

27.12.2017

Counsel for the petitioner present and Addl: AG for the respondents present. Counsel for the petitioner seeks adjournment. Adjourned. To come up for further proceedings on 16.01.2018 before S.B.

*I, am withdrawing in instant petition, and intend to file a fresh appeal against the fresh impugned order 7/2/17.*  
*[Signature]*  
*16/1/18*

16.01.2018

*[Signature]*  
(Gul Zeb Khan)  
Member (E)

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Learned counsel for the petitioner stated at the bar that he want to withdraw the present execution petition and to file a fresh appeal against the fresh impugned order. In this regard signature of learned counsel for the petitioner secured at the margin of order sheet as a token of proof. Accordingly the present execution petition is dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED  
16.01.2018

*[Signature]*  
(Muhammad Amin Khan Kundi)  
Member

28.07.2017

Counsel for the petitioner and Asstt. AG for the respondents present. Learned AAG requested for adjournment as departmental representative has not turned up. Last chance is given. To come up for implementation report on 29.09.2017 before S.B.

  
Chairman

29.09.2017

Learned Assistant Advocate General and representative of respondent department present, seeks adjournment. Adjourned. To come up for 03.11.2017 before S.B.

  
Member  
(Judicial)


03.11.2017

Petitioner with counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Mukhtiar Ali, Assistant Secretary for the respondents also present. implementation report not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for implementation report on 05.12.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

05.12.2017


Clerk of the counsel for appellant present. Mr. Riaz Painsa Khel, Assistant Advocate General alongwith Mukhtiar Khan, Assistant Secretary for the respondents present. Representative of the respondent submitted implementation report which is placed on file. Learned Assistant AG seeks adjournment. Adjourned. To come up for further proceeding on 27.12.2017 before S.B.

  
(Gul Zeb Khan)  
Member (E)

Execution Petition No. 203/16  
M. Nazir vs Govt


05.05.2017

Counsel for the petitioner and Mr. Muhammad Ibrar Assistant, Secretary alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Despite granting last opportunity on the previous date of hearing implementation report was not submitted. This case has been abnormally delayed. Judgment was passed on 07.01.2016 and respondents were directed to conclude the de-novo inquiry within two months, which has not yet been completed. Attention is also invited to Efficiency and Disciplinary Rules-2011 wherein the inquiry has to be completed within the stipulated period. The respondents should have initiated disciplinary action against the inquiry officer for not completing the assigned task within the target date. In case inquiry report is not finalized within fortnight and action taken on its recommendations this Tribunal would be constrained to take further coercive measure in the shape of attachment of salary and civil imprisonment. To come up for implementation report on 14.7.2017 before S.B.

  
(Ahmad Hassan)  
Member

14.07.2017

Counsel for the petitioner present. Mr. Mukhtiar Ali, Assistant Secretary alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents present. Implementation report not submitted. Representative of the department requested for further time. Last opportunity granted to the respondents with the direction to implement the judgment otherwise this Tribunal would be constrained to take coercive action against them. Adjourned. To come up for implementation report on 28.07.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

23.12.2016

Counsel for petitioner and Mr. Mukhtiar Ali, Supdt alongwith Asst: AG for the respondents present. Representative of the respondents seeks adjournment for submission of implementation report. To come up for implementation report on 03.02.2017.

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

03.02.2017

Petitioner with counsel, M/S Muhammad Ibrar Assistant Secretary & Mukhtiar Ali, Supdt. alongwith Addl. AG for the respondents present. Requested for adjournment. Last opportunity granted. To come up for implementation report on 17.03.2017 before S.B.

  
Chairman

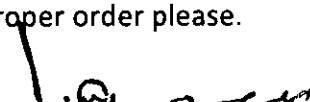

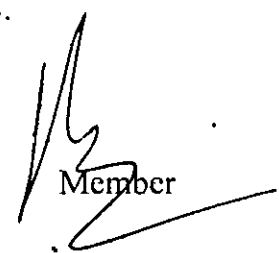
17.03.2017

Counsel for the petitioner and Mr. Mukhtiar Ali, Supdt. alongwith Assistant AG for respondents present. On the previous date last opportunity granted to the respondents to submit implementation report but they failed to produce the same. Final opportunity is granted for submission of implementation report, in case they failed to submit the report coercive measure would be taken against the respondents. To come up for implementation report on 05.05.2017 before S.B.

  
(AHMAD HASSAN)  
MEMBER

FORM OF ORDER SHEET

Execution Petition No.                     /2016                    

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02.11.2016	<p>The Execution Petition of MR. Muhammad Nazir submitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	3-11-2016	<p>This Execution Petition be put up before S. Bench on - <u>07-11-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
07.11.2016		<p>Counsel for the petitioner and Addl. AG for respondents present. Notices be issued to the respondents. To come up for implementation report on 23.12.2016 before S.B.</p> <p style="text-align: right;"> Member</p>

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

Implementation Petition No. 203 /2016

In Appeal No.24/2014

**MOHAMMAD NAZIR**

**VS**

**SMBR**

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE NO.</b>
1-	Memo of petition	.....	1- 2.
2-	Affidavit	.....	3.
3-	Judgment	<b>A</b>	4- 8.
4-	Vakalat nama	.....	9.

**PETITIONER/APPLICANT**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

**MOBILE NO.0345-9383141**

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

Implementation Petition No. 203 /2016

In

Appeal No.24/2014

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1085

Date 2-11-16

Mr. Mohammad Nazir, Assistant (BPS-14),  
Board of Revenue, Khyber Pakhtunkhwa, Peshawar.

.....**PETITIONER**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.....**RESPONDENTS**

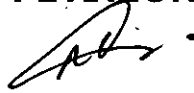
**IMPLEMENTATION PETITION FOR DIRECTING THE**  
**RESPONDENTS TO OBEY THE JUDGMENT IN**  
**LETTER AND SPIRIT**

**R/SHEWETH:**

- 1- That the petitioner filed appeal bearing No. 24/2014 before this august service Tribunal for re-instatement with all back benefits on the post of Assistant (BPS-14).
- 2- That the appeal of the petitioner was finally heard by this august Tribunal on 07.01.2016 and set aside the impugned order with the direction to conduct denovo inquiry under E&D Rules 2011 by affording prescribed opportunities of hearing to the appellant and shall conclude the said inquiry within a period of two months. Copy of the judgment is attached as annexure..... **A.**
- 3- That after obtaining copy of the judgment the petitioner applied to the Department for his claim but the respondent Department is not willing to obey the judgment and till date the respondents are not willing to re-instate the appellant into service.
- 4- That the petitioner has no other remedy but to file this implementation petition.

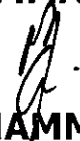
It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may be directed to implement the judgment dated 01.04.2016 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

**PETITIONER**



**MOHAMMAD NAZIR**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK  
ADVOCATE**



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

**Implementation Petition No. \_\_\_\_\_/2016**

**In Appeal No.24/2014**

**MOHAMMAD NAZIR**

**VS**

**SMBR**

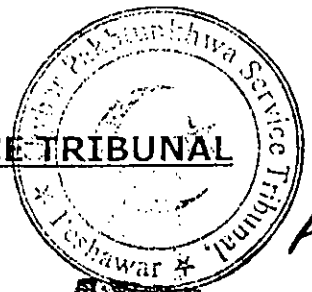
**AFFIDAVIT**

I Noor Mohammad Khattak Advocate on the instructions and on behalf of the petitioner do hereby solemnly affirm that the contents of this implementation petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



**NOOR MOHAMMAD KHATTTAK**  
**ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**



APPEAL NO. 24 /2013/

1688  
27-12-13

Mr. Muhammad Nazir, Ex-Assistant (BPS-14),  
Board of Revenue, Khyber Pakhtunkhwa Peshawar.....Appellant

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.....Respondents

**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE APPELLATE ORDER DATED 27.11.2013 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR HIS RE-INSTATEMENT HAS BEEN REJECTED ON NO GOOD GROUNDS AND AGAINST THE ORIGINAL IMPUGNED ORDER DATED 16.05.2013 WHEREBY THE APPELLANT WAS REMOVED FROM HIS SERVICE**

**ATTESTED**  
EX. MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**PERAYER:**

That on acceptance of this appeal the impugned orders dated 27.11.2013 and original order dated 16.05.2013 may very kindly be set aside and the respondents may be directed to re-instate the appellant with all back benefits. Any other remedy which this august court deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

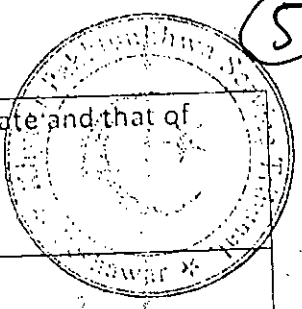
That the appellant joined the respondent Department as Junior Clerk (BPS-7) vide order dated 01-07-1981 and have served the respondent Department for more than 32 years quite efficiently and up to the entire satisfaction of his superiors.

