

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

**SERVICE APPEAL NO. 594/2015**

Date of institution ... 03.06.2015

Date of judgment ... 09.09.2016

Javed Iqbal, Ex-Junior Clerk Officer of the Additional Assistant Commissioner,  
Mardan resident of Majeed Abad Mardan.

... (Appellant)

**VERSUS**

1. The Secretary, Revenue Department, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner, Mardan.
3. The Commissioner, Mardan.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974, AGAINST THE ORDER OF THE DEPUTY  
COMMISSIONER/RESPONDENT NO.2, CONTAINED IN LETTER NO.  
704-09/DC(M)PS/EA-20 DATED 25.03.2015, WHEREBY APPELLANT IS  
DISMISSED FROM SERVICE ON DISCIPLINARY GROUNDS.

Mr. Ijaz Anwar, Advocate.

.. For appellant.

Mr. Muhammad Jan, Government Pleader

.. For respondents

MR. MUHAMAMD AAMIR NAZIR

.. MEMBER (JUDICIAL)

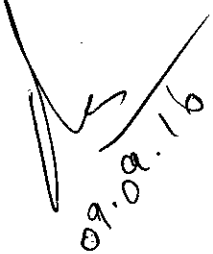
MR. PIR BAKHSH SHAH

.. MEMBER (JUDICIAL)

**JUDGMENT**

MUHAMMAD AAMIR NAZIR, MEMBER: Javed Iqbal, Ex-Junior Clerk Officer of  
the Additional Assistant Commissioner, Mardan R/o Majeed Abad Mardan hereinafter called  
the appellant, through instant appeal under Section 4 of Khyber Pakhtunkhwa Service Tribunal  
Act, 1974 has impugned order dated 25.03.2015 vide which the appellant was dismissed from  
service. Against the impugned order appellant filed departmental appeal which was also turned  
down vide order dated 18.05.2015.

2. Briefly stated facts as per averments of the appeal are that the appellant was appointed  
as Junior Clerk in the establishment of the Deputy Commissioner Mardan in the year 1980.  
That during his service the appellant was dismissed from service vide impugned order dated

  
09.09.16

25.03.2015 without issuance of any charge sheet and statement of allegations. That no show cause notice was issued before the imposition of the major penalty upon the appellant. That against the impugned order referred above, appellant filed departmental appeal but the same was rejected by the Departmental Authority vide order dated 18.05.2015, hence the instant appeal.

3. We have heard arguments of learned counsel for the appellant and learned Government Pleader for the respondents and have gone through the record available on file.

4. Learned counsel for the appellant argued before the court that the appellant was penalized and dismissed from service but neither any charge sheet nor statement of allegations were issued to him before imposing major penalty. That no enquiry what-so-ever was conducted and the Competent Authority without any justification and without adopting codal formalities dismissed the appellant from service vide impugned order dated 25.03.2015. That since the impugned order is defective, therefore, by acceptance of the instant appeal the impugned order be set aside and the appellant be reinstated into service with all back benefits.

5. The learned Government Pleader on the contrary argued before the court that the appellant was involved in misconduct and was rightly awarded major penalty. That the fact finding enquiry was conducted wherein responsibility was fixed upon the appellant, hence the competent authority has rightly awarded major punishment to the appellant. That the instant appeal being devoid of any merits may be dismissed.

6. Perusal of the case file reveals that the appellant while serving as Junior Clerk was dismissed from service by respondent No.2 vide impugned order dated 25.03.2015. It is evident from the record that neither any charge sheet was issued to the appellant nor statement of allegation was serve upon him. Similar, no regular enquiry what-so-ever was conducted and the appellant was deprived of putting his defense in respect of the allegations leveled against him which is clear violation of law on the subject and also against the basic principle of fair

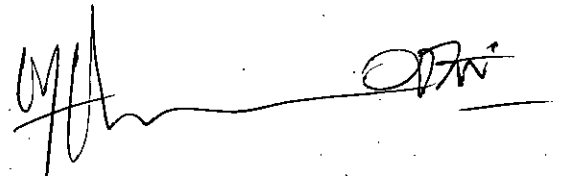
As  
09.09.16

trial as enshrined in the Constitution of Islamic Republic of Pakistan. Since the appellant was condemned unheard, hence we are inclined to accept the instant appeal, set aside the impugned order of dismissal and reinstate the appellant into service with the directions to conduct *de-novo* enquiry against the appellant by providing him full opportunity of defense and there-after the Competent Authority is at liberty to pass any appropriate order in light of the enquiry report. The issue of back benefits be decided by the respondents subject to outcome of the *de-novo* enquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
09.09.2016



(PIR BAKHSH SHAH)  
MEMBER



(MUHAMMAD AAMIR NAZIR)  
MEMBER

09.09.2016


Counsels for the appellant and Mr. Muhammad Jan, GP for respondents present.

Vide our detailed judgment of today consists of three pages placed on file, since the appellant was condemned unheard, hence we are inclined to accept the instant appeal, set aside the impugned order of dismissal and reinstate the appellant into service with the directions to conduct de-novo enquiry against the appellant by providing him full opportunity of defense and thereafter the Competent Authority is at liberty to pass any appropriate order in light of the enquiry report. The issue of back benefits be decided by the respondents subject to outcome of the de-novo enquiry. Parties are, however, left to bear their own costs. File be consigned to the record.

Announced  
09.09.2016



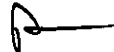
(PIR BAKHSH SHAH)  
MEMBER



(MUHAMMAD AAMIR NAZIR)  
MEMBER

20.04.2016


Appellant in person and Asstt: AG for the respondents present. Rejoinder submitted on behalf the appellant copy of which is placed on file. To come up for arguments on 28.06.2016.

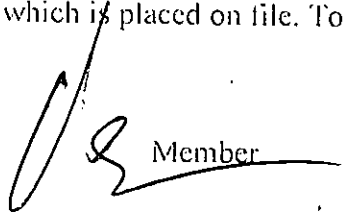
  
Member

  
Member

28.06.2016


Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 5.8.2016.

  
Member

  
Member

05.08.2016

Counsel for the appellant (Mr. Muhammad Adam Khan, Advocate) and Addl: AG for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 09.09.2016.

  
Member

  
Member

4

25.06.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was serving as Junior Clerk when dismissed from service vide impugned order dated 25.3.2015 on the allegations of tampering with the stamp vender register regarding which he preferred departmental appeal on 28.3.2015 which was rejected on 18.5.2015 and hence the instant service appeal on 3.6.2015.

That no charge sheet or show cause notice or any opportunity of hearing was afforded to the appellant in the prescribed manners.

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.

