتا ہوں

کہ میں نے ~~150000~~ 150000 روپے کے ساتھ تقریباً ایک ہفتہ تک ملا ہوا ہے

میں نے ڈائریکٹر جنرل کے ساتھ تقریباً ملا ہوا ہے۔ اور نہ اسکو مبلغ

150000/- روپے ادا کئے ہیں اور نہ اسی مدت میں اس کے گھر گیا ہے

البتہ 11/4 کو بوقت شام 11 بجے ڈائریکٹر جنرل کے گھر آئے

2014

جس وقت ڈائریکٹر جنرل کے ساتھ ملا تھا۔ اور تقریباً ایک گھنٹہ تک

میں نے ڈائریکٹر جنرل کے ساتھ ملا ہوا ہے اور میں موجود تھا۔

اسی وقت ڈائریکٹر جنرل کے پاس گیا اور بات کا ذکر نہیں کیا

15/4 کو ڈائریکٹر جنرل کے ساتھ ملا ہوا ہے اور تقریباً

2014

کہ ڈائریکٹر جنرل کے ساتھ تقریباً ایک ہفتہ تک ملا ہوا ہے اور

تفصیلاً 150000 روپے دئے۔ میں حلقہ بیاں کرتا ہوں

150000 روپے نہیں دئے ہیں

10/6/2014

Handwritten signature

بیان حلف سردار علی امین گنڈا پور منسٹر روڈ

①

میں سردار علی امین خان گنڈا پور حلفاً بیان کرتا ہوں

کہ تحصیلدار بٹیاوار میر لاکھ کے خلاف مختلف کمیشن

آدمی کے جن کے بعد میر لاکھ اس نے سپرٹری

محمد عارف کورالہ کے لئے اور رشوت کی

آفرٹی کہ میرے خلاف شکایات کو دبا دیا جائے

اور میں پر قسح رہتا ہوں لہذا یہاں میں جیسے

تباہی پیر میں نے اپنے سپرٹری کو بے عزت کیا

اور اس طرح کی کسی کاروائی سے اجتناب کرنے

کا کیا۔ اور بولا کہ تحصیلدار سے کہیو۔

کہ کپٹن کے اوپر کسی قسم کی عیب نہیں بہتی

جنگلی۔ اس کے بعد میرے کزن خرم گنڈا پور

میں رالہ کے۔ اور رشوت کی آفرٹی۔

ACD

Abi Amin

اُتب دن شاو کے بعد میرے نہ بلانے کے
 باوجود ایسی عرض سے خود میرے گھر پر آئے
 اور مجھے رواج لے کر چار رشوت کے حوالے سے
 باتیں کیں۔ اور تمہیں کھائیں کہ جو عواقب
 کر دیں۔ ان شکایات پر جو میرے خلاف
 موصول ہوئی ہیں اب تک، اور مجھے ڈاکٹر بلین
 رشوت اور فالوور رشوتوں کا اعتراض ہے۔
 جس پر میں نے اسے واضح کیا کہ میرا کس
 کسی ایسا کام ہے رشوت لینے کا اور وہ کس
 اور انہی قلم کو درست رکھیں۔ اور عوامی
 خدمت کریں۔ اس کے بعد اس نے جہان سے ہلکے
 اُتب لٹاف نہیں لیا۔ پھر وہ میرے پاس
 مجھے بتا دیا اور اتفاقاً کوئی نہیں تھا۔ تو اس میں
 رشوت کو لکھ کر لکھی تھی رشوت جو ہوتا ہے

سندھ
 24.10.14

میں نے اگلے ورکنگ ڈے پر ایس ایچ کی ایک
 صوبہ کو جمعہ نفاذ ساری تفصیل بتائی -
 S.M.A. صوبہ نے میرے سامنے میرا اٹو کو فون
 کیا - اور ان سے پوچھا کہ کیا آپ نے ممبر
 صوبہ کی رہنمائی گاہ دیکھی ہے - تو اس نے صاف
 انکار کر دیا - میں نے بان صوبہ ڈیپارٹمنٹ صوبہ
 اور چیف سیکرٹری صوبہ کے لئے تفصیل میں بھی
 لکھا ہے کہ اس کے اقدار پر اس کے خلاف
 سخت کارروائی کی جائے - اور درخواست
 کیا جائے - میں حلف بیڈن کے ناموں کے
 ڈاکٹر ملک نا اں ڈاکٹر ملک ~~نے~~ مذکورہ ~~ممبر~~
 سے نہ کبھی ڈیمانڈ کی اور نہ ہی کوئی وصولی کی -

Ali Amin

To

G
The Special Secretary
Elementary and Education Department
Govt: of Khyber Pakhtunkhwa.

