


Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	27.08.2019	<p style="text-align: center;"><b><u>BEFORE THE YBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b>  <b>Service Appeal No. 1336/2014</b></p> <p style="text-align: center;">Date of Institution ..... 29.10.2014  Date of Decision ..... 27.08.2019</p> <p>Mr. Farman Ali, Naib Teihsildar (BPS-14), Revenue Academy  Khyber Pakhtunkhwa, Peshawar.</p> <p style="text-align: right;"><b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <p>1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.  2. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.</p> <p style="text-align: right;"><b>Respondents</b></p> <p><b>Mr. Muhammad Hamid Mughal-----Member(J)</b>  <b>Mr. Ahmad Hassan -----Member(E)</b></p> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p style="text-align: center;"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> Appellant present. Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Muhammad Arif Superintendent present.</p> <p>2. The appellant (Naib Tehsildar) has filed the present service appeal against the order dated 28.02.2013 whereby the Senior Member Board of Revenue Khyber Pakhtunkhwa withdrew his order of the same day i.e. 28.02.2013 of allowing condonation of</p>

  
27.8.2019

break in service for 410 days w.e.f 01.11.1984 to 11.01.1986, 01.06.2001 to 15.07.2002 without pecuniary benefits.

3. Learned counsel for the appellant argued that the appellant was appointed as PTC Teacher on 01.11.1980 and served the Education Department till 31.10.1984; that after completing his patwar training course, the appellant was appointed as Settlement Patwari on 12.01.1986, promoted to the post of Kanungo on 22.06.1995 on acting charge basis; that on 05.05.2001 the appellant was posted as Kanungo Circle Chani Swabi by Settlement Office Mardan; that due to winding up of the settlement operation in Mardan, the appellant was relieved from duty vide order dated 31.05.2001. Learned counsel for the appellant further argued that the appellant was appointed as Settlement Naib Tehsildar on contract basis for settlement operation in Chitral vide order dated 16.07.2002 and his services were regularized vide order dated 05.07.2006 on the strength of judgment of Hon'ble Peshawar High Court Peshawar dated 19.04.2006; that the appellant filed departmental appeal before SMBR Khyber Pakhtunkhwa for condonation of break in service w.e.f 01.11.1984 to 11.01.1986, 01.06.2001 to 15.07.2002 which departmental appeal was partially accepted vide order dated 28.02.2013 however the said order was surprisingly withdrawn vide order made impugned in the present service appeal; that the departmental appeal of the appellant against the withdrawal of order dated 28.02.2013 was not responded. Learned counsel for the appellant further argued that the appellant is

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entitled for pay protection and pensionary benefits of service already rendered in other departments; that pay protection is the right of the appellant under the law; that the Khyber Pakhtunkhwa Finance Department has clarified that pay protection will be admissible to the employees who were subsequently appointed in government service from one department to another department through proper channel.

4. As against that learned District Attorney argued that departmental appeal of the appellant was accepted by the then SMBR but on re-examination of the record, the order was withdrawn for valid reasons. Further argued that the appellant was granted relief by the Hon'ble Peshawar High Court Peshawar in Writ Petition and resultantly his services were regularized. Further argued that the appellant remained as a project employee in the Settlement Department and his services prior to his regular services were not confirmed, more so broken periods of service/employment are not countable towards pay protection and grant of service/pensionary benefits.

5. Arguments heard. File perused.

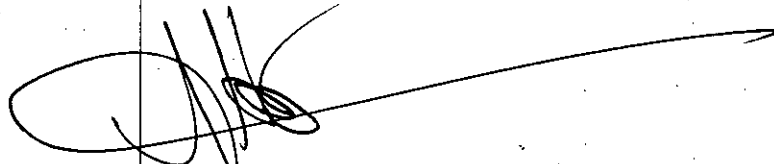
6. Upon winding up of the settlement operation the appellant was relieved from his duties vide order dated 31.05.2001, meaning thereby that the services of the appellant were neither confirmed nor pensionable. Later on, vide order dated 16.07.2002 the appellant again got employment on contract basis as Naib Tehsildar for settlement operation in Chitral.

27.8.2019

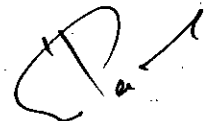
7. On the basis of appointment order dated 16.7.2002, the appellant became contractual employee of a project/settlement operation however he somehow succeeded in regularization of his service vide order dated 05.07.2006.