Appellate Bench  
25.06.2015

  
Chairman

30.09.2015

Mr. Pervaz Khan, attorney for the appellant and Mr. Gohar Khan, AC alongwith Addl: A.G for respondents present. Written reply submitted by respondents No. 2 and 3 while request for adjournment was made on behalf of respondent No. 1. To come up for written reply/comments on behalf of respondent No. 1 on 2.12.2015 before S.B.

  
Chairman

02.12.2015




Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Addl: A.G for respondents present. Written reply by respondent No. 1 also submitted. Written reply on behalf of respondents No. 2 and 3 have already submitted. The appeal is assigned to D.B for rejoinder and final hearing for 20.4.2016.

  
Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No. 594/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03.06.2015	<p>The appeal of Mr. Javed Iqbal presented today by Mr. Muhammad Adam Khan 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>9-6-2015</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 THE SERVICE TRIBUNAL PESHAWAR

Appeal No. 594 /2015

Javed Iqbal Ex-Junior Clerk Office of the Additional Assistant Commissioner,  
Mardan resident of Majeed Abad Mardan .....(Appellant)

## VERSUS

1. The Secretary, Revenue Department Khyber Pakhtunkhwa Peshawar.
2. The Deputy Commissioner, Mardan.
3. The Commissioner, Mardan .....(Respondents)

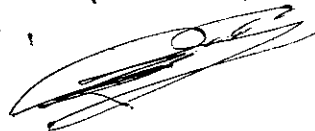
## INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE NO.	PAGE NO.S
1	Memo of Appeal <i>of affidavit</i>	-	1 - 3
<del>2</del>	<del>Affidavit</del>		
2	Impugned order	"A"	4 -
3	Representation	"B"	5 - 7
4	Appellate Order	"C"	8 - 9
5	Wakalat Nama		10 -

Total 10

Dated: 03/06/2015

APPELLANT  
(JAVED IQBAL)



Through;



Muhammad Adam Khan  
Advocate Mardan



# BEFORE THE SERVICE TRIBUNAL PESHAWAR

Appeal No. 594 /2015

Javed Iqbal Ex-Junior Clerk Office of the Additional Assistant Commissioner,  
Mardan resident of Majeed Abad Mardan .....(Appellant)

## VERSUS

A.W.F. Province  
Service Tribunal  
Diary No. 634  
Dated 03-6-2015

1. The Secretary, Revenue Department Khyber Pakhtunkhwa Peshawar.
2. The Deputy Commissioner, Mardan.
3. The Commissioner, Mardan .....(Respondents)

-----  
Appeal Under Section-4 of the Service Tribunal Act, 1974 Against the order of the Deputy Commissioner/Respondent No.2, contained in letter No.704-09/DC(M)/PS/EA-20 dated 25-03-2015, whereby Appellant is dismissed from Service on disciplinary grounds.

1. That the Appellant was appointed as Junior Clerk in the establishment of the Deputy Commissioner Mardan/Respondent No.2 on 19-09-1980.
2. That respondent No.2 dismissed the appellant from service on disciplinary grounds vide letter No.704-09/DC(M)/PS/EA-20 dated 25-03-2015. (Copy Annexure A).
3. That appellant represented there-against before the Commissioner/ Respondent No.3 vide Department appeal dated 28-03-2015. (Copy Annexure "B").
4. That the department appeal was dismissed on 18-05-2015. (Copy Annexure "C").

## GROUNDS

The impugned order is liable to be set-aside on the following amongst any other grounds:-

- i. That the impugned order is against the law and facts.

- ii. That the material fact is not taken into consideration at any stage that the appellant is innocent and that his indulgence in the alleged offence is not proved.
- iii. That charge-sheet and statement of allegations is neither drawn nor served upon the appellant. Hence, the impugned order is void and liable to be set-aside.
- iv. That the appellant has not indulged himself in the commission of the alleged offence. He is falsely implicated there-in.
- v. That the respondent No.3 vide order dated 18-05-2015 (Copy Annexure "C" here above) has illegally shifted the onus of proof to the shoulders of appellant and the material fact was kept out of consideration that the ~~onus~~ <sup>onus</sup> of proof lies on the department to prove the indulgence of the civil servant in the commission of an offence.
- vi. That the indulgence of appellant in the commission of alleged offence is no-where proved.
- vii. That the impugned orders are based on presumptions and conjectures.
- viii. That the findings of the Inquiry Officer against the appellant, if any, has no legal force as the whole of the proceedings are illegal and void.
- ix. That the long standing service records of the appellant prevailing over a long period of 34/35 years is clean and unblemished throughout.
- x. That the impugned order, as well as, the appellant order are summary in nature. The impugned dismissal order is no-where justified by the respondents No.2 & 3.
- xi. That the appellant is condemned unheard throughout.
- xii. That no witness, supporting the allegations and to prove the indulgence of appellant in the alleged offence (if any) was ever examined in presence of appellant.
- xiii. That the testimony of a witness, not subjected to the test of cross-examination has no force in the eyes of law.
- xiv. That the whole of the proceedings, to the extent of appellant, are carried out in violation to the relevant disciplinary rules.
- xv. That the appellant has been jobless throughout after his dismissal from service. Hence, on re-instatement into service, appellant is entitled to the grant of back service and financial benefits throughout.

It is prayed that on acceptance of this appeal, the impugned order may be set-aside & the appellant to be ordered to be re-instated into service with all back service and financial benefits, with costs of this appeal.

Dated: 03 /06/2015

APPELLANT  
(JAVED IQBAL)



Through;



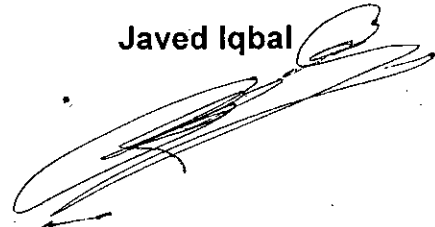
Muhammad Adam Khan  
Advocate Mardan

**AFFIDAVIT**

I, Javed Iqbal S/O Zarif Khan Bijlighar Mardan, the petitioner ~~and special~~ ~~attorney~~ do hereby state, on solemn affirmation that the contents of above revision petition are true and correct to the best of my knowledge and belief and that nothing is concealed in this respect.

Deponent

Javed Iqbal



ATTESTED  
MUSLIM KHAN  
Advocate  
Not a Public Notary  
Dated 03 / 06

2015

OFFICE OF THE  
DEPUTY COMMISSIONER MARDAN.

Accrued  
Attested

NO. 704-09 /DCO(M)/PS/EA-20

Dated Mardan the 25/3 /2015

OFFICE ORDER.

Whereas, one Mr. Sahibur Rehman r/o Kot Daulatzai had submitted complaint to the Director Anticorruption Establishment, Khyber Pakhtunkhwa Peshawar that the officials posted in General Record Room, Mardan in collusion with Muhammad Amin, Fida Hussain, Muhammad Zamin and Bakhtiar sons of Khushmeer Khan of Mohallah Baba Jumaat, Morcha Koruna Kot Daulatzai (Civilian) attempted illegally and made changes in the Stamp Vender Register in General Record Room, Mardan causing huge losses to him.