**ATTESTED**

re-submitted to  
and filed.

Handwritten signature and date: 7/1/14

5



of edings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
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2	3
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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO.24/2014

(Muhammad Nazir-vs-Govt. of Khyber Pakhtunkhwa through Chief Secretary, KPK, Peshawar and SMBR, Khyber Pakhtunkhwa, Peshawar.)

07.01.2016

JUDGMENT

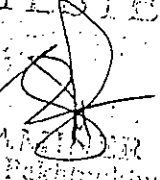
MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:

Appellant with counsel and Mr.Mukhtiar Ali, Supdt. alongwith Mr.Usman-Ghani, Senior Govt. Pleader for respondents present.

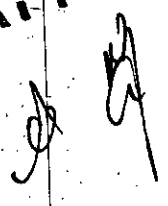
Muhammad Nazir, Ex-Assistant Board of Revenue, Khyber Pakhtunkhwa, Peshawar, hereinafter referred to as the appellant, has preferred the instant appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against final order dated 27.11.2013 whereby departmental appeal of the appellant was rejected and impugned order dated 16.5.2013 in respect of removal of service of appellant was maintained.

Brief facts of the case of the appellant are that he joined the department as Junior Clerk (BPS-7) in the year 1981 and was subsequently promoted as Superintendent (BPS-16) and while performing his duties as Superintendent he allegedly fell ill due to heart attack and despite medical advice no leave was sanctioned and vide order dated 25.7.2011 appellant demoted to the post of Assistant (BPS-14). That despite his illness and entitlement to leave on medical grounds the appellant was again subjected to inquiry and penalty in the shape of stoppage of annual increments was awarded vide order dated 30.10.2012. That

ATTESTED

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

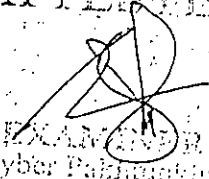
ATTESTED




finally a third order was issued against the appellant whereby he was removed from service on 16.5.2013 where against appellant preferred departmental appeal which was rejected on 27.11.2013 and hence the service appeal on 27.12.2013.

Learned counsel for the appellant has argued that the appellant was punished thrice for the same offence i.e alleged wilful absence which was due to acute illness. That the appellant has served the department with commitment and was promoted from time to time including his promotion to the post of Superintendent (BPS-16) vide order dated 16.6.2010. That in view of his regular unblemished service for 32 years it would not be expected from a prudent civil servant to become a habitual absentee. That the competent authority was obliged to have considered the plea of the appellant regarding his ailment duly supported by medical record. That the appellant was entitled to medical leave and in case of disagreement by the competent authority, the matter was to be referred to the second Medical Board but the authority violated the mandatory provision and failed to secure the medical opinion. That the inquiry was not conducted in the prescribed manners as the appellant was available to participate in the inquiry and therefore the competent authority was obliged to have conducted formal inquiry including issuance of charge sheet, statement of allegations and show cause notice. That the punishment was uncalled for and excessive and therefore liable to be set-aside.

Reliance was placed on Article 13 of Constitution of the Islamic Republic of Pakistan, Rules 11 and 13 of Revised Leave Rules, 1981 and section 24-A of the General Clauses Act, 1897 as well as case-law reported as 1985 PLC (C.S) 1108, 2009 TD (Service) 393, 2006 SCMR 1018, 2010 PLC (C.S) 1143, 2008 SCMR 1369, 2007 SCMR 1860 and 2010 PLC (C.S) 435

**ATTESTED**  
  
EXAMINER  
Cyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ATTESTED**  


7

Learned Senior Govt. Pleader argued that the appeal is not maintainable as the departmental appeal of the appellant was rejected being barred by time for more than 4 months. That the appellant was afforded repeated opportunities in the prescribed manners but he failed to avail the same. That the appellant was a habitual absentee and as such the impugned order of removal from service is factually and legally correct. Reliance was placed on case-law reported as 2009 SCMR 1121, 2013 PLC (C.S) 1031 and 2011 SCMR 676.

We have heard arguments of the learned counsel for the parties and perused the record.

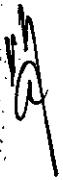
Perusal of record would suggest that the appellant was serving as Superintending (BPS-16) and was on probation when he was reverted to the post of Assistant (BPS-14) as major penalty was imposed against the appellant vide order dated 25.7.2011. The appellant has accepted the said order as the same was not questioned before any forum. According to order dated 30.10.2012 the appellant was again found absent from duty and minor penalty of stoppage of two increments without accumulative effect for the years 2012 and 2013 was imposed against the appellant which order was also not questioned by the appellant before any forum and which thus attained finality.

Perusal of record would suggest that the appellant has applied to the competent authority for medical leave alongwith the record including certificates issued by the authorized hospitals. According to rule 13 of Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981, leave applied for on medical certificate cannot be refused by the competent authority and in case of disagreement the authority sanctioning the leave may secure a second medical opinion by requesting the Civil Surgeon or the Medical Board to medically examine the applicant. In the case in hand the leave applied for by the appellant on medical

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED



grounds was refused in disregard to the provisions of rule-13 of the said Rules. It is note worthy that each and every absence may not necessarily fall within the ambit of wilful absence and in such a situation probe by the competent authority becomes an essential requirement. In the case in hand neither the appellant was associated with the inquiry despite his availability nor his plea of ailment was taken into account. In such a situation declining departmental appeal on the ground of limitation was also not warranted.

Keeping in view the plea of the appellant supported by medical record we are of the view that the competent authority was obliged to have conducted formal inquiry and omission on the part of the competent authority has rendered the entire process as an exercise in futility. We would, therefore, accept the appeal by setting aside the impugned orders with the directions to the competent authority to conduct formal inquiry under E&D Rules by affording prescribed opportunities of hearing to the appellant and fulfilling the required codal formalities. The *de novo* inquiry so conducted shall be concluded within a reasonable time but not beyond the period of two months from the receipt of this judgment. The appeal is accepted in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record room.

Sd/- Muhammad Azim Khan Afridi,  
Chairman

Sd/- Abdul Latif, Member

ANNOUNCED  
07.01.2016

Certified to be true copy

EX. AZIM  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

ATTESTED

Date of Presentation of Application 22-01-2016

Number of Words 1600

Copying Fee 10/-

Urgent 2

Total 12

Name of Copyist SM

Date of Completion 22-01-2016

Date of Delivery of Copy 22-01-2016

**VAKALATNAMA**

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2016

Mohammad Nazir

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

SMBR

(RESPONDENT)  
(DEFENDANT)

I/We Mohammad Nazir

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_/\_\_\_\_/2016

Hazrat

CLIENT

N

**ACCEPTED**

**NOOR MOHAMMAD KHATTAK  
(ADVOCATE)**

OFFICE:

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Execution Petition No. 203/2016  
Service Appeal No. 24/2014

Mr. Muhammad Nazir, Ex: Assistant (BPS-14).....Appellant

**VERSUS**

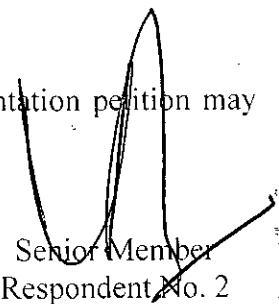
Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa,  
Peshawar.

Senior Member, Board of Revenue, Khyber Pakhtunkhwa.

**REPLY TO IMPLEMENTATION PETITION.**

1. Para No. 1 is correct to the extent that the Petitioner preferred Service Appeal, in this Tribunal.
2. Para No. 2 is also admitted to the extent that the appeal was accepted and the respondents were allowed to conduct De-Novo inquiry within two months till receipt aforesaid judgement. However, the copy of judgement was received by this Department on 22.01.2016.
3. Thereafter, the Competent Authority appointed Inquiry Officer to conduct De-Novo inquiry but the said inquiry officer was transferred on 23.08.2016. The responsibility of inquiry officer was then entrusted to the predecessor of the Director Land Record. The delay in conducting inquiry is neither intentional nor willfull, but the same was caused due to transfers of inquiry officers in the interest of public.
4. Beside it is also added that Ex: Inquiry Officer has taken up the subject matter with professor Nadeem Hayat Malik, Chief Executive, Punjab Institute of Cardiology Lahore in connection with confirmation of Heart treatment as per medical documents produced by the appellant during his absence from duty period. In response the Medical Superintendent of the above mentioned Institute forwarded an authentic verification report of the Committee which show denial of advice for bed rest and declared it fake. Similarly signature of Professor Dr. Abdul Waheed also does not match with record and declared it as fake and returned as un-verified. Photo copies medical documents / official letter and report are enclosed for kind perusal.