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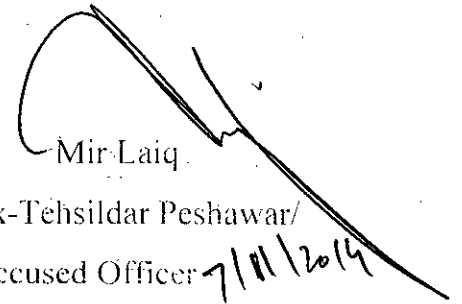
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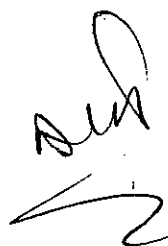
**SUBJECT: ENQUIRY AGAINST MIR LAIQ THE THEN TEHSILDAR
PESHAWAR**

Additional Statement:-

The honorable Minister, Revenue and Estate in his statement has contended that numerous complaints were pouring against Mir Laiq the then Tehsildar Peshawar but it is strange enough to note that even not a single complaint has been referred to or produced. All what has been alleged is hearsay and cannot be relied upon.

I have neither made an attempt to meet the honorable Minister through his cousin Khurram Gandapur nor offered illegal gratification to the honorable Minister. It has also not been mentioned by the honorable minister as to when I met him in his house.


Mir Laiq
Ex-Tehsildar Peshawar/
Accused Officer 7/11/2014



(19) (D) 91

INQUIRY INTO THE ALLEGATIONS FRAMED AGAINST MR. MIR LAIQ EX-TEHSILDAR PESHAWAR

Background

The Senior Member Board of Revenue Khyber Pakhtunkhwa competent authority has issued a charge sheet to Mr. Mir Laiq Tehsildar for the following charges (Flag-A):-

"that he approached Minister for Revenue at his residence and handed over an envelope containing rupees 150000 (illegal gratification) about a week back. This act of his tantamount to gross misconduct on his part".

The undersigned has been appointed as inquiry officer to conduct formal enquiry against Mr. Mir Laiq for the above charges under E&D rules 2011 (Flag-B).

Proceedings

Mr. Mir Laiq, the accused officer was directed to submit his written reply and appear before the inquiry officer for personal hearing on 10.06.2014 (Flag-C).

The accused officer submitted his reply on 09.06.2014 (Flag-D). In his written statement the accused officer denied the charges and stated that he had neither visited the residence of the minister for revenue nor tendered/offered any envelope or amount to him. He termed the charges as a drama plotted against him by some miscreant with malafide intentions to damage his integrity and career. He has pleaded that if had given him envelope a week ago then why he did not report on the same day.

He was granted personal hearing on 10.06.2014. In his personal hearing, the accused officer stated on oath that he even did not meet the minister for revenue for the last month nor did he pay him the said amount. He however, said that he had a meeting with the minister in Deputy Commissioner Peshawar camp office in the presence of Deputy Commissioner Peshawar on 11.04.2014. During this meeting the minister for revenue did not raise this issue. Then on 15.04.2014 the minister reported the said charge to SMBR (Flag-E). On 14.07.2014, the accused has submitted an additional statement wherein he has stated that he has taken over charge as tehsildar Peshawar on 26.11.2013 and had not yet completed even a year tenure. In case he was overstayed at Peshawar he could presumably do so for his retention but in the present scenario no such question arises (Flag-F)

The private secretary to minister for revenue was frequently asked telephonically to fix time for recording the statement of Minister for Revenue. Then he was requested in writing on 11.09.2014 (Flag-G) and on



09.2014 (Flag-H). The Minister for Revenue recorded his statement on 24.10.2014 (Flag-I). In his statement the minister stated on oath that frequent complaints were pouring in against Mr. Mir Laiq then he contacted my secretary Muhammad Arif and offered bribe to press complaints against him. He said that he warned his Secretary to be careful and to ask Tehsildar that no compromise will be mad on corruption. The Tehsildar then contacted my cousin Khuram Gandapur and offered him bribe. Then one day in the evening the tehsildar came to my residence and discussed corruption in the name of "Rewaj". The tehsildar swore and requested pardon for the complaints received against him so for and offered me bribe and monthly gratification. I clarified to him that I had no intentions of corruptions and directed him to mend his ways and serve the public. The tehsildar while leaving my guest room left an envelope on the table containing the said amount which came to my knowledge later at night. I returned the said envelop to SMBR on next working day and informed him of the whole episode. SMBR telephonically called the accused officer but he denied any such act. The minister in his statement stated that he had brought this issue into the notice of Chief Minister and Chief Secretary as well. The Minister denied on oath any demand or any receipt of the said amount from the tehsildar/accused officer.