8. It is settled that no broken period of employment/service is countable towards regular service/pensionary benefits. Similarly a civil servant cannot claim service/pensionary benefits of his piece meal services at different intervals of time rendered prior to his service on regular basis. In this regard reliance is also placed on the recent judgment dated 10.04.2019 of this Tribunal in Service Appeal No.243/2016 filed by Muhammad Bashir Ex-Patwari.

9. In the light of above, the appellant has not been able to seek indulgence of this Tribunal. Consequently the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)  
Member

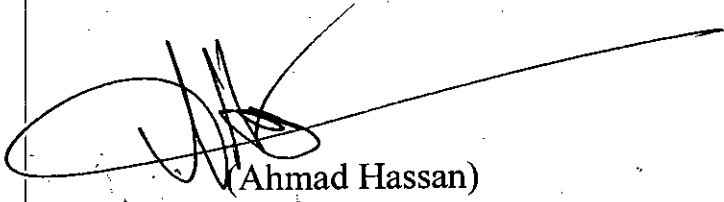


(Muhammad Hamid Mughal)  
Member

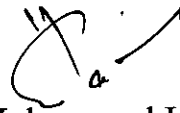
ANNOUNCED  
27.08.2019

27.08.2019

Appellant with counsel present. Mr. Usman Ghani learned District Attorney alongwith Muhammad Arif Superintendent present. Vide separate judgment of today of this Tribunal placed on file, the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)  
Member



(Muhammad Hamid Mughal)  
Member

ANNOUNCED.  
27.08.2019

30.04.2019

Counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Muhammad Arif Superintendent for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 14.06.2019 before D.B.



(Ahmad Hassan)  
Member



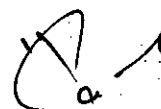
(M. Amin Khan Kundi)  
Member

14.06.2019

Due to general strike of the Pakistan Bar Council, the case is adjourned. To come up on 03.07.2019 before D.B..



(M. Amin Khan Kundi)  
Member



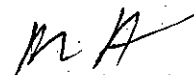
(Muhammad Hamid Mughal)  
Member

03.07.2019

Counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Javid Assistant for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 27.08.2019 before D.B.




(Hussain Shah)  
Member



(M. Amin Khan Kundi)  
Member

01.2019

Junior to counsel present. Mr. Muhammad Jan, alongwith Mr. Muhammad Arif, Supdt for respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 18.03.2019 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Hamid Mughal)  
Member


18.03.2019

Appellant in person and Addl:AG alongwith Mr. Muhammad Javed, Assistant for respondents present.

Appellant requests for adjournment as his learned counsel is appearing before the Mingora Bench of Hon'able Peshawar High Court, Peshawar today.

Adjourned to 30.04.2019 before D.B.

  
Member

  
Chairman

10.10.2018

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney learned Deputy District Attorney present. Learned counsel for appellant seeks adjournment. Adjourn. To come up for arguments on 26.11.2018 before D.B.

  
Member

  
Member

26.11.2018

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant requested for Adjournment that his senior counsel is not in attendance. To come up for arguments on ~~26~~ 28.11.2018 before D.B.

Member

  
Member

28.11.2018

Counsel for the appellant and Mr. Ziaullah DDA for the respondents present.

The former requested for adjournment <sup>as</sup> ~~that~~ brief in the instant appeal could not be prepared due to over-load. Adjourned to 28.01.2019 before D.B

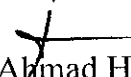
  
Member

  
Chairman



02.03.2018

Counsel for the appellant and Addl. AG for the respondents present. Learned counsel for the appellant seeks adjournment. To come up for arguments on 08.05.2018 before the D.B.

  
(Ahmad Hassan)  
Member

  
Chairman

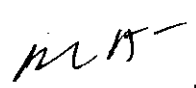
08.05.2018

The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come on 28.06.2018

READER

28.06.2018

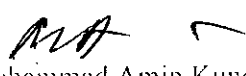
Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 09.08.2018 before D.B.

  
(Muhammad Amin Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

09.08.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment Adjourned. To come up for arguments on 10.10.2018 before D.B.