And whereas, the Director, Anticorruption Peshawar sent the complaint to this office for conducting departmental enquiry in the matter and to take disciplinary action against the accused officials.

And whereas, proper departmental enquiries were initiated to fix responsibility upon the officials involved. The Enquiry Officer has recommended Major Penalty upon Javed Iqbal, Junior Clerk, o/o AAC-V, Mardan, being proved guilty.

And whereas, the above accused official was awarded full opportunity of his defence but he could not prove himself innocent.

Now therefore, I Shahidullah, Deputy Commissioner, Mardan, being the Competent Authority do hereby impose Major Penalty upon Javed Iqbal, Junior Clerk, o/o AAC-V, Mardan, and dismiss him from Govt. service as defined in Efficiency & Disciplinary Rules, 2011.

  
Deputy Commissioner  
Mardan.

No and date even.

Copy forwarded to:

- 1 The Assistant Director, Anticorruption Establishment Khyber Pakhtunkhwa Peshawar for information.
- 2 The District Comptroller of Accounts Mardan.
- 3 The AAC- V, Mardan.
- 4 The Accounts Officer, Deputy Commissioner's Office, Mardan.
- 5 P.S. to Deputy Commissioner, Mardan.
- 6 Javid Iqbal, Junior Clerk, office of the AAC-V, Mardan.

  
Deputy Commissioner  
Mardan.

جہاد اقبال جونیئر کلرک آف آئی اے سی وی ماردان  
18/05/15 30/03/15



**Before The Commissioner Mardan**

Page - 5

Annexure - B

Javed Iqbal, Junior Clerk O/o AAC-V Mardan .....Appellant

Athar  
Attested

V/s

Deputy Commissioner  
Mardan.....Respondents

**Subject:-Appeal against order dated 25/03/2015, wherein  
appellant has been dismissed from service which is  
illegal, against law and facts.**

**Prayer:-**

On acceptance of this appeal, order dated 25/03/2015 may please be set aside and appellant may please be re-instated in service with all back benefits.

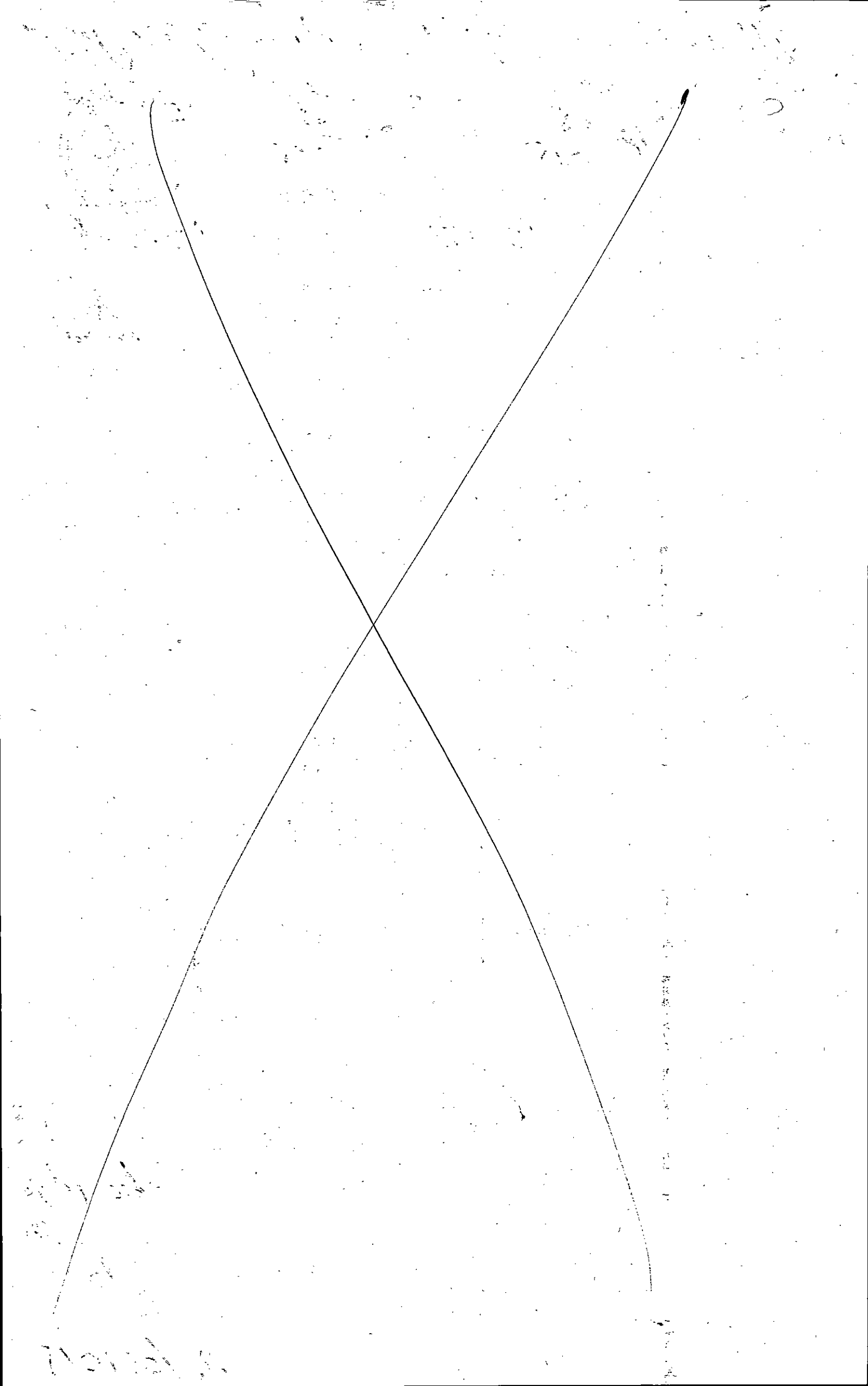
Sir,

**Appellant humbly submits as under**

1. That appellant is appointed as Junior Clerk in the office of Deputy Commissioner Mardan vide order dated ~~19-9-1980~~
2. That appellant served to the entire satisfaction of his superiors and there was no complaint against appellant prior to instant one.
3. That there is not even a minor penalty of censure in his entire service career.
4. That Mst. Bakht Jamala, Bibi W/o Sahib ur Rehman filed a civil suit which is decreed in her favour vide judgment/decreed dated 09/04/2014 and appeal is dismissed vide order dated 07/02/2015 by A.D.J Mardan. (Copy of judgment / decree dated 09/04/2014 is Annex: "A"; order dated 07/02/2015 by A.D.J Mardan is Annex: "B").
5. That complainant filed complaint against Athar Rahim, wherein general allegations are mentioned. (Copy of complaint is Annex: "C").