The accused officer in his rejoinder to the above statement of the minister has stated that even a single complaint has not been referred to or produced against him. All allegations are hearsay. He has stated that he has neither meet Khuram Gandapur nor offered illegal gratifications to the Minister (Flag-J).

Conclusion

Analyzing the statements of both the complainant i.e. Minister and the accused officer, it is concluded that the charges leveled against the accused officer stand proved.

Musarat Hussain
Special Secretary (BPS-20 PCS-EG)
E&SE/Inquiry officer

Handwritten signature/initials.

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11/11/15

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SHOW CAUSE NOTICE

I, Waqar Ayub Senior Member, Board of Revenue, as Competent Authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, serve you Mr. Mir Laiq Ex-Tehsildar show cause notice that an enquiry was conducted against you, wherein an opportunity was given to you to be heard in person and furnish written defense. The Enquiry Officer has submitted his report on 12.01.2015.

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

That you approached Minister for Revenue at his residence and handed over an envelope containing Rs.150,000/- (illegal gratification) about a week back. This act of yours tantamounts to gross mis-conduct on your part.

3. As a result thereof, I, as Competent Authority, am of the view to impose penalty as indicated in Rule-4 of the Khyber Pakhtunkhwa Government Servant (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 28.01.2015 at 10:00 A.M before the undersigned for personal hearing.

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

Imravar
Senior Member

No.Estt: I/P.F/Mir Laiq/ 2334

Peshawar, dated 28/01/2015

Mr. Mir Laiq Tehsildar (CCB)

waiting for posting in Board of Revenue.

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The Senior Member
Board of Revenue

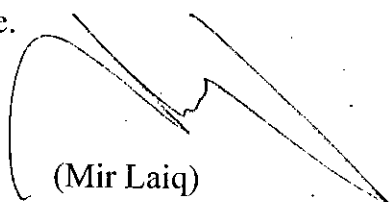
SUBJECT: SHOW CAUSE NOTICE

R/Sir,

Reply to show cause notice issued vide No.Estt:I/PF/Mir Laiq, 2334, dated 28.01.2015 is as under: -

With due respect, it is humbly submitted that the charge contained in the Show-Cause Notice, is the same as mentioned in the Charge Sheet. Necessary reply to the Charge Sheet has been furnished within the given stipulated period where in the charge has been categorically denied. An appropriate statement in the form of Affidavit as evidence has been recorded before the Enquiry Officer. The Enquiry Officer while analyzing the evidence, has not been appreciated the contents of my affidavit. The findings of the enquiry must be based on solid proof. The Enquiry Officer simply made his over-delayed findings on the social status of Minister for Revenue, Khyber Pakhtunkhwa which is against the norms of justice.

Under the circumstances, I can only make prayers before the Competent Authority for sympathetic consideration and justice/mercy, please.


(Mir Laiq)
Tehsildar

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(22)

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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
Peshawar dated the 17/02/2015

NOTIFICATION

No.Estt:I/P.F/Mir Laiq/2757 WHEREAS: Mr. Mir Laiq the then Tehsildar Peshawar (CCB) Peshawar now waiting for posting in Board of Revenue was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the charge sheet dated 26.09.2014.

AND WHEREAS, Mr. Musarrat Hussain Special Secretary (Elementary & Secondary) Education Peshawar was appointed as Inquiry Officer to conduct enquiry against the said officer.

AND WHEREAS, the Inquiry Officer after having examined the charges evidence on record and explanation of the accused officer stand proved.

NOW THEREFORE, the Competent Authority Senior Member Board of Revenue after having considered the charges, evidence on record, explanation of the accused, findings of the Inquiry Officer and exercising his powers under rules -4 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 has been pleased to impose penalty of withholding of two increments for a period of two (2) years upon Mr. Mir Laiq Tehsildar (CCB) waiting for posting in Board of Revenue.