In view of the above facts, it is requested that the implementation petition may kindly be dismissed with cost.

  
Senior Member  
Respondent No. 2



GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Ad:IV/Nazir/Enq/BOR/15588

Dated 27/05/2016

To,

The Registrar,  
Punjab Institute of Cardiology Hospital,  
Race Course Park, Jail Raod,  
Lahore.

**SUBJECT: VERIFICATION OF MEDICAL CHECK-UP.**

I am directed to refer to the subject and to state that Mr. Muhammad Nazir, Ex: Assistant has submitted medical check-up reports bearing OPD No. 36130/2012 dated 07.12.2012 containing advice for one month rest issued by Professor Abdul Waheed of your respective institute and 2<sup>nd</sup> medical report bearing OPD No. 1527/2013 dated 11.01.2013 also containing in bed rest for Fourty (40) days issued by Dr. Humayun on 11.01.2013 in connection with heart disease (both the photo copies are enclosed).

On the directions of Khyber Pakhtunkhwa, Service Tribunal, an inquiry is being conducted against the above noted Ex: Official through Hazrat Masaud Mian, Member-I Board of Revenue Khyber Pakhtunkhwa, in the case. On the directions of Inquiry Officer noted above, you are requested to get the medical reports checked as per your record and verify the same if found correct.

Your facilitation to this Department will be highly appreciated.

  
Assistant Secretary (Admin)

of sender

No. 762

For Insurance Notices see reverse  
Stamps affixed except in case of  
uninsured letters or not more than  
the initial weight prescribed in the  
Post Office Guide on which no  
acknowledgement is to be made

received a registered  
addressed to

Initials of Receiving Officer *M.S. Hall* with the word "insured" before it when necessary.  
Date Stamp *30/11/19*

Insured for Rs. (in figures) *100/-*  
Insurance fee Rs. *10/-* Ps. (in words) *10/-*  
Name and address of sender *Mrs. M. S. Hall, Landelago*  
Weight *100* Kilo Grams

876  
118

Name: M NAZEER

Age/Sex: 50 M

OPD No: 36130/2012

Date: December 7, 2012 10:30

History

Left sided chest pain 3 months  
radiating to neck and left  
arm. No sweating, dizziness,  
syncope.

Risk Factor

- DM
- HTN
- Smoking
- Hyperlipidemia
- Family History
- Others

Physical Examination

HR 110/90

Allergies

None

ECG Findings

Management Decision

Issue MR No for

- Hospitalization
- OPD Workup
- No-Active Cardiac Complaint at present
- Refer to \_\_\_\_\_

Provisional Diagnosis

Treatment Advised

Tab Aspirin 75mg

once daily

Tab Atorvastatin

20mg once daily

Tab Aspirin 75mg

once daily

Tab Atorvastatin

20mg

Tab Naiplof

150mg

Prof. Abdul Wahid

Punjab Institute of Cardiology

Lahore

Handwritten notes and stamps, including a circular stamp with text: "Punjab Institute of Cardiology, Lahore".

Handwritten notes in Urdu script at the bottom of the page.

OPD Fee Rs. 100

7-Dec-12 10:39:57 am

Prof. Abdul Wahid  
Punjab Institute of Cardiology  
Lahore

119

Name: MAZFIAR  
Age/Sex: 50 M

OPD No: 1527-1-2013  
Date: January 11, 2013 10:15

History

1/11/13 - H/O

1/11/13 - (H/O)

Physical Examination

1/11/13 - Arrhythmia  
normal

ECG Findings

1/11/13

Provisional Diagnosis

1/11/13 - (H/O)

Treatment Advised

1/11/13 - 20 15 30  
R. Coronal Artery

Final Fee Rs. 4/-

Wheel  
11-Jan-13  
11:15:42 am

Handwritten note: Complete Rest - 2 weeks. Heavy work - 4 weeks. 1/11/2013

Risk Factor

- DM
- HTN
- Smoking
- Hyperlipidemia
- Family History
- Others

Allergies

Management Decision

Issue MR.No for

- Hospitalization
- OPD-Workup
- No Active Cardiac Complaint at present
- Refer to \_\_\_\_\_

1/11/13 - 20 15 30  
R. Coronal Artery

Doctors Name, Signature & Stamp

1/11/13 - 20 15 30  
R. Coronal Artery

SLIP  
COVER-I

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Ad:IV/Nazir/Enq/BOR/ 16386

Dated 10 /06/2016

To.

The Registrar,  
Punjab Institute of Cardiology Hospital,  
Race Course Park, Jail Road,  
Lahore.

SUBJECT:

VERIFICATION OF MEDICAL CHECK-UP.

I am directed to refer to this Department's letter No. Ad:IV/Nazir/Enq/Board of Revenue/15558 dated 27.05.2016 (copy enclosed) on the subject with the request to kindly expedite reply.

Encl: As Above.

  
Assistant Secretary (Admn)

3  
2

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Ad:IV/Nazir/Enq/BOR/17989

Dated 22/06/2016

To,

Mr. Professor Nadeem Hayat Malik,  
Chief Executive, Punjab Institute of Cardiology,  
Race Course Park, Jail Raod,  
Lahore.

SUBJECT: VERIFICATION OF MEDICAL CHECK-UP.

I am directed to refer to the subject and to state that Mr. Muhammad Nazir, Ex: Assistant I has submitted medical check-up reports bearing OPD No. 36130/2012 dated 07.12.2012 containing advice for one month rest issued by Professor Abdul Waheed of your respective institute and 2<sup>nd</sup> medical report bearing OPD No. 1527/2013 dated 11.01.2013 also containing in bed rest for Fourty (40) days issued by Dr. Humayun on 11.01.2013 in connection with heart disease (both the photo copies are enclosed).

On the directions of Khyber Pakhtunkhwa, Service Tribunal, an inquiry is being conducted against the above noted Ex: Official through Hazrat Masaud Mian, Member-I Board of Revenue Khyber Pakhtunkhwa, in the case. On the directions of Inquiry Officer noted above, you are requested to get the medical reports checked as per your record and verify the same if found correct.

Your facilitation to this Department will be highly appreciated.

Assistant Secretary (Admn)

**MOST IMPORTANT  
URGENT**

**THROUGH TCS**

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

No. Ad:IV/Nazir/Enq/BOR/19563

Dated 18/07/2016


MT. Professor Nadeem Hayat Malik,  
Chief Executive, Punjab Institute of Cardiology,  
Race Course Park, Jail Road,  
Lahore.

**SUBJECT: VERIFICATION OF MEDICAL CHECK-UP.**

I am directed to refer to the subject and to state that Mr. Muhammad Nazir, Ex: Assistant of this Department has submitted medical check-up reports bearing OPD No. 36130/2012 dated 07.12.2012 containing advice for one month rest issued by Professor Abdul Waheed of your respective institute and 2<sup>nd</sup> medical report bearing OPD No. 1527/2013 dated 11.01.2013 also containing in bed rest for Forty (40) days issued by Dr. Humayun on 11.01.2013 in connection with heart disease (both the photo copies are enclosed).

On the directions of Khyber Pakhtunkhwa, Service Tribunal, an inquiry is being conducted against the above noted Ex: Official through Hazrat Masaud Mian, Member-I Board of Revenue Khyber Pakhtunkhwa, in the case. On the directions of said Inquiry Officer, you are requested to get the medical reports checked as per your record and verify the same if found correct.

This is a time limit case, hence your facilitation to this Department will be highly appreciated.

  
Assistant Secretary (Admin)

87

OFFICE OF THE MEDICAL SUPERINTENDENT,  
PUNJAB INSTITUTE OF CARDIOLOGY, LAHORE.

Phone # Off: 042-99200031, 042-99203051 (Ext. 313), Fax # 042-99203204.