see page  
No 2

28/05/15

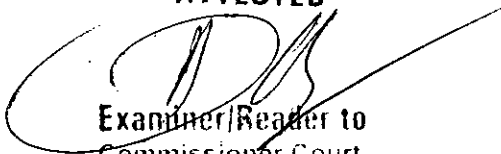


- (6) (2) (2)
6. That the Anti Corruption department initiated inquiry but nothing came to surface against appellant and appellant is not proved guilty. (Copy of Anti Corruption proceedings is Annex "D").
  7. That vide inquiry report dated 10/09/2014, only warning is recommended against appellant. (Copy of inquiry report dated 10/09/2014 is Annex: "E").
  8. That complaint was filed in Anti Corruption by Sahib ur Rehman. (Copy of complaint is Annex: "F").
  9. That vide inquiry report dated 04/03/2015 appellant is recommended for major penalty. (Copy of inquiry report/proceedings are Annex: "G").
  10. That appellant is dismissed from service vide order dated 25/03/2015. (Copy of order dated 25/03/2015 is Annex: "H").
  11. That impugned order dated 25/03/2015 is illegal, against law and facts on following grounds.

GROUND:

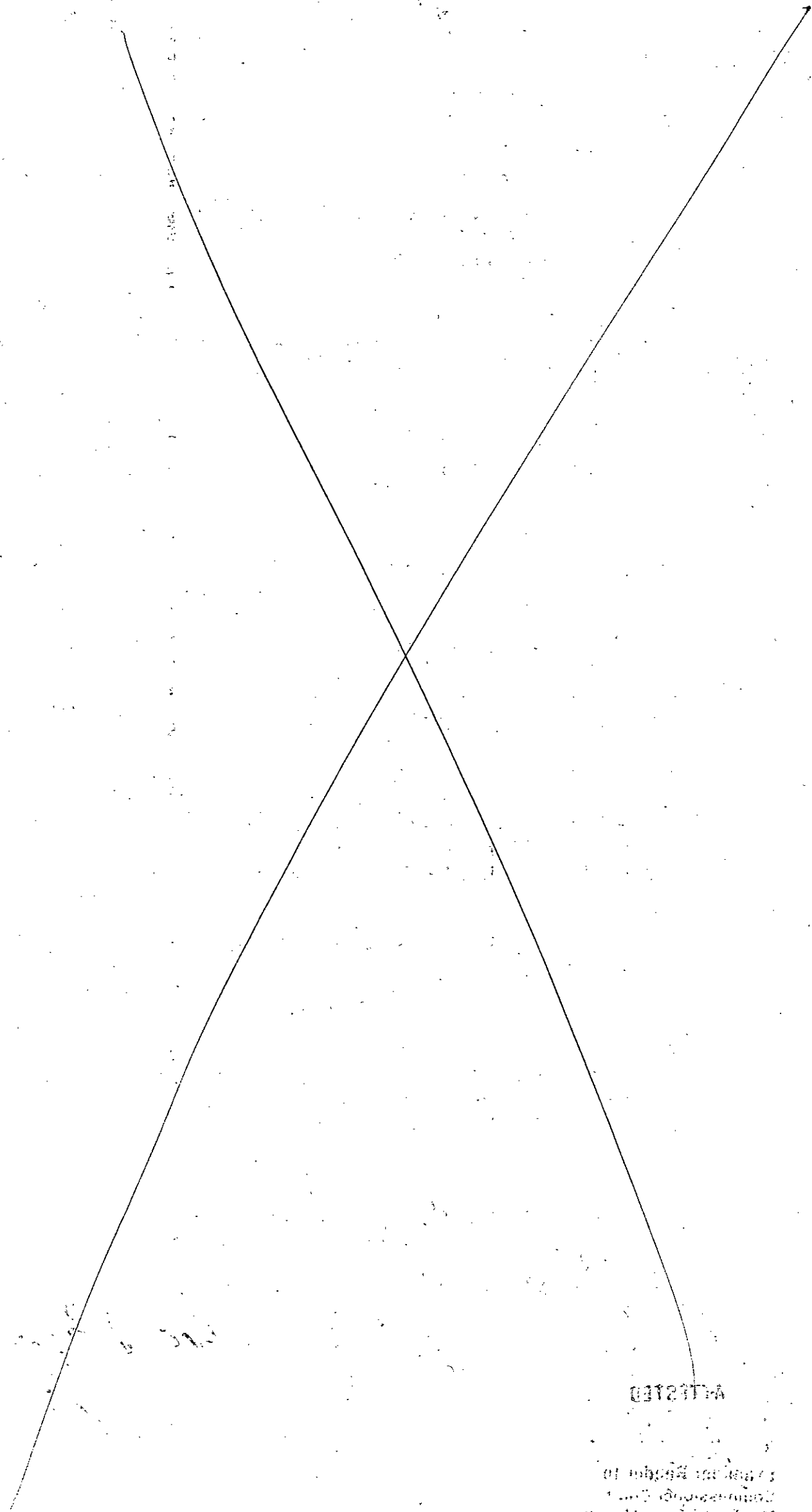
- A. Because appellant has neither been served with any charge sheet, nor statement of allegation, nor inquiry proceedings, nor any statement recorded in presence of appellant, nor any opportunity of cross-examination given to appellant.
- B. Because appellant has not been given any show cause notice regarding proposed penalty.
- C. Because as per E & D rules, charge sheet/ statement of allegation, show cause notice inquiry and right of cross examination is mandatory which have been violated, thus the order based on such proceedings is nullity in eye of law and void.
- D. Because appellant has been condemned unheard which is sine qua non in our judicial system being cardinal principle of natural justice.
- E. Because appellant is innocent and falsely charged. See Page 12

ATTESTED

  
Examiner/Reader to  
Commissioner Court  
Mardan Division Mardan

28/05/2015

23  
28/05/2015



ATTESTED

Notary Public for the State of  
California  
My Commission Expires

2015



F. Because no specific allegation is available against appellant.

G. Because there is no evidence to the effect that appellant has tampered the register. (Copy of register is Annex: "I").

H. Because there is no evidence even to the effect that during who's tenure any tampering has been caused.

I. Because there is no logic as to why appellant will tamper the record and for who's benefit. As the inquiry officer also failed to unearth as to who is beneficiary.


J. Because in disciplinary proceedings, the charge must be specific, but no specific charge is proved against appellant.

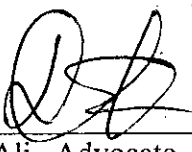
K. Because impugned order is without cogent reason which is violation of 3<sup>rd</sup> maxim of natural justice.