By order of
Senior Member

No.Estt:I/P.F/Mir Laiq/2260-63

Copy is forwarded to:-

1. Accountant General Khyber Pakhtunkhwa.
2. PS to Senior Member, Board of Revenue.
3. Assistant Secretary (Admn) Board of Revenue.
4. Office order file.
5. Official concerned.
6. Personal file.

red
K


Assistant Secretary (Estt:)

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K *(24)* *HK*
BEFORE THE CHIEF SECRETARY GOVERNMENT OF KHYBER
PAKHTUNKHWA PESHAWAR.

Received
24/12/15

Subject: DEPARTMENTAL APPEAL/REPRESENTATION AGAINST THE SENIOR MEMBER, BOARD OF REVENUE ORDER NO.ESTT/1/P.F/MIR LAIQ/2759 DATED 4.2.2015, WHEREBY APPELLANT HAS BEEN GIVEN PENALTY OF WITHHOLDING OF TWO INCREMENTS FOR A PERIOD OF TWO YEARS AGAINST THE NATURAL JUSTICE AND RELEVANT LAWS.

Respected Sir,

1. That the appellant was serving as Tehsildar Peshawar with best of his abilities and to the satisfaction of his superiors.
2. That he was proceeded against under Khyber Pakhtunkhwa Government servant (efficiency & Discipline) Rules 2011 and placed under suspension vide Board of Revenue order No. Estt:I/PF/(Mir Laiq)8818-23, dated 18.4.2014 (Annexure-A).
3. That the appellant was served upon with a charge sheet vide authority order No.Estt:I/PF/Mir Laiq/11234 dated 26.5.2015 (annexure-B)
4. That the charge leveled against the appellant was absolutely false and fabricated and was accordingly denied by appellant vide necessary reply to the charge sheet coupled with evidence produced before the enquiry Officer which has not been accordingly considered judiciously accordingly (Annexure-C).
5. That feeling aggrieved by the impugned order No. ESTT/1/P.F/MIR LIAQ/2759 DATED 4.2.2015, passed by the SMBR KPK the appellant filed the instant appeal/representation on the following grounds”-

GROUND:

- a. That the complaint made by the hon’ble Minister for Revenue was not routed through the District Collector (DC Peshawar) to ascertain District Collector views about my performances and integrity on one hand and veracity of complaint/charge on other hand.
- b. That the Enquiry Officer has not conducted the enquiry judiciously in accordance with the provision of law (Annexure-D)
- c. That the Enquiry Officer has not recorded the statement of the complainant in the presence of appellant/victim to afford chance of cross examination to the appellant.
- d. That the enquiry was badly over delayed without any cogent reason which caused a lot of inconvenience and embarrassed the victim amounting to irreparable loss of career.

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- e. That the evidence collected has not been properly sifted to establish the charge and only counted the statement of the complainant and ignoring the victim reply to the charge sheet and statement on oath.
 - f. That solid corroborated evidence was required to prove the charge which has not been done.
 - g. In view of broad judicial principal of evidence of mis-reading and no-reading of evidence the impugned order is liable to set-aside.

In the light of facts submitted the impugned order No. ESTT/1/P.F/MIR LIAQ/2759 DATED 4.2.2015, passed by the authority/SMBR Revenue & Estate department Khyber Pakhtunkhwa may very kindly be set-aside.

Obediently Yours

(MIR LAIQ)

TEHSILDAR

(Waiting for posting BOR)

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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

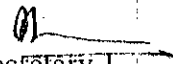
No. Estt: I/PF/Mir Laiq/ 10810
Peshawar dated the 13 /05/2015.