CONFIDENTIAL

NO.PIC/VMR/ 2198284 /2016

Dated: 15-8-16

To

✓  
The Assistant Secretary (Admn)  
Government of Khyber Pakhtunkhwa,  
Board of Revenue, Revenue & Estate Department.

General Diary  
Dy. No. 2655  
Date 16-8-16  
Revenue & Estate  
Khyber Pakhtun Khwa

Subject: VERIFICATION OF MEDICAL CHECK UP:

Kindly refer to your office letter No. Ad:IV/Nazir/Enq/BOR/17389 dated 22.06.2016 and No. Ad:IV/Nazir/Enq/BOR/15558 dated 27.06.2016 on the subject cited above.

Please find enclosed here with the report of concerned as desired.

Medical Superintendent,  
Punjab Institute of Cardiology,  
Lahore.

NO.PIC/VMR/ /2016

Dated:

A copy is forwarded for information to

- 1 Prof. Dr. Nadeem Hayat Mallick, Professor of Cardiology / Head of the Institution PIC, Lahore.
- 2 Dr. Tasneem Kousar, Additional Medical Superintendent Incharge OPD PIC, Lahore

11/10/16  
16/8/16

Medical Superintendent,  
Punjab Institute of Cardiology,  
Lahore.



58

**OFFICE OF THE MEDICAL SUPERINTENDENT,  
PUNJAB INSTITUTE OF CARDIOLOGY, LAHORE**

Phone # Off: 042-99200031, 042-99203051 (Ext.313), Fax # 042-99203204.

To

Medical Superintendent,  
Punjab Institute of Cardiology,  
Lahore.

Subject: **VERIFICATION OF MEDICAL CHECK UP:**

Kindly refer to letter No. Ad:IV/Nazir/Enq/BOR/17389 dated 22.06.2016 and No. Ad:IV/Nazir/Enq/BOR/15558 dated 27.06.2016 received from The Assistant Secretary (Admn) Government of Khyber Pakhtunkhwa, Board of Revenue, Revenue & Estate Department on the subject cited above.

After reviewing the photo copies of patient record, these were presented to concerned Doctor, Dr. Muhammad Asif Rao on 11.01.2013, he has given in written that he has not advised rest to the said patient on OPD screening slip No. 1527/2013.

It was further confirmed from Admin Officer that no such Dr. Humayon was on the pay roll of PIC, Lahore during that period as the name is mentioned on the slip.

In view of the above advice of rest is not verified and is fake

Regarding OPD slip No. 36130/2012 dated 07-12-2012, signature of Prof. Dr. Abdul Waheed does not match with record; hence it is fake and returned as un-verified.

1 Mr. Sultan Ali  
Admin Officer,  
Punjab Institute of Cardiology,  
Lahore.

*SP*

2 Mr. Muhammad Asim  
System Analyst,  
Punjab Institute of Cardiology,  
Lahore.

*MA*

3 Dr. Tasneem Kousar,  
Additional Medical Superintendent Incharge OPD  
Punjab Institute of Cardiology,  
Lahore.

*T. Kousar*

**DR. TASNIM KAUSAR**  
PMWO  
Incharge OPD  
Punjab Institute of Cardiology, Lahore.

Execution

5-5-2017

میر نازیر

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE

REVENUE & ESTATE DEPARTMENT

No. Admn:IV/Nazeer/SA/ 8162

Dated 24/04/2017

To,

Mr. Shahid Sohail,  
Director Land Records  
Khyber Pakhtunkhwa.

**SUBJECT: DE-NOVO ENQUIRY. (APPEAL NO. 24/2014)**

I am directed to refer to the subject and to state that the Competent Authority is pleased to appoint you as an Inquiry Officer to conduct De-Novo formal Inquiry under Government Servant, Efficiency & Discipline Rules-2011 in light of directions of Khyber Pakhtunkhwa, Service Tribunal within two months in connection with Appeal No. 24/2014 filed by Mr. Muhammad Nazeer, Ex: Assistant, Board of Revenue, Khyber Pakhtunkhwa and the stipulated time has already been lapsed due to reasons that the instant inquiry was pending with the Inquiry Officers i.e. MBR-I / MBR-II and Ex: DLR, due to their transfers and could not completed so far. The Khyber Pakhtunkhwa Service Tribunal has re-fixed the case in implementation petition on 05.05.2017.

It is therefore requested to conduct formal Inquiry as per judgement of Service Tribunal and submit your findings along-with recommendations to the Competent Authority well before 05.05.2017 for further necessary action, please.

Charge Sheet / Statement of Allegations are attached.

(Khazada Wazir)  
Assistant Secretary (Admn)

Endstt: No. & date even.

8563

✓ Copy forwarded for information to the Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar with reference to his letter No. 77/ST dated 13.01.2016 in the subject appeal quoted above.

(Khazada Wazir)  
Assistant Secretary (Admn)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE

REVENUE & ESTATE DEPARTMENT

No. Ad:IV/Nazir/SA/24-2014/

Dated 18/09/2017

19534

To,

The Registrar,  
Khyber Pakhtunkhwa Service Tribunal.

SUBJECT:

**IMPLEMENTATION PETITION NO. 203/2016 IN SERVICE  
APPEAL NO. 24/2014 FILED BY MR. MUHAMMAD NAZIR, EX:  
ASSISTANT BOARD OF REVENUE.**

I am directed to refer to your letter No. 77/ST dated 13.01.2016 received along-with a certified copy of judgement of Khyber Pakhtunkhwa Service Tribunal dated 07.01.2016 and to submit herewith implementation report along-with relevant material for perusal of the honorable Service Tribunal.

Encl: As Above.

(Khazada Wazir)  
Assistant Secretary (Admn)

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 24/2014

Mr. Muhammad Nazir, Ex: Assistant (BPS-14).....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

Senior Member, Board of Revenue, Khyber Pakhtunkhwa.

**IMPLEMENTATION PETITION NO. 203/2016 IN SERVICE APPEAL NO. 24/2014.**

1. In pursuance of the directions of the Khyber Pakhtunkhwa Service Tribunal vide letter bearing No. 77/ST dated 13.01.2016 (**Annex-I**), the Competent Authority ordered a De-Novo inquiry in Service Appeal No. 24/2014 filed by Mr. Muhammad Nazir, Ex: Assistant Board of Revenue, Revenue & Estate Department Khyber Pakhtunkhwa (**Annex-II**). The said De-Novo inquiry was repeatedly entrusted to several Inquiry Officers, i.e. Members Board of Revenue / Director Land Records, because of their transferred during the period. The Hon'ble Tribunal granted extension beyond the stipulated period as explained in the earlier submission before the Service Tribunal by the Competent Authority (**Annex-III**). Finally, the Competent Authority again appointed Mr. Shahid Sohail sitting Director Land Record to complete the De-Novo inquiry (**Annex-IV**). The said Inquiry Officer completed the inquiry and submitted its report / recommendations (**Annex-V**). In light of findings / recommendations of the Inquiry Officer, the Competent Authority issued Show Cause Notice dated 03.08.2017 to Mr. Muhammad Nazir (**Annex-VI**) affording the opportunity of personal hearing / written defence and called him to appear before the Competent Authority on 15.08.2017 and again on 29.08.2017 but the appellant did not appear before the Competent Authority for personal hearing neither submitted any written defence in his support (**Annex-VII & VIII**).
2. The appellant was also informed on his cell phone No. 0334-1515590 to appear before the Competent Authority but he paid no attention to avail opportunity of personal hearing on both the occasions (**Annex-IX**).
3. Therefore, the Competent Authority keeping in view the findings of the Inquiry Officer / verification report obtained from Punjab Institute of Cardiology, Lahore (**Annex-X**), and irresponsible behaviour on the part of appellant imposed major penalty of Compulsory Retirement from Government Service (**Annex-XI**).
4. The appellant has committed a major dishonesty by submitting wrong / bogus medical documents with malafide intentions, mislead the office and the hon'ble Service Tribunal as well which proved by the verification report of the Medical Board constituted for the purpose of verification of said medical documents. The appellant to get undue benefits produced his fake medical documents before the Service Tribunal as the Service Tribunal has accepted his Service Appeal on the grounds based on such fake medical document submitted by him. An appropriate action in light of fraudulently submitted medical

documents, should be taken against him. Hence, the appellant has rendered himself liable to be proceeded under criminal laws. Now as a result of verification of medical documents, the orders of the Service Tribunal dated 13.01.2016 are required to be revised.

5. Hence, the implementation report is submitted before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, with the prayer / request.

The implementation petition may be dismissed with cost.