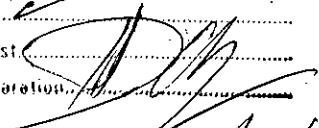
L. Because no tempering is visible.

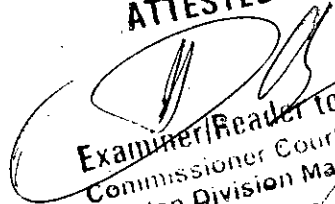
It is, therefore, humbly requested that order dated 25/03/2015 may please be set aside and appellant may please be re-instated in service with all back benefits.

Dated 28/03/2015

Appellant   
Javed Iqbal, Junior Clerk

Through Counsel,   
Amjad Ali Advocate, Supreme Court at Distt: Courts Mardan.

No. 44  
Date of Application 22/5/2015  
Name of Applicant Javed Iqbal  
Wards 1200 Fee 100  
Urgent Fee  
Sign of Copyist   
Date of Preparation 28/05/2015

ATTESTED  
  
Examiner/Reader to  
Commissioner Court  
Mardan Division Mardan  
28/05/2015

Handwritten notes at the top of the page, including a signature and some illegible text.

18 05 / 015  
30 03 / 015  
Page- (8)



Annexure C

**IN THE COURT OF COMMISSIONER MARDAN DIVISION, MARDAN.**

Javed Iqbal Junior Clerk

Appellants

Attested

Versus

Deputy Commissioner/District Collector Mardan

Respondent

Case No.....  
Dated of institution: 30/03/2015  
Dated of Decision: 18/05/2015

**APPEAL AGAINST THE ORDER/JUDGEMENT DATED 25/03/2015  
WHEREIN APPELLANT HAS BEEN DISMISSED FROM SERVICE.**

**ORDER:-**

Brief facts of the case are that the appellant was appointed as Junior clerk in the office of Deputy Commissioner Mardan vide order dated 19/09/1980 and the appellant served to the entire satisfaction of his superiors and there was no complaint against the appellant prior to instant one. On 24/10/2013, one Sahib Rehman son of Khan Mir containing allegation of corruption and illegal charging/alteration in a stamp vender register by the concerned official of General Record Room and copy branch Mardan, submitted to Director Anti Corruption Khyber Pakhtunkhwa Peshawar. The Director Anti Corruption Khyber Pakhtunkhwa Peshawar after investigation and recommendation of the field staff has referred the case the Deputy Commissioner Mardan for departmental action against the concerned staffs.

The Deputy Commissioner Mardan appointed an enquiry officer Mr. Gohar Ali Addl: Assistant Commissioner Mardan to inquire in to the matter and submit report. The inquiry officer after conducting the detail enquiry, submitted detail report to the Deputy Commissioner Mardan with the opinion that Ather Rahim ex-moharrir GRR is guilty of the allegations and recommended Drastic action against him. After this inquiry an FIR was also registered by the Anti Corruption Department in the matter against one Shamas Gul Record Keeper GRR and one Ather Rehman ex-moharrir GRR Mardan and five others/beneficiaries of the tempering meanwhile a 2<sup>nd</sup> inquiry also conducted by the Addl: Assistant Commissioner-I Mardan on 10/09/2014 and all 7/8 officials of GRR Mardan recommended strongly warned to be most care full in future.

On 16/01/2015 3<sup>rd</sup> inquiry officer was appointed in the matter for conducting inquiry against the GRR Mardan officials. After the inquiring in the matter Ubaid Ullah Khan Addl: Assistant Commissioner-VII, Mardan submitted detail report with the recommendation that GRR officials Ather Rahim is proved to be guilty of mishandling the official record in GRR branch during his long tenure of posting there. Further stated in the inquiry report that other 2 official namely Javed Iqbal and Mushtaq Ahmad Junior clerks also failed to proof their innocence and

Contd....P/2

See Page No

2

28/05/2015

recommended major penalty under E&D rules 2011 against them. Consequently the Deputy Commissioner Mardan in the light of inquiry report imposed major penalty upon Javed Iqbal Junior Clerk and dismissed him from Govt Service on 25/03/2015 vide office order No.704-09/DC (M)/PS/EA-20. Aggrieved with the order Javed Iqbal ex-junior clerk come to this court in appeal.

Appellant present and submitted written arguments placed on file.

From the perusal of available record and drawing wisdom from the arguments it reveals that the order has been passed in the light of detail inquiry report conducted by the Addl: Assistant Commissioner-V Mardan. No illegality or miscarriage of justice has been committed by him. Counsel for the appellant could not point out any cogent and solid reasons to interfere with the impugned order. Hence upheld and the appeal in h and being without any substance is hereby dismissed. No order as to costs.

File be consigned to record room after necessary completion.

**Announced.**  
**18/05/2015**

*[Signature]*  
**Commissioner**  
**Mardan Division Mardan**



No. 441 Date of Application 22/05/05  
Name of Applicant Javed Iqbal  
Wards 800 Fee 82  
Urgent Fee —  
Sign of Copyist [Signature]  
Date of Preparation 28/05/05

**ATTESTED**  
*[Signature]*  
**Examiner/Reader to**  
**Commissioner Court**  
**Mardan Division Mardan**  
28/05/05

**VAKALAT NAMA**

In the Court of Service Tribunal Peshawar.

Service Appeal No. \_\_\_\_\_ of 20/15

Taved Iqbal

(Petitioner)  
(Plaintiff)  
(Appellant)

**VERSUS**

The Secretary & others.

(Respondent)  
(Defendant)

I/we Taved Iqbal the  
above noted Appellant do  
hereby appoint and constitute **Muhammad Adam Khan, Advocate Mardan** as  
Counsel in subject proceedings and authorize him to appear, plead etc., compromise, withdraw or  
refer to arbitration for me/us, as my/our Advocate in the above noted matter, without any liability  
for his default and with the authority to engage/appoint any other Advocate/Counsel at my/our  
behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated: 03.06.2015

**N.W.F.P. Bar Council**

**ADVOCATE**  
High Court

**ADAM KHAN**

No. 6C-09-600

*A. Jahan*  
Secretary's Signature

Father's Name: **BAOSHAN GUL**  
Address: **VILL GOJAR GARHI DISTRICT MARDAN**  
Office Tel: **0931-63013** Res Tel: **0931-63450**  
Enrolment Date L.C.: **03/08/1978**  
Enrolment Date H.C.: **31/05/1990**  
Place of Practice: **MARDAN**  
Date of Birth: **04/04/1945**  
Blood Group: **AB+VE**  
N.I.C.No.: **16102-4612619-5**

**N.W.F.P. BAR COUNCIL**  
Khanjari Market, Soekarno Square, Peshawar, Phone: 091-252245

(Signature of Client)

Accepted  
**Muhammad  
ADAM KHAN**  
B.A. LLB Advocate  
HIGH COURT MARDAN

①

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

Service Appeal No. 594/2015

**Javid Iqbal Ex-Junior Clerk Office of The AAC Mardan resident of Majeed Abad Mardan.**

**(Appellant)**

**VERSUS**

1. **The Secretary, Revenue Department Khyber Pakhtunkhwa Peshawar.**
2. **The Deputy Commissioner, Mardan.**
3. **The Commissioner Mardan Division Mardan**

**(Respondents)**

Joint Para-wise comments reply on be-half of Respondents No. 2 & 3 is submitted as under:-

**PRELIMINARY OBJECTIONS:-**

1. Appellant has got no cause of action.
2. This Honorable Tribunal has got no jurisdiction to entertain the present appeal.
3. The appellant has not come with clean hands to this honorable Tribunal.