To

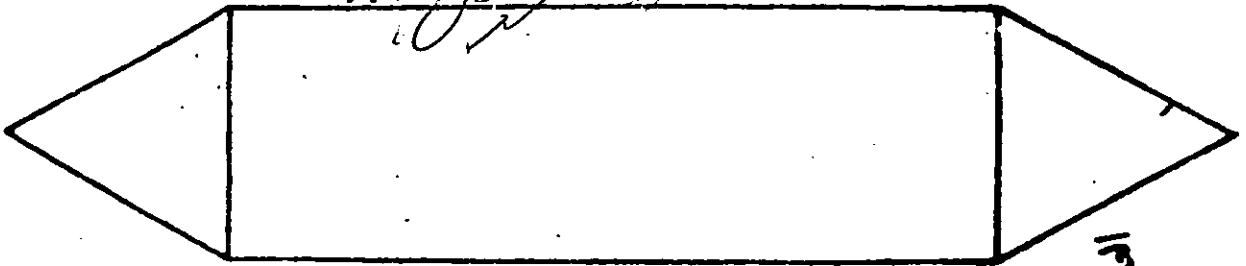
Mr. Mir Laiq,
Tehsildar/Recovery Officer, Khyber Bank,
Peshawar.

SUBJECT: DEPARTMENTAL APPEAL/REPRESENTATION.

Your appeal dated 24.02.2015 has been examined and rejected by the Appellate Authority as no irregularity was found in the Efficiency and Disciplinary proceedings.


Secretary-I

بعدالت سرسری



مورثہ
مقدمہ
دعویٰ
جرم

کے لئے
میں

آگے
بنام

باعث تحریر

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و عمل
کارروائی متعلقہ آن مقام کے لئے کسی بھی صورت میں
مقررہ کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز
دیکل صاحب کو کرنے راضی نامہ و تقررات و فیصلہ برطرف دینے جواب دہی اور اقبالی دعویٰ اور
بصورت و گری کرنے اجراء اور دسولی چیک دروپہ اور عرضی دعویٰ اور درخواست برہم کی تصدیق
ذرا بس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یا کفر یا اپیل کی برآمدگی اور منوعی
نیز دائر کرنے اپنی نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ یا اپنی جگہ تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو یہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ
پیداختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ اتوائے مقدمہ کے سب سے ہوگا۔
اگر کے مستحق دیکل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی دھوا کرنے کا بھی اختیار ہوگا۔ اگر
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو دیکل صاحب پابند نہ ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ذاکالت نامہ لکھ دیا کہ مستند رہے۔

ایک طرف سے

المترجم
ماہ
۱۹۲۵ء

بمقام
Acup
Salam

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 609/2015

Mr. Mir Laiq, Tehsildar Bank of Khyber, Khyber Pakhtunkhwa, State Life Building, 5th Floor,
PeshawarAppellant

VERSUS

Senior Member, Board of Revenue and others.Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2 ARE AS UNDER:-

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That appellant is estopped by his own conduct to institute the appeal.
3. That the appeal is not maintainable in its present form.
4. The appellant has no grounds in support of his appeal and no cause of action.

RESPECTFULLY SHEWETH.

ON FACTS.

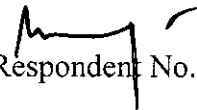
- 1 Incorrect. The appellant was surrendered to Board of Revenue on the basis of complaint from Minister for Revenue.
- 2 Correct to the extent that on the basis of complaint from Minister for Revenue a charge sheet was served upon the appellant.
- 3 Pertains to record.
- 4 Correct to the extent that the appellant as well as Minister for Revenue filed their replies before the Inquiry Officer.
- 5 Correct to the extent that show cause notice was served upon the appellant.
- 6 Incorrect. Minor penalty of stoppage of two increments was imposed upon the appellant upon the recommendations of Inquiry Officer.
- 7 The Departmental appeal has rightly been rejected by Competent Authority.
- 8 The appeal of the appellant is not maintainable.

ON GROUNDS

- A. Incorrect. Penalty was imposed upon the appellant under the provision of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.
- B. Incorrect. Penalty was imposed upon the appellant on the basis of recommendations of the Inquiry Officer.
- C. Incorrect. As in Para-B above.
- D. Incorrect. All the proceedings have been carried out according to Rules.

- E. Incorrect. The Inquiry Officer has rightly recommended imposition of minor penalty upon the appellant.
- F. Incorrect. Proper show cause notice was served and chance of hearing was awarded to the appellant.
- G. Incorrect. The appellant was rightly charge sheeted by the respondent Department under the provision of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.
- H. Incorrect. Charge was proved against the appellant as per report of Inquiry Officer, on the basis of which minor penalty was imposed upon the appellant.

Keeping in view of the above, the appeal may please be dismissed with costs.