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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 77 ST


Dated: 13 / 1 / 2016

To  
The SMBR,  
Peshawar.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 7.1.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR



APPEAL NO. 24 /2013

1688  
27-12-13

Mr. Muhammad Nazir, Ex-Assistant (BPS-14),  
Board of Revenue, Khyber Pakhtunkhwa Peshawar.....Appellant

VERSUS

R

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.....Respondents

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE APPELLATE ORDER DATED 27.11.2013 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR HIS RE-INSTATEMENT HAS BEEN REJECTED ON NO GOOD GROUNDS AND AGAINST THE ORIGINAL IMPUGNED ORDER DATED 16.05.2013 WHEREBY THE APPELLANT WAS REMOVED FROM HIS SERVICE

PRAYER:

That on acceptance of this appeal the impugned orders dated 27.11.2013 and original order dated 16.05.2013 may very kindly be set aside and the respondents may be directed to re-instate the appellant with all back benefits. Any other remedy which this august court deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

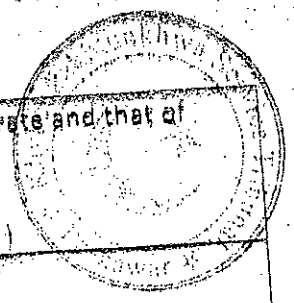
That the appellant joined the respondent Department as Junior Clerk (BPS-7) vide order dated 01-07-1981 and have served the respondent Department for more than 32 years quite efficiently and up to the entire satisfaction of his superiors.

Submitted to  
27/11/13

Order of Order  
proceedings.

Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 24/2014

(Muhammad Nazir vs- Govt. of Khyber Pakhtunkhwa through Chief Secretary, KPK, Peshawar and SMBR, Khyber Pakhtunkhwa, Peshawar.)

07.01.2016

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:

Appellant with counsel and Mr. Mukhtiar Ali, Supdt. alongwith Mr. Usman-Ghani, Senior Govt. Pleader for respondents present.

Muhammad Nazir, Ex-Assistant Board of Revenue, Khyber Pakhtunkhwa, Peshawar, hereinafter referred to as the appellant, has preferred the instant appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against final order dated 27.11.2013 whereby departmental appeal of the appellant was rejected and impugned order dated 16.5.2013 in respect of removal of service of appellant was maintained.

Brief facts of the case of the appellant are that he joined the department as Junior Clerk (BPS-7) in the year 1981 and was subsequently promoted as Superintendent (BPS-16) and while performing his duties as Superintendent he allegedly fell ill due to heart attack and despite medical advice no leave was sanctioned and vide order dated 25.7.2011 appellant demoted to the post of Assistant (BPS-14). That despite his illness and entitlement to leave on medical grounds the appellant was again subjected to inquiry and penalty in the shape of stoppage of annual increments was awarded vide order dated 30.10.2012. That



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finally a third order was issued against the appellant whereby he was removed from service on 16.5.2013 where against appellant preferred departmental appeal which was rejected on 27.11.2013 and hence the service appeal on 27.12.2013.

Learned counsel for the appellant has argued that the appellant was punished thrice for the same offence i.e alleged wilful absence which was due to acute illness. That the appellant has served the department with commitment and was promoted from time to time including his promotion to the post of Superintendent (BPS-16) vide order dated 16.6.2010. That in view of his regular unblemished service for 32 years it would not be expected from a prudent civil servant to become a habitual absentee. That the competent authority was obliged to have considered the plea of the appellant regarding his ailment duly supported by medical record. That the appellant was entitled to medical leave and in case of disagreement by the competent authority, the matter was to be referred to the second Medical Board but the authority violated the mandatory provision and failed to secure the medical opinion. That the inquiry was not conducted in the prescribed manners as the appellant was available to participate in the inquiry and therefore the competent authority was obliged to have conducted formal inquiry including issuance of charge sheet, statement of allegations and show cause notice. That the punishment was uncalled for and excessive and therefore liable to be set-aside.

Reliance was placed on Article 13 of Constitution of the Islamic Republic of Pakistan, Rules 11 and 13 of Revised Leave Rules, 1981 and section 24-A of the General Clauses Act, 1897 as well as case-law reported as 1985 PLC (C.S) 1108, 2009 TD (Service) 393, 2006 SCMR 1018, 2010 PLC (C.S) 1143, 2008 SCMR 1369, 2007 SCMR 1860 and 2010 PLC (C.S) 435.

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Learned Senior Govt. Bigader argued that the appeal is not maintainable as the departmental appeal of the appellant was rejected being barred by time for more than 4 months. That the appellant was afforded repeated opportunities in the prescribed manners but he failed to avail the same. That the appellant was a habitual absentee and as such the impugned order of removal from service is factually and legally correct. Reliance was placed on case-law reported as 2009 SCMR 1121, 2013 PLC (C.S) 1031 and 2011 SCMR 676.

We have heard arguments of the learned counsel for the parties and perused the record.

Perusal of record would suggest that the appellant was serving as Superintending (BPS-16) and was on probation when he was reverted to the post of Assistant (BPS-14) as major penalty was imposed against the appellant vide order dated 25.7.2011. The appellant has accepted the said order as the same was not questioned before any forum. According to order dated 30.10.2012 the appellant was again found absent from duty and minor penalty of stoppage of two increments without accumulative effect for the years 2012 and 2013 was imposed against the appellant which order was also not questioned by the appellant before any forum and which thus attained finality.

Perusal of record would suggest that the appellant has applied to the competent authority for medical leave alongwith the record including certificates issued by the authorized hospitals. According to rule 13 of Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981, leave applied for on medical certificate cannot be refused by the competent authority and in case of disagreement the authority sanctioning the leave may secure a second medical opinion by requesting the Civil Surgeon or the Medical Board to medically examine the applicant. In the case in hand the leave applied for by the appellant on medical

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Dated

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grounds was refused in disregard to the provisions of rule-13 of the said Rules. It is note worthy that each and every absence may not necessarily fall within the ambit of wilful absence and in such a situation probe by the competent authority becomes an essential requirement. In the case in hand neither the appellant was associated with the inquiry despite his availability nor his plea of ailment was taken into account. In such a situation declining departmental appeal on the ground of limitation was also not warranted.

Keeping in view the plea of the appellant supported by medical record we are of the view that the competent authority was obliged to have conducted formal inquiry and omission on the part of the competent authority has rendered the entire process as an exercise in futility. We would, therefore, accept the appeal by setting aside the impugned orders with the directions to the competent authority to conduct formal inquiry under E&D Rules by affording prescribed opportunities of hearing to the appellant and fulfilling the required codal formalities. The *de novo* inquiry so conducted shall be concluded within a reasonable time but not beyond the period of two months from the receipt of this judgment. The appeal is accepted in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record room.

Sd/- Muhammad Azim Khan Afzidi,  
Chairman

Sd/- Abdul Latif, Member

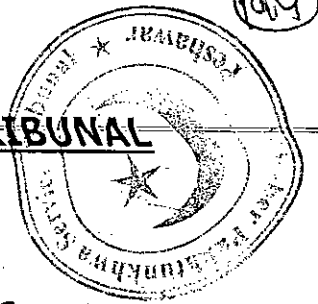
ANNOUNCED  
07.01.2016

Certified to be true copy

EX AMIN  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 22-01-2016  
 Number of Words 1600  
 Copying Fee 100/-  
 Budget 1800/-  
 Total 3400/-  
 Sd/-  
 Secy

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**



Implementation Petition No. 203 /2016

In

Appeal No.24/2014

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1085

Date: 2-11-16

Mr. Mohammad Nazir, Assistant (BPS-14),  
Board of Revenue, Khyber Pakhtunkhwa, Peshawar.

.....**PETITIONER**

**VERSUS**

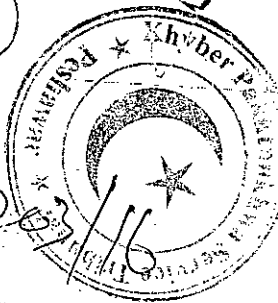
- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.....**RESPONDENTS**

**IMPLEMENTATION PETITION FOR DIRECTING THE  
RESPONDENTS TO OBEY THE JUDGMENT IN  
LETTER AND SPIRIT**

**R/SHEWETH:**

- 1- That the petitioner filed appeal bearing No. 24/2014 before this august service Tribunal for re-instatement with all back benefits on the post of Assistant (BPS-14).
- 2- That the appeal of the petitioner was finally heard by this august Tribunal on 07.01.2016 and set aside the impugned order with the direction to conduct denovo inquiry under E&D Rules 2011 by affording prescribed opportunities of hearing to the appellant and shall conclude the said inquiry within a period of two months. Copy of the judgment is attached as annexure..... **A.**
- 3- That after obtaining copy of the judgment the petitioner applied to the Department for his claim but the respondent Department is not willing to obey the judgment and till date the respondents are not willing to re-instate the appellant into service.
- 4- That the petitioner has no other remedy but to file this implementation petition.