**FACTS**


1. Para No.1 needs no comments
2. Para No. 2 is pertains to record, hence admitted as correct.
3. Para No. 3 is correct.
4. Para No. 4 need no comments.

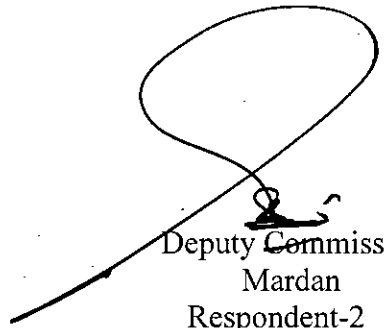
**GROUND**

- I. Para No. 1 is in-correct, proper inquiry has been conducted against the appellant, in light of which he has been dismissed under the relevant rules/regulation.
- II. Incorrect. According to the appellant the enquiry proceedings, the enquiry officer recommended, for major penalty on the appellant.
- III. The Competent Authority agreed with recommendation of Enquiry Officer and this is his competency to take action inlight of Enquiry Officer finding/recommendation with out giving charge sheet etc
- IV. As replied at Para NO III above.
- V. Incorrect. The Enquiry Officer recorded their statements and fulfilled all legal formalities under the rules (copy of Enquiry Report is attached as Annex-A)
- VI. Incorrect. As explained in Para-V

- VII. Incorrect. The Enquiry Officer has completed all legal formalities doing his enquiry.
- VIII. Incorrect. As explained in VII
- IX. Incorrect the enquiry report is self explanatory and his guilt has been proved.
- X. No Comments as explained above.
- XI. Incorrect. As explained at Para V
- XII. Incorrect. The appellant has been called upon by the Enquiry Officer during enquiry process and given full chance to explain and defend his case and the appellant has also recorded his statement as Annex-B
- XIII. Incorrect. As explained in Para XII
- XIV. Incorrect. All legal formalities have been fulfilled by the Enquiry Officer and also the Competent Authority before the dismissal of the appellant.
- XV. No. Comments.

In view of the above parawise comments and facts, it is requested that appeal may please be dismissed please.

  
Commissioner  
Mardan Division Mardan  
Respondent -3

  
Deputy Commissioner  
Mardan  
Respondent-2

Anex-A

OFFICE OF THE

3

Addl: Assistant Commissioner-VII

Mardan.

No. 948 Dated. 04/03/15

To The Deputy Commissioner,  
Mardan.

Subject: INQUIRY REPORT GRR BRANCH MARDAN.

With reference to your kind office order No.M-1016/ dated 16-01-2015, I was appointed as inquiry officer for conducting inquiry against GRR officials. An allegation was leveled against them that they have tempered the record into their custody by changing a name from Sahib Ur Rehman to fayaz Ur Rehman. By doing that they not have done dishonesty with their duties but have also caused a major loss to the complainant.

As instructed by worthy deputy commissioner an impartial inquiry was conducted. The matter was thoroughly investigated and all the aspects were taken into account. Stakeholders were called to this office. Charges were framed and their statements were recorded accordingly. The accused officials were given the chance to prove their innocence. The original record was not available because it was taken into custody by the Anti-Corruption department

#### OBSERVATIONS

1. Record not available as it is in the custody of Anti-corruption department.
2. After making a lot of effort this office failed to trace the beneficiary of this particular tempering i.e. Fayaz Rehman.
3. This proves that the tempering was just made to deprive Mr. Sahib Rehman from his right of getting his share in the property left from Roghadan Bibi w/o Khan Meer who has a real relation of son to his mother Roghadan Bibi.
4. Complainant has won civil suits in the court of learned civil judge V and Additional district judge III, Mardan for same property one after other.
5. The only beneficiaries of this tempering are:
  - a. Fida Hussain,
  - b. Muhammad Amin,

- c. Muhammad Zameen,
- d. Bakhtiar, sons of Khushmeer Khan r/o Mohallah, Baba Jumaat, Morcha Koroona, Kot Daulat Zai, District Mardan.
6. During the process of inquiry a name came forward to the inquiry officer i.e. Athar Rahim who was reportedly involved in similar misappropriations and misconduct in recent past and was punished for the same as a result.
7. GRR branch officials were entrusted upon to keep the record safe and in original form so that no discrepancies are done within but they failed to do the same thus showed misconduct and negligence.
8. The bone of contention is a house measuring 16 Marlas of land.

### FACTS FINDINGS

It is evident from the photocopy of the alleged tempered documents written in Urdu, that three dots (nuqtas) were added in the word Sahib and one dot (nuqta) was added on the other side to change it into Fayaz. When posting/transfer record of the officials in GRR checked it was found that from 2008/09 to present following officials performed their duties in GRR branch:

1. Mr. Javed Iqbal, as Moharar from 2008/09 to 18-07-2013.
2. Mr. Noor Said Shah, from 18-07-2013 to 08-01-2014 as Moharar.
3. Mr. Sardar Ali from 16-08-2013 to 05-09-2013 as incharge GRR.
4. Mr. shamas Gul, from 05-09-2013 to present as Incharge GRR.
5. Mr. Athar Rahim, from devolution to 01-01-2013
6. Mr. Mushtaq Ahmad, from devolution to 01-01-2013.

Mr. Athar Rahim and Mr. Mushtaq Ahmed were relieved and repatriated to their parent department i.e. AD Local Govt. on 16-08-2013 for it was believed that they were involved in illegal activities while posted in GRR and were creating problems for general public afterwards.

A fresh application received in this office submitted by a person named Nasir Ali of the same nature and he requested that his application may be included in this inquiry which was accepted after witting. It states that GRR branch official Mr. Athar Rahim deliberately misplaced their file and when they asked for remedy he demanded for bribe. The applicant attached documents for proof with his application. Documents with original documents are attached herewith. The same matter is simultaneously under inquiry in the court of learned Civil Judge V, Mardan.

Javed Iqbal and Mushtaq Ahmed Remained Moharars with Athar rahim For a Long Period and circumstantial evidences indicate that they were there when he was doing all his criminal activities.