  
(Muhammad Amin Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

23.05.2017

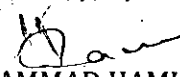
Counsel for the appellant present. Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 07.09.2017 before D.B.

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER


07/09/2017

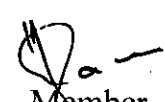
Due to general strike of the bar and bench is incomplete, the case is adjourned for arguments on 19/10/2017 before DB.

  
MUHAMMAD HAMID MUGHAL  
MEMBER

19.10.2017


Clerk to counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.01.2018 before D.B..


  
Member  
(Executive)

  
Member  
(Judicial)

03.01.2018


Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 02.03.2018 before D.B.

  
(Ahmad Hassan)  
Member(E)

  
(M.Amin Khan Kundi)  
Member (J)

22.04.2016

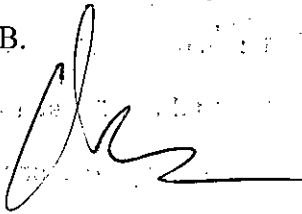
Counsel for the appellant and Mr. Usman Ghani, Sr. GP for respondents present. Arguments could not be heard due to paucity of time. To come up for arguments on 02.09.2016.

  
Member

  
Member

02.09.2016

Counsel for the appellant and Mr. Usman Ghani Sr. GP for respondents present. That informed the Tribunal wherein appeal of the appellant i.e 570/2013 is also pending before this Tribunal and that both the appeals be heard by the one at the same date. Office is directed to fix the instant appeal as well as appeal referred to above before one at the same date. Adjourned for final hearing on 4.01.2017 before D.B.

  
Member

  
Chairman

04.01.2017

Junior to counsel for the appellant and Mr. Muhammad Ibrar, Assistant Director alongwith Mr. Ziaullah, GP for respondents present. Junior to counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on ~~23.5.17~~

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

29.04.2015

Appellant Deposited  
Security & Process Fee



Appellant with counsel present. Learned counsel for the appellant argued that due to break in the service of appellant he, after exhausting departmental remedy, preferred service appeal No. 570/2013 against the impugned order dated 28.2.2013 which is subjudice before this Tribunal and wherein it transpired that the said order dated 28.2.2013 was unilaterally withdrawn vide another order of the same day regarding which the appellant preferred afresh departmental appeal on 1.7.2014 which was not responded and hence the instant service appeal on 29.10.2014.

That the appellant is entitled for the condonation of the service break as the same has occurred due to no fault of the appellant.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for 28.7.2015 before S.B.

  
Chairman

28.07.2015

Appellant with counsel and Mr. Naeem Khan, Assistant alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 24.11.2015.

  
Chairman

24.11.2015

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan. Therefore, the case is adjourned to 22/4/16 for arguments.

  
Member

13.03.2015

Counsel for the appellant present. Requested for adjournment. Adjourned for preliminary hearing to 15.04.2015 before S.B.

  
Chairman

15.04.2015

Appellant in person present. Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned for preliminary hearing to 29.04.2015 before S.B.

II  
2015.04.15

  
Chairman

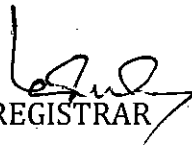



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Form- A  
FORM OF ORDER SHEET

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

Case No. 1336/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13.11.2014	<p>The appeal of Mr. Farman Ali resubmitted today by Mr. Noor Muhammad Khattak 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	15-01-2015	<p>This case is entrusted to Bench <u>II</u> for preliminary hearing to be put up there on <u>16-01-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	16.1.2015	<p>Notice of general strike received from the Khyber Pakhtunkhwa Bar Council. Notice be issued to appellant and his counsel. To come up for preliminary hearing on 16.2.2015.</p> <p style="text-align: right;"> MEMBER</p>
	16.2.2015	<p>Appellant with counsel present and requested for adjournment. Therefore, case to come up for preliminary hearing on 13.3.2015.</p> <p style="text-align: right;"> MEMBER</p>


*M. A. Qureshi*  
*16/2/15*  
*M. A. Qureshi*

The appeal of Mr. Farman Ali Naib Tehsildar Revenue Academy Khyber Pakhtunkhwa received today i.e. on 29.10.2014 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Copy of withdrawal order mentioned in para-6 of the memo of appeal (Annexure-E) is not attached with the appeal which may be placed on it.
- 2- Copies of impugned order and departmental appeal against it are not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- 4- Index of the appeal may be prepared according to the documents attached with the appeal.
- 5- Copies of order dated 31.5.2001 and 16.7.2002 are illegible which may be replaced by legible/better one.
- 6- Copy order sheet of this Tribunal mentioned in para-7 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 1555 /S.T.


Dt. 30/10 /2014.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Peshawar.

*Note:*

*Sir, All objections have been removed,  
same resubmitted today dated 13/11/2014.*

  
13/11/2014

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

APPEAL NO. 1336 /2014

**FARMAN ALI**

**VS**

**SMBR**

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4.	Order dated 16.7.2002	C	17.
5.	Memo of appeal & order dated 28.2.2013	D	18- 22.
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8.	Appeal no. 570/2013	G	26- 29.
9.	Order sheet	H	30- 31.
10.	Vakalat nama	.....	32.

**APPELLANT**

THROUGH:

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



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

**APPEAL NO. 1336 /2014**

1321  
29/10/2014

Mr. Farman Ali, Naib Tahsildar (BPS-14),  
Revenue Academy Khyber Pakhtunkhwa, Peshawar.

..... **Appellant**

**VERSUS**

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

..... **Respondents**

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED WITHDRAWAL ORDER DATED 28-02-2013 COMMUNICATED TO THE APPELLANT DURING THE PENDENCY OF APPEAL NO. 570/2013 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS**

**PRAYER:**

On acceptance of this appeal the impugned withdrawal order dated 28-02-2013 may very kindly be set aside and the respondents may be directed to restore and act upon the order dated 28-02-2013 with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

re-submitted to  
and filed;

Registered

Respectfully Sheweth,

1. That the appellant was appointed as settlement Patwari on 12-01-1986 and was allowed annual increment and he was promoted to the post of Kanungo (BPS-09) on 22-06-1995 on acting charge basis and his service were placed at the disposal of S.E Ghazi Barotha Hydro Power Project Tarbela. (Copy of the service book is attached as Annexure A).
2. That on 02-05-2001 appellant was repatriated to his parent Department and was posted as Kanungo Circle Chani Swabi on 05-05-2001 by Settlement Office Mardan.
3. That due to winding up Settlement Operation Mardan Division Mardan, appellant was relieved from duty and placed at the disposal of D.L.R NWFP Peshawar vide order dated 31-05-2001. (Copy of the order dated 31-05-2001 is attached as Annexure B).
4. That appellant was appointed as a N.T (BPS-14) on the recommendation of Selection Committee by the SMBR Khyber Pakhtunkhwa, vide order dated 16-07-2002 on contract basis but later on his services were regularized vide order dated 05-07-2006. (Copy of the order is attached as Annexure C).
5. That appellant filed an appeal before the respondent No. 1 (SMBR Khyber Pakhtunkhwa, Peshawar) which is partially accepted but partially dismissed vide order / judgment dated 28-02-2013. (Copy of the appeal and order dated 28-02-2013 is attached as Annexure D)
6. That during the proceedings of the appeal of the respondents filed their reply in which they attached and produced copy of the withdrawl order dated 28-02-2013. That it is pertinent to mention that the said withdrawl order dated 28-02-2013 was not communicated to the appellant and the appellant has been kept in dark by the

respondents with malafide intention. (Copy of the withdrawal order is attached as Annexure E).

7. That feeling aggrieved appellant filed Department Appeal against the withdrawal order dated 28-02-2013 on 01-07-2014 but no reply has been received so far. That on the permission of this August Tribunal the appellant filed the present appeal on the following grounds amongst the others. (Copy of the departmental appeal, memo of appeal No. 570/2013 and order sheet are attached as Annexure F, G and H).

**GROUND:-**

- A. That the impugned order dated 28-02-2013 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B. That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Pakistan, 1973.
- C. That as per judgment of Superior Court (Reported Judgment 2008 PLC (CS) 482) coupled with judgments of this Honourable Tribunal dated 03-05-2010 titled as "Momen Khan VERSUS Chief Secretary etc" whereby it was held that appellants are entitled for pay protection and pensionary benefits of service already rendered in another department.
- D. Because as per earlier precedents, pension has been granted to identically settlement patwaries and appellant is also entitled for the same.
- E. Because pay protection is the right of appellant as per law and it can not be refused by respondents, much so when other identical settlement patwaries were granted to pay protection and seniority of settlement operation, pension

as their services were also taken on against regular revenue posts in Mardan.

- F. Because the break in service has already condoned and previous service already counted for pensionary benefits and kept continued the service of appellant from 1<sup>st</sup> appointed till update, thus appellant is entitled for pay protection and back benefits on the basis of previous service already rendered in settlement operation Mardan.
- G. Because as per law, appellant is a regular civil servant and it was due to respondents that posts were abolished by respondents due to winding up settlement operation Mardan.
- H. Because identical appeal has been accepted by respondent (i.e. Commission Mardan).
- I. Because other similarly placed patwaries were granted to the same benefits in appeal titled as "Hilal Said VERSUS DOR Mardan" "Imtiaz Ali VERSUS DOR Mardan" and as per reported judgments of Apex Superior Courts of Pakistan, SCMR 1996 Page 1185, appellant is also entitled for the same benefits / relief.
- J. That as per notification No. 12-1/2011 dated 04/06/2011 of KPK Finance Department has classified that pay protection will be admissible to the employee who is subsequent appointed in Govt. Service from one department to another department through proper channel of said previous service. (Copy of Notification is attached as Annexure I).
- K. That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

~~Appellant~~

Farman Ali

Through

  
NOOR MUHAMMAD KHATTAK

And

  
YAQOOB KHAN

Advocates, Peshawar.

The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

1. Name **Farman Ali**

2. Race **Afghan.**

*(Handwritten mark)*  
**A - (6)**

3. Residence **Moh. Bari Chum Village & P.O. Gujan Garhi  
Tehsil and District, MARDAN.**

4. Father's name and residence **Abdul Khalig.**

5. Date of birth by Christian era as nearly as can be ascertained **4-2-1963.**

6. Exact height by measurement **5 - 6**

7. Personal marks for identification .. **A black mole on Right Cheek.**


8. Left hand thumb and Finger impression of (non-gazetted) officer

Little Finger 

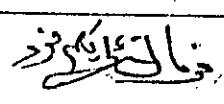
Ring Finger 

Middle Finger 


Fore Finger 

Thumb 

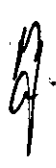
9. Signature of Government servant.



10. Signature and designation of the Head of the Office, or other Attesting Officer.

  
**Attesting Officer**  
**Mardan**

**ATTESTED**



6 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 if officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	7 Signature of Government servant
G. 700-25-1200 Patwari Aman Kot	Temporary	Temporary	750/- 700/-	Revised Entree	750/-	01/2/1988	[Signature]
Patwari - Plesto	—	—	775/- 725/-	—	775/-	1/12/88	—
Patwari - de	—	—	800/- 750/-	—	800/-	1/12/89	—
Patwari - Mahemir	—	—	800/- 750/-	—	800/-	18/12/89	—
Settlement Patwari Mahib Banda	—	—	800/- 750/-	—	800/-	28/1/90 (F.N)	—
Settlement Patwari Surakh Dhari	—	—	800/- 750/-	—	800/-	3/5/90 (F.N)	—
Patwari - da	—	—	825/- 775/-	—	825/-	11/12/90	—
1035-49-1770 Sett. Patwari	—	—	1280/- 1231/-	1378/-	1378/-	1/6/91	—
Patwari - Mahib Banda	—	—	1427/- 1280/- 1328/- 1329/-	—	1427/-	11/12/91	—

ATTESTED  
[Signature]

PAKISTAN  
WATER AND POWER DEVELOPMENT AUTHORITY

**SERVICE REPORT**

Name in Full... MR. Farman Ali.....  
 Father's Name... Abdul Khaliq.....  
 Permanent Address... Teh: & Dist: Mardan Vill: P.O. Gujargah.....  
 Date of Birth... 4-2-1963.....  
 Academic Qualifications... M.A. in F.A. and Patway Passed.....  
 Date on which declared Medically fit... 12-1-1986.....

Nominations

	Name and Permanent Address	Share Major/Minor	Relationship
1. G.L.I.	<u>Mrs. Nasreen, Mohallu Baricham, Vill: P.O. Gojar Chai, Teh: &amp; Dist: Mardan</u>	<u>100% Major</u>	<u>wife</u>
2. E. P. Fund/ G.P. Fund			