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# Execution Petition No. 203/16 M. Nazir vs Govt

05.05.2017

Counsel for the petitioner and Mr. Muhammad Ibrar Assistant, Secretary alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Despite granting last opportunity on the previous date of hearing implementation report was not submitted. This case has been abnormally delayed. Judgment was passed on 07.01.2016 and respondents were directed to conclude the de-novo inquiry within two months, which has not yet been completed. Attention is also invited to Efficiency and Disciplinary Rules-2011 wherein the inquiry has to be completed within the stipulated period. The respondents should have initiated disciplinary action against the inquiry officer for not completing the assigned task within the target date. In case inquiry report is not finalized within fortnight and action taken on its recommendations this Tribunal would be constrained to take further coercive measure in the shape of attachment of salary and civil imprisonment. To come up for implementation report on 14.7.2017 before S.B.

Certified true copy  
Signature  
Mr. Ibrar  
Secretary Tribunal  
Faisalabad

Self  
Ahmad Hassan,  
Member

Date of Receipt of Application 8-5-17  
Date of Receipt of 800  
Page No. 6  
Date of 6  
Date of 6  
Date of 12-6-17  
Date of 12-6-17

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Admin/NAzeer/SA/ 8562  
Dated 24 /04/2017

97

To


✓  
Mr. Shahid Sohail,  
Director Land Records  
Khyber Pakhtunkhwa.

SUBJECT: DE-NOVO ENQUIRY. (APPEAL NO. 24/2014)

I am directed to refer to the subject and to state that the Competent Authority is pleased to appoint you as an Inquiry Officer to conduct De-Novo formal Inquiry under Government Servant, Efficiency & Discipline Rules-2011 in light of directions of Khyber Pakhtunkhwa, Service Tribunal within two months in connection with Appeal No. 24/2014 filed by Mr. Muhammad Nazeer, Ex: Assistant, Board of Revenue, Khyber Pakhtunkhwa and the stipulated time has already been lapsed due to reasons that the instant inquiry was pending with the Inquiry Officers i.e. MBR-I / MBR-II and Ex: DLR, due to their transfers and could not completed so far. The Khyber Pakhtunkhwa Service Tribunal has re-fixed the case in implementation petition on 05.05.2017.


It is therefore requested to conduct formal Inquiry as per judgement of Service Tribunal and submit your findings along-with recommendations to the Competent Authority well before 05.05.2017 for further necessary action, please.

Charge Sheet / Statement of Allegations are attached.

  
(Khanzada Wazir)  
Assistant Secretary (Admn)

Endstt: No. & date even.

Copy forwarded for information to the Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar with reference to his letter No. 77/ST dated 13.01.2016 in the subject appeal quoted above.

  
(Khanzada Wazir)  
Assistant Secretary (Admn)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF LAND RECORDS  
REVENUE & ESTATE DEPARTMENT

No. Inquiry/Ex-Assistant/Nazir/ 9789  
Peshawar dated the 26/07/2017

To



The Secretary-I,  
Board of Revenue, Khyber Pakhtunkhwa.

**SUBJECT: DE-NOVO ENQUIRY (APPEAL NO.24/2014)**

Reference your office letter No. Admn:IV/Nazeer/SA/10726-28 dated 23.5.2017 on the subject and to enclose herewith an inquiry report against Mr. Muhammad Nazeer Ex-Assistant Board of Revenue for further necessary action at your end please.

DIRECTOR LAND RECORDS  
KHYBER PAKHTUNKHWA.

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## INQUIRY REPORT

The undersigned was appointed as Inquiry Officer by the Competent Authority to conduct De-Novo Inquiry under the provision of Government Servant (Efficiency & Disciplinary) Rules 2011 against Mr. Muhammad Nazir Ex. Assistant Board of Revenue on the direction of Khyber Pakhtunkhwa Service Tribunal.

### BRIEF HISTORY OF THE CASE:

Previously an enquiry into the matter was initiated on the direction of the Competent Authority. The Inquiry Officer recommended disciplinary action against Muhammad Nazir, Ex- Superintendent Board of Revenue, who was demoted from the post of Superintendent to the rank of Assistant as a result of 1<sup>st</sup> inquiry conducted against him due to misplacement of accounts record etc of PDMA while he was posted there on deputation.

Later on, he was repatriated but remained absent from duty and another inquiry was conducted and the inquiry officer recommended major penalty of Compulsory Retirement from service but the Competent Authority imposed minor penalty i.e. stoppage of 2 increments without cumulative effect.

Despite above, the official remained absent from duty. After fulfilment of all formalities and issuing show cause notice, found *no* response from the official, the competent authority imposed a major penalty of Removal from Service under rule 9 of E&D Rules.

The official then submitted departmental appeals to Chief Secretary Khyber Pakhtunkhwa and Senior Member Board of Revenue Khyber Pakhtunkhwa respectively which were regretted / rejected.

The accused official then knocked the door of Khyber Pakhtunkhwa Service Tribunal. The said Tribunal ordered to conduct a De-novo Inquiry in the matter and submit the same report within two months.

### BACK GROUND OF THE CASE:

Back ground of the case is that Muhammad Nazir was posted as Assistant in PDMA (Provincial Disaster Management Authority) Khyber Pakhtunkhwa in 2009 on deputation basis (Flag-A).

On repatriation, he was posted/adjusted as Superintendent on own pay scale followed by regular promotion as Superintendent (Flag-B&C).

The PDMA asked Board of Revenue to direct the official to provide old record of accounts etc while he was posted there as Cashier (Flag-D).

Despite of directions of this Department (Flag-E), the official could not provide the requisite record and thus the PDMA requested to take disciplinary action against him (Flag-F). He was charge sheeted and Inquiry was conducted accordingly. On the recommendations of Inquiry Officer (Flag-G), the Competent Authority imposed upon him



major penalty of "Demotion to lower post" i.e. demotion from the post of Superintendent to the rank of Assistant vide this Department Notification (**Flag-H**).

After that, the official remained frequently absent from duty and avail furlough without any application/information and thus again charge sheeted and Inquiry was conducted. During inquiry, he was given opportunity of personal hearing but he could not defend himself. After examination the Inquiry Officer recommended major penalty of Compulsory Retirement but the Competent Authority imposed upon him minor penalty of stoppage of two increments without cumulative effect (**Flag-I&J**) respectively.

However, the official did not change his behaviour and remained absent from duty as usual. He was summoned and letter was issued at his home address (**Flag-K & L**) but he did not respond. Finally his absence was advertised in a Daily Newspaper but in vain (**Flag-M**). Therefore, a show cause notice was issued (**Flag-N**) but no response was received. Resultantly the Competent Authority under Rule-9 of E&D Rules 2001, imposed major penalty of Removal from Service vide order dated 15-05-2013 at (**Flag-O**).

After removal from service, the official submitted a departmental appeal to the Chief Secretary against the order at (**Flag-P**), which was regretted and filed. Then the applicant again submitted an appeal before the Senior Member Board of Revenue which was also filed.

Then the accused official submitted service appeal to the Khyber Pakhtunkhwa Service Tribunal. Necessary comments were filed (**Flag-Q**). The Tribunal ordered to conduct a De-Novo Inquiry in the matter and submit the same within two months before the Tribunal (**Flag-R**).

The said task was entrusted to Member-I, Board of Revenue on 04-02-2016 (**Flag-S**) and then to Member-II, Board of Revenue on 11-03-2016 (**Flag-T**). Member-II of BOR went for National Management Course training due to which De Novo Inquiry was again entrusted to Member-I, BOR on 10-05-2016 (**Flag-U**). The Member-I, BOR (Inquiry Officer) got verified the medical documents produced by the appellant, from the quarter concerned i.e. Punjab Institute of Cardiology, Lahore which was found fake and un-authentic (**Flag-V**).

Thereafter, Member-I, BOR (Inquiry Officer) was also transferred from BOR and the Inquiry was entrusted to Mr. Saqib Raza Aslam, Ex-Director Land Record, Khyber Pakhtunkhwa who was also transferred and posted as Deputy Commissioner Peshawar.

Finally the undersigned was appointed as Inquiry Officer on 24-04-2017 (**Flag-W**). Due to heavy work load of Registration, Settlement Operations, Computerization of Land Records activities (on regular side) and also having the dual charge of Project Directors Phase-I&II Computerization of land Projects, the undersigned requested the Assistant Secretary (Admn:) Board of Revenue to depute another officer for the said inquiry (**Flag-X**) but the Competent Authority again directed to conduct De-Novo inquiry vide letter dated 23-5-2017 at (**Flag-Z**).

The undersigned called upon the accused official for personal hearing on 15.06.2017 as well as requested the Assistant Secretary (Admn:) Board of Revenue to depute a well versed official/officer to attend office of the undersigned for finalization of inquiry vide letter dated 15-06-2017 (Flag-A1) but no one attended the office of undersigned on behalf of Assistant Secretary (Admn:) while the accused official appear before the undersigned (Inquiry Officer) on 20.06.2017.

In response to second reminder dated 04.07.2017 (Flag-B1), wherein the Assistant Secretary was once again requested to depute a well versed officer/official to attend office of the undersigned on 06.07.2017 at 11.00 am, so that the enquiry could be finalized within the stipulated period, the representative of AS (Admn:), Board of Revenue as well as the accused official attended the office on 06.07.2017. Accordingly the accused and representative of the Department submitted their statement / brief respectively (Flag-C1 & D1).

### INQUIRY PROCEEDINGS:

The inquiry was conducted between 15-06-2017 to 10-07-2017 in office of the Director Land Record, Khyber Pakhtunkhwa Peshawar.

### FINDINGS:

- i) While going through the record and findings of previous inquiry reports, it was observed that all legal formalities were observed but the official could not defend himself properly. All in his statements, were in contradiction and the medical documents proved fake and un-authentic as per verification from the quarter concerned (Flag-E1).
- ii) On 06.07.2017, the accused official i.e. (Muhammad Nazir Ex. Assistant BOR) was called for personal hearing and in response, he submitted his written statement on 10-07-2017 (Flag-F1), which is un-satisfactory and unsupported by documents.

### CONCLUSION:

The official was given a number of chances to improve himself but after availing so many opportunities, he did not change his behaviour which seems that he is not interested in his job.

In light of the above factual position, Muhammad Nazir, Ex-Assistant Board of Revenue, Khyber Pakhtunkhwa is found guilty of the charge.

### RECOMMENDATIONS:-

In view thereof, it is recommended that the accused may be awarded Major penalty under Section-4(b)(ii) of the Khyber Pakhtunkhwa Govt: Servant (Efficiency and Discipline) Rules-2011 of compulsorily retirement.

*(Signature)*  
 (SHAHID SOHAIL KHAN)  
 DIRECTOR LAND RECORD  
 (INQUIRY OFFICER)

o/c

**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**BOARD OF REVENUE,**  
**REVENUE & ESTATE DEPARTMENT**  
No. Admn: IV/Nazir/SA/24/2014/Ex:Asstt/BOR/ 15878  
Dated 3 /08/2017.

**SHOW CAUSE NOTICE.**

I, Zafar Iqbal, Secretary Revenue & Estate Department, as Competent Authority under rule-14 of Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011, do hereby serve Show Cause Notice on you, Mr. Muhammad Nazir. Assistant, Board of Revenue, as follows:

- (F/A)
- (F/B)
- (F/C)
- (F/D)
- (F/E)
- (F/F)
- (F/G)
- (F/H)
- (F/I)
- a. That you have been found habitual late comer and remained constantly absent from office and non-serious towards official duty. You were found absent from duty with effect from 14.03.2012 to 22.4.2012 and without any intimation/ prior approval of the Competent Authority. You were served with a letter dated 27.03.2012 sent at your home address but you did not respond to that. Later on a notice with regard to willful absence from duty was get published in the daily news paper "EXPRESS" on 15.04.2012 and 15 days period was given to you to appear for duty and explain your position for willful absence from duty without application/approval of the authority. On 23.04.2012 you attended the office and produced medical prescription with medical Certificate which covers only 14 days with effect from 24.03.2012 to 06.04.2012 whereas rest of the absent period (before and after the said medical advice) does not cover by the said Medical advice and you failed to explain reasons of your willful absence.
  - b. You were also found absent from duty without any approval of the Competent Authority with effect from 02.05.2012 to 21.05.2012. you again started with the habit of remaining absent time to time till 15.05.2013.
  - c. That you have been found non-serious towards official duty and are absent from duty with effect from 23.10.2012 till 20.12.2012.
  - d. You were served with two notices on 20.12.2012 and 28.01.2013 at your home address in connection with your continuous absence but in-vain. Later on a notice with regard to willful absence from duty was got published in the daily news papers "Surkhab" and "Express" on 16.02.2013.
  - e. That you came to office on 18 & 19.02.2013 and then again absented. However, on 18.02.2013 when you submitted your arrival report have also produced OPD slips of Punjab Institute of Cardiology, Lahore, containing medical advices for one month and forty days bed rest which cover the period with effect from 07.12.2012 to 14.02.2013. Whereas, you were absent with effect from 23.10.2012 till 20.12.2012. Thus your total absent period comes (118) days while the said medical advices only for (70) days. The rest of (48) days of absent period is still uncovered.

Furthermore, you did not produce/submit the above said medical advices in time in a proper way nor you have intimated your position by any way, and again disappeared since 20.02.2013 to 05.03.2013.

f. That it is also found that you was not referred by the authorized medical officer/practitioner to the above mentioned medical institute at Lahore or to else where.

(F/J)

(F/K)

g. That Prior to this on 25.07.2011 a major penalty was imposed upon you and you was downgraded from the post of Superintendent (BPS-16) to the post of Assistant (BPS-14) and again on 30.10.2012, another minor penalty of stoppage of 2 annual increments without accumulative effect was imposed upon you but you did not mend your attitude towards official duty, you kept on the same practice.

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

3. 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 15/2/2017 at 1200 AM before the undersigned for personal hearing.

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

Secretary to Government  
Of Khyber Pakhtunkhwa  
Revenue & Estate Department

Mr. Muhammad Nazir  
Ex: Assistant Board of Revenue.  
Khyber Pakhtunkhwa.

**(Encl: Copy of complete Inquiry Report)**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Ad:IV/Nazir/SA/24/2014/Ex:Asstt/BOR/ 15877

Dated 3 /08/2017


Mr. Muhammad Nazir,  
Ex: Assistant Board of Revenue  
Khyber Pakhtunkhwa.  
R/O Village & Post Office Pakha Ghulam,  
Tehsil & District Peshawar.

**SUBJECT: SHOW CAUSE NOTICE / PERSONAL HEARING IN DE-NOVO  
INQUIRY IN SERVICE APPEAL NO. 24/2014.**

I am directed to refer to the subject and to enclose herewith a copy of Show Cause Notice duly signed by the Competent Authority.

I am therefore directed to inform you to appear before the Competent Authority on 15.08.2017 at 1200 hrs, please.

Encl: As Above.

  
o/c (Khanzada Wazir)  
Assistant Secretary (Admn)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Ad:IV/Nazir/SA/24-2014/Ex:Asstt/BOR/ 17755  
Dated 23 /08/2017

To,


Mr. Muhammad Nazir,  
Ex: Assistant Board of Revenue  
Khyber Pakhtunkhwa.

R/O Village & Post Office Pakha Ghulam,  
Tehsil & District Peshawar.

**SUBJECT: SHOW CAUSE NOTICE / PERSONAL HEARING IN DE-NOVO  
INQUIRY IN SERVICE APPEAL NO. 24/2014.**

I am directed to refer to the subject and to inform you that you were earlier directed to appear before the Competent Authority for personal hearing on 15.08.2017 as a result of De-Novo inquiry vide Show Cause Notice already been sent to you vide this Department's letter No. Ad:IV/Nazir/SA/24/2014/Ex:Asstt/BOR/15877 dated 03.08.2017 along-with copy of Inquiry Report but you did not appear for personal hearing before the Competent Authority. However, Competent Authority has decided to give you another opportunity for personal hearing.

You are therefore directed again to appear on 29.08.2017 at 1200 hrs, in the office of Senior Member Board of Revenue (Competent Authority) for personal hearing. If you failed to appear before the Competent Authority, an ex-parte decision will be taken against you as per rules.

  
(Khanzada Wazir)  
Assistant Secretary (Admn)  
OK

## وضاحتی بیان

(2)

من تم مسمیٰ کا ممبران اللہ جو ممبر فلک لہستانی  
بطور ڈیپٹی چیئر مین ریونیو برانچ بورڈ آف ریونیو کو  
حسب ذیل حرفت گزارا شد ہوں:

(1) کہ محمد نذیر اسحاق اسٹٹ بورڈ آف ریونیو کے  
نائب امپ جی ایس ایف گورنر پیس پر ارسال کی گئی۔ جسکا  
رجسٹری نمبر و تاریخ یہ ہے: 3/8/2017 (1305)

(2) یہ کہ محمد نذیر کو ہڈیوں موبائل فون دالیم کرتے بھی بتایا  
کہ 2016-08-15 کو دن 12:00 بجے پھمارے کیس میں SMBR کے  
پاس پرسیل ہینڈل ہے۔

(3) یہ کہ مذکورہ بالا تاریخ کے بعد ایک دوسری چھٹی بنام محمد نذیر  
مورضہ 2017/8/23 کو گورنر کے پتہ پر جاری ہوئی جسکا رجسٹری نمبر  
بعد تاریخ یہ ہے۔ اسی طرح سابق میں نے محمد نذیر کو موبائل  
فون پر اطلاع دی کہ پہلی بار غیر حافی کے بعد اب دوسری  
بار پھمارے کیس میں مورضہ 2017/8/29 مورث ہوئی ہے۔  
جناب والا میں مذکورہ بالا دونوں اطلاعات اور رابطہ کی تصدیق کرتے  
ہوں کہ میں نے محمد نذیر کو دونوں بار آگاہ کیا تھا۔

محمد نذیر  
29/8/17  
ممبران اللہ (ریونیو)

ڈیپٹی چیئر مین  
بورڈ آف ریونیو  
پشاور

مورث 2017/8/29

OFFICE OF THE MEDICAL SUPERINTENDENT,  
PUNJAB INSTITUTE OF CARDIOLOGY, LAHORE.

Phone # Off: 042-99200031, 042-99203051 (Ext.313), Fax # 042-99203204.

CONFIDENTIAL

NO.PIC/VMR / 21982-84 /2016

Dated: 15-8-16

To

✓  
The Assistant Secretary (Admn)  
Government of Khyber Pakhtunkhwa,  
Board of Revenue, Revenue & Estate Department.

General Diary  
Dy: No. 2655  
Date 16-8-16  
Revenue & Estate  
Khyber Pakhtun Khawa

Subject: VERIFICATION OF MEDICAL CHECK UP:

Kindly refer to your office letter No. Ad:IV/Nazir/Enq/BOR/17389 dated 22.06.2016 and No. Ad:IV/Nazir/Enq/BOR/15558 dated 27.06.2016 on the subject cited above.

Please find enclosed here with the report of concerned as desired.

Medical Superintendent,  
Punjab Institute of Cardiology,  
Lahore.

NO.PIC/VMR/ /2016

Dated: 16/8/16

A copy is forwarded for information to

- 1 Prof. Dr. Nadeem Hayat Mallick, Professor of Cardiology / Head of the Institution PIC, Lahore.
- 2 Dr. Tasneem Kousar, Additional Medical Superintendent Incharge OPD PIC, Lahore

Medical Superintendent,  
Punjab Institute of Cardiology,  
Lahore.

16/8/16

29/8/2017 مورم

بوزر (بوزر) 5





OFFICE OF THE MEDICAL SUPERINTENDENT,  
PUNJAB INSTITUTE OF CARDIOLOGY, LAHORE.

Phone # Off: 042-99200031, 042-99203051 (Ext.313), Fax # 042-99203204.

Medical Superintendent,  
Punjab Institute of Cardiology,  
Lahore.

Subject: **VERIFICATION OF MEDICAL CHECK UP:**

Kindly refer to letter No. Ad:IV/Nazir/Enq/BOR/17389 dated 22.06.2016 and No. Ad:IV/Nazir/Enq/BOR/15558 dated 27.06.2016 received from The Assistant Secretary (Admn) Government of Khyber Pakhtunkhwa, Board of Revenue, Revenue & Estate Department on the subject cited above.

After reviewing the photo copies of patient record, these were presented to concerned Doctor, Dr. Muhammad Asif Rao on 11.01.2013 he has given in written that he has not advised rest to the said patient on OPD screening slip No. 1527/2013

It was further confirmed from Admin Officer that no such Dr. Humayon was on the pay roll of PIC, Lahore during that period as the name is mentioned on the slip.

In view of the above advice of rest is not verified and is fake

Regarding OPD slip No. 36130/2012 dated 07-12-2012, signature of Prof. Dr. Abdul Waheed does not match with record, hence it is fake and returned as un-verified.

1 Mr. Sultan Ali  
Admin Officer,  
Punjab Institute of Cardiology,  
Lahore.

*Sultan Ali*

2 Mr. Muhammad Asim  
System Analyst,  
Punjab Institute of Cardiology,  
Lahore.

*Muhammad Asim*

3 Dr. Tasneem Kousar,  
Additional Medical Superintendent Incharge OPD  
Punjab Institute of Cardiology,  
Lahore.

*Tasneem Kousar*

DR. TASNIM KAUSAR  
PMWO  
Incharge OPD  
Punjab Institute of Cardiology, Lahore.

کاپی الیڈ (مورف)  
پیشانی

مورف 29/8/2017

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

Dated, 07/07/2017.

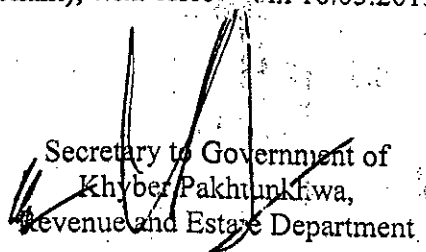
ORDER.

No./Admn-IV/II/Nazir/R&E/2017/ 18864 . Whereas Mr. Muhammad Nazir (Appellant), Ex: Assistant (Board of Revenue) Revenue and Estate Department was proceeded against under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

Whereas Mr. Shahid Sohail, Director Land Records Khyber Pakhtunkhwa was appointed as Enquiry Officer to conduct De-Novo inquiry against the appellant as per directions of Khyber Pakhtunkhwa Service Tribunal and:-

Whereas the Enquiry Officer after having examined the charges/evidence on record has submitted his findings/report, which reveals that all the charges stand proved. All legal formalities were observed but the official could not defend himself properly. All his statements, were contradictory. The medical treatment documents submitted by him proved fake, un-authentic and returned un-verified by the Medical Superintendent, Punjab Institute of Cardiology Lahore. His behaviour towards duty all along the period since under report remained as non serious, irresponsible, un-satisfied and based on false excuses. The appellant was given a number of chances to improve himself but after availing so many opportunities, he did not change his behaviour which seems that he was not interested in his job. Similar as he failed to appear before the Competent Authority for personal hearing on 15.08.2017 and again missed 2<sup>nd</sup> chance of personal hearing on 29.08.2017 which has been also conveyed to him on his Cell Phone No. 0334-1515590 but he remained absent on both the occasions, and neither submitted his written defence to the Competent Authority.

Now therefore, I, Zafar Iqbal, Secretary to Government of Khyber Pakhtunkhwa Revenue and Estate Department being Competent Authority after having considered the charges/evidence on record, exercising power under Rule-4(b)(ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, hereby impose major penalty of "Compulsory Retirement" upon Mr. Muhammad Nazir (Appellant), with effect from 16.05.2013.

  
Secretary to Government of  
Khyber Pakhtunkhwa,  
Revenue and Estate Department

Case No./Admn-IV/II/Nazir/R&E/2017/ 18865-71

Copy of the above is forwarded to the:

1. Accountant General Khyber Pakhtunkhwa.
2. Registrar Khyber Pakhtunkhwa Service Tribunal with reference to his letter No. 77/ST dated 13.01.2016 filed by Mr. Muhammad Nazir Ex: Assistant Board of Revenue Khyber Pakhtunkhwa.
3. Bill Assistant, Revenue and Estate Department, Khyber Pakhtunkhwa.
4. Mr. Muhammad Nazir (Appellant), Ex: Assistant Revenue and Estate Department Khyber Pakhtunkhwa.
5. Personal file.
6. Office order file.
7. Master file.

(Khanzada Wazir)  
Assistant Secretary (Admn)