Other officials of GRR were posted and then transferred after a short span of time and their service record is also clear.



### Recommendations

Muhammad Amin , Fida Hussain, Muhammad Zameen and Bakhtiar, sons of Khushmeer Khan r/o-mohallah, Baba Jumaat, Morcha Koroona , kot Daulat Zai, tried to misguide the courts of learned ADJ- III and Civil Judge- V by tempering the document and forged a wrong deed to keep their illegal occupation of a house measuring 16 marlas of land. Thus they had a proper cause of action. They did this with the help of GRR officials. By doing this they performed an illegal act, punishable according to the existing laws. It is recommended that FIR be lodged against them. And their case be referred to Anti-corruption department for the lodging FIR.

GRR official Athar Rahim is proved to be guilty of mishandling the official record in GRR branch during his long tenure of posting there. His previous record also supports the current findings. He must be dealt in the same manner as above mentioned civilians and FIR be lodged against him.

Other GRR officials Javed Iqbal, and Mushtaq Ahmed failed to prove their innocence and they also failed to protect the record in GRR during their long tenure of posting, which was their primary responsibility. Their tenure of postings, sequence of events and other circumstantial evidences clearly indicate that; If corruption or illegal activity is not proved against them due to lack of proper concrete evidence, Criminal negligence, ignorance and incompetence is proved. Which make it liable that, stern departmental action be taken against them. Major Penalties under E & D Rules 2011 are recommended against them. Shamas Gul, Noor Said Shah, and other officials be given "Censure" to remain alert and aware of his record being his utmost responsibility as incharge of GRR.  
Report is submitted along with other supporting documents for further necessary action please.

(38 pages)

  
Obaid Ullah Khan,

AAC-VII(Inquiry Officer)

Mardan.

ویدائیہ حرکت De آفس سردان

میر علی بیگ نے کہا کہ میں تقریباً چار یا پنج سال پہلے بلور محلہ، خانہ خانہ  
 تفصیلات تھا۔  $\frac{17}{2013}$  کو جی تو خانہ سردان سے میرا ٹرانسفر بلور  
 محلہ کھنڈیہ سردان ہوا میں اللہ کو حاضر و ناظر مانتے تھا پھر  
 میرا میرا اسکا راجسٹریشن نمبر 538 سے

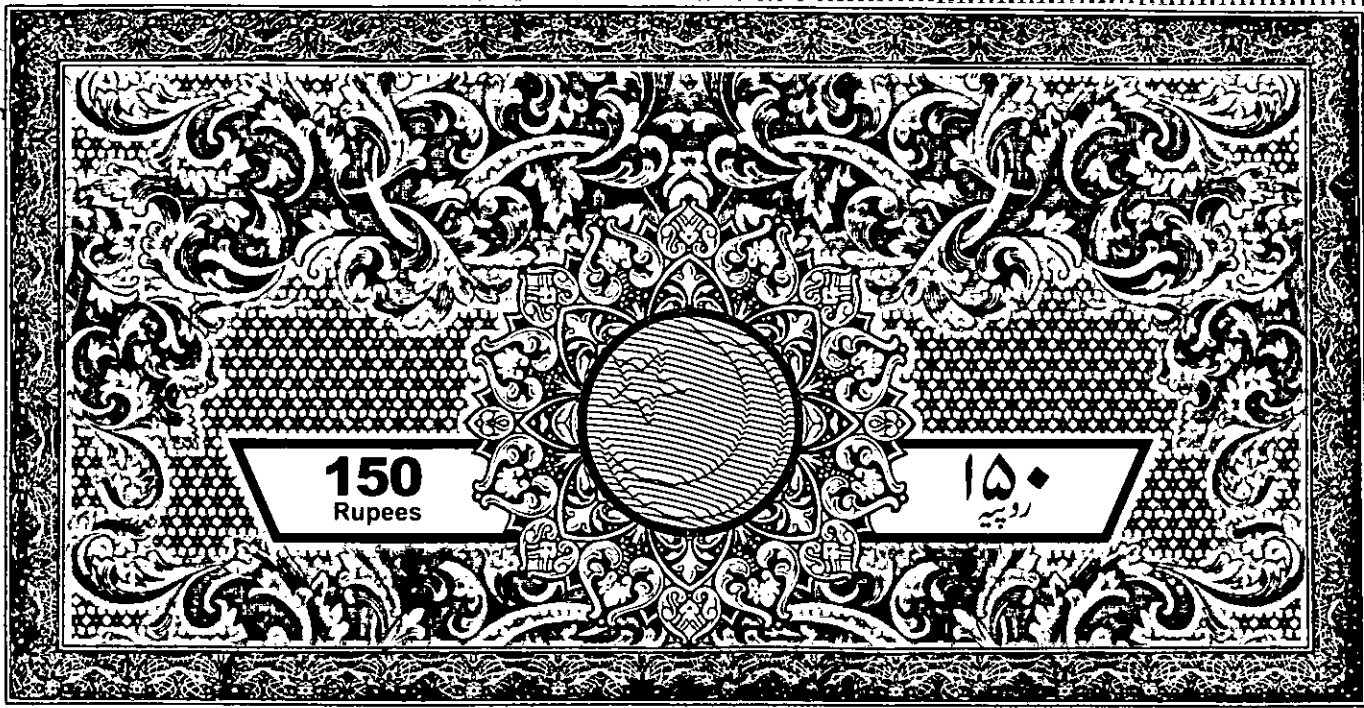
کوئی واسطہ نہ تھا

میں نے ہمیشہ اپنی ڈپٹی ایمپلائمنٹ سے کراخا دیا ہے  
 میں نے خانہ خانہ سردان میں جو وقت گزارا ہے وہ بلور  
 محلہ زیادہ ہے میرا پاس خانہ خانہ سے ذیل وغیرہ عیسائی

سکرٹری جنرل

جاوید انصاری

16/2/2015



150 Rupees

۱۵۰ روپیہ

بعدالت سرویس ڈیپوٹ اور

جاوید اقبال نام حکومت و قمر

دعویٰ اہل

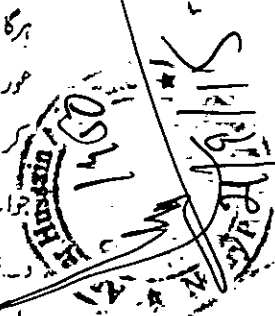
تعارف نامہ

منجانب: جاوید اقبال ولد طرف جان سہی محمد آباد دروان (فریق اول)

بہر ذریعہ: طرف جان سہی محمد آباد دروان (فریق دوم) 13

ہر گاہ کہ مقدمہ عنوان بالا بعدالت حضور انور زیر تجویز ہے۔ اور میں رہائیاں فریق اول بھجوانی رملاز سہی رکارڈ و باری و دیگر معروفیات پر در نشین عورت ذات ہونگی بنا پر مقدمہ بالا کی پیروی اصلاح کرنے سے قاصر ہیں رہوں۔ لہذا اپنی جانب سے فریق دوم مندرجہ بالا کو مختار خاص مقرر کر کے اختیار دیتے ہیں کہ وہ میری رہماری جانب سے مقدمہ بالا کارروائی کرتے ہوئے وکیل مقرر کرے، دعویٰ، جواب دعویٰ، درخواست، جواب درخواست ہائے اور درخواست و جواب درخواست ہائے درمیانی دائرہ کرے اور جواب دہی کرے۔ فہرست گواہان داخل کرے خود شہادت دے۔ اور گواہان برائے شہادت طلب کرے۔ رقم ہرج و مرج داخل وصول کرے۔ چیک و دستخط داخل اور وصول کرے۔ درخواست کیشن اور تقرری اہل کیشن دائرہ کرے۔ ثالث مقرر کرے، صلح و راضی نامہ کرے۔ درخواست اجراء دائرہ کرے اور ایسے درخواست کی جواب دہی کرے۔ اپیل، نگرانی اور نظر ثانی دائرہ کرے اور جواب دہی کرے اپیل درمیانی اور نگرانی درمیانی دائرہ اور جواب دہی کرے اور اس کے لیے وکیل مقرر کرے۔ مقدمہ بالا کی پیروی عدالت حضور میں اور تاعدالت عالیہ و سپریم کورٹ کرے اور اس دوران کل ایسی کارروائی جو مناسب سمجھے عمل کرے۔ مختار خاص موصوف کی کل کارروائی ساختہ و پرداختہ من رہائیاں فریق اول کو پیش خود کردہ منظور قبول ہوگی۔ لہذا مختار نامہ خاص ہذا اسناداً تحریر ہے۔ فقط

مورخہ: 29/05/2015



منو ارخان

۱۱۵۸۶۵۴-۵-۱۶۱۰۱

۱۶۱۰۱-۸۳۱۶۱۲۸-۷

۱۶۱۰۱-۱۲۸۰۴۲۶-۵ گواہ شدہ: ۱۱

محمد اقبال ولد طرف جان سہی

محمد اقبال ولد طرف جان سہی

گواہ شدہ: ۱۶۱۰۱-۷۱۵۲۶۲۴-۳

محمد اقبال ولد طرف جان سہی

محمد اقبال ولد طرف جان سہی

محمد اقبال ولد طرف جان سہی

محمد اقبال ولد طرف جان سہی

Handwritten signature

Handwritten signature

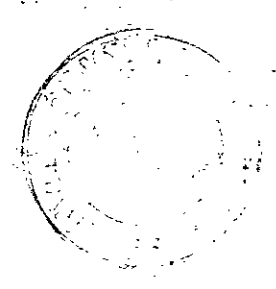
Handwritten signature

مجلس المدینہ منورہ، لاہور۔ 29/5/15

16/10. 83/16/28:2

~~\_\_\_\_\_~~

Power



6

Recd 1270/AAG  
10/10/2015

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

Service Appeal No. 594/2015

**Javid Iqbal Ex-Junior Clerk Office of The AAC Mardan resident of Majeed Abad Mardan.**

**(Appellant)**

**VERSUS**

1. **The Secretary, Revenue Department Khyber Pakhtunkhwa Peshawar.**
2. **The Deputy Commissioner, Mardan.**
3. **The Commissioner Mardan Division Mardan**

**(Respondents)**

Joint Para-wise comments reply on be-half of Respondents No. 2 & 3 is submitted as under:-

**PRELIMINARY OBJECTIONS:-**

1. Appellant has got no cause of action.
2. This Honorable Tribunal has got no jurisdiction to entertain the present appeal.
3. The appellant has not come with clean hands to this honorable Tribunal.

**FACTS**

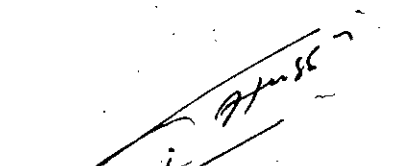
1. Para No.1 needs no comments
2. Para No. 2 is pertains to record, hence admitted as correct.
3. Para No. 3 is correct.
4. Para No. 4 needs no comments.


**GROUND**

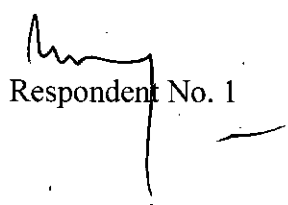
- I. Para No. 1 is in-correct, proper inquiry has been conducted against the appellant, in light of which he has been dismissed under the relevant rules/regulation.
- II. Incorrect. According to the appellant the enquiry proceedings, the enquiry officer recommended, for major penalty on the appellant.
- III. The Competent Authority agreed with recommendation of Enquiry Officer and this is his competency to take action inlight of Enquiry Officer finding/recommendation with out giving charge sheet etc
- IV. As replied at Para NO III above.
- V. Incorrect. The Enquiry Officer recorded their statements and fulfilled all legal formalities under the rules (copy of Enquiry Report is attached as Annex-A)
- VI. Incorrect. As explained in Para-V

- VII. Incorrect. The Enquiry Officer has completed all legal formalities doing his enquiry.
- VIII. Incorrect. As explained in VII
- IX. Incorrect the enquiry report is self explanatory and his guilt has been proved.
- X. No Comments as explained above.
- XI. Incorrect. As explained at Para V
- XII. Incorrect. The appellant has been called upon by the Enquiry Officer during enquiry process and given full chance to explain and defend his case and the appellant has also recorded his statement as Annex-B
- XIII. Incorrect. As explained in Para XII
- XIV. Incorrect. All legal formalities have been fulfilled by the Enquiry Officer and also the Competent Authority before the dismissal of the appellant.
- XV. No. Comments.

In view of the above parawise comments and facts, it is requested that appeal may please be dismissed please.

  
 Commissioner  
 Mardan Division Mardan  
 Respondent -3

  
 Deputy Commissioner  
 Mardan  
 Respondent-2

  
 Respondent No. 1

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 594/ 2015

Javed Iqbal Ex-Junior Clerk o/o AAC Mardan R/O Majid Abad, Mardan

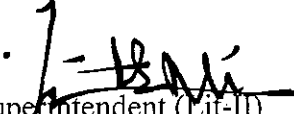
..... Appellant .

VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa & Others ..... Respondents

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

POWER OF ATTORNEY

In the Court of Justice Fazlur Rahman (Green Bench) Peshawar  
Javed Javed

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

The Secretary, Revenue Deptt.  
at S.H.S.

} Defendant  
} Respondent  
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_

Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

at Sajid Amin Admi my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_ the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_

Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-3 24, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt  
Ph.091-5272154 Mobile-0333-9107225

Sajid Amin Admi