Respondent No. 1& 2

9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 609/ 2015

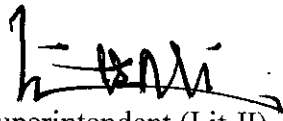
Mr.Mir Liaq, Tehsildar Bank of Khyber, Khyber Pakhtunkhwa, State Life Building 5th
floor Peshawar..... Appellant

VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa & OthersRespondents

AFFIDAVIT

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


Superintendent (Lit-II)
Board of Revenue

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:
Service Appeal No. 609 / of 2015

Mir Laiq Tehsildar Bank of Khyber... .. Appellant

VERSUS

Govt of KPK through Chief Secretary & others. ... Respondents

REJOINDER ON BEHALF OF THE APPELLANT.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

All the Preliminary Objections as raised are wrong, hence denied. The appeal is well within time, no question of estoppel and maintainability or cause of action could be raised against the appellant.

ON FACTS:

1. Wrong and denied. The allegations levelled in the complaint of Minister of Revenue were void and baseless, nothing has been proved against the appellant and no proper inquiry proceedings as prescribed under the rules have ever been initiated against the appellant.
2. Admitted correct, hence needs no reply.
3. Needs no reply.
4. Admitted correct, however, there was no force in the reply of the Minister which he has filed before the Inquiry Officer nor the appellant was ever allowed to cross examine the Minister as well as the other witnesses who were produced against the appellant.
5. Admitted correct, hence needs no reply.

6. Wrong and denied. The appellant was punished without any fault at his part merely to please the Minister of Revenue, as nothing has been proved against the appellant during the so called inquiry proceedings.
7. Wrong and denied. The rejection of appeal of the appellant is baseless and without any force.
8. Wrong and denied. Appeal of the appellant is maintainable.

GROUND:


- a. Wrong and denied. The penalty upon the appellant was imposed illegally and unlawfully without any ground or proof against the appellant just to please the relevant Minister.
- b. Wrong and denied. The Inquiry Officer has conducted the inquiry in a summary manner without going into the detail of the case and without allowing the appellant to cross examine the witnesses, as no witness whatsoever has been produced before the Inquiry Officer, however, the Inquiry Officer was merely pressed by the post or personality of the Minister, hence he could not do anything against the will of the Minister.
- c. Needs no comments.
- d. Wrong and denied. No rules/regulations whatsoever were filed by the Inquiry Officer.
- e. Wrong and denied. The Inquiry Officer has wrongly recommended the imposition of the penalty upon the appellant, as no witness whatsoever has been produced against the appellant and he has been punished unheard.
- f. Wrong and denied. In the Show Cause Notice baseless and frivolous allegations were levelled against the appellant which has never been proved.
- g. Wrong and denied.

- h. Wrong and denied. Nothing has been proved against the appellant. No witness whatsoever was produced against the appellant nor the appellant has been given any chance of hearing, hence the whole process is merely a nullity and illegality in the eyes of law.


It is, therefore, most humbly prayed that on acceptance of this Rejoinder appeal of the appellant may please be accepted as prayed for.

Appellant

Through:


(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan
B-17, Haroon Mansion
Khyber Bazar, Peshawar
Cell # 0300-5845943

And


(Mian Tajammal Shah)
Barrister, Peshawar.

Dated: 30.12.2016

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No: 609 / of 2015

Mir Laiq Tehsildar Bank of Khyber... .. Appellant

VERSUS

Govt of KPK through Chief Secretary & others... .. Respondents


AFFIDAVIT

I, Mir Laiq Tehsildar Bank of Khyber, Khyber Pakhtunkhwa, 5th Floor, State Life Building Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.

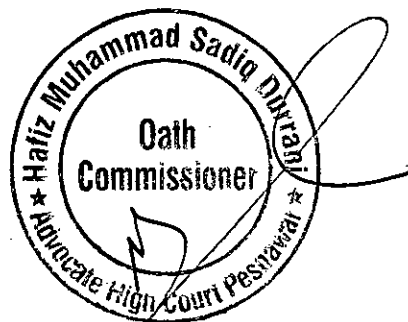
Deponent

30 DEC 2016

IDENTIFIED BY:


(Ghulam Nabi Khan)
Advocate, Peshawar.

ATTESTED



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2645 /ST

Dated 11 /12/2017


To

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

Subject: **JUDGEMENT/ ORDER IN APPEAL NO. 609/15, MR. MIR LAIQ.**

I am directed to forward herewith a certified copy of Judgment/order dated 05/12/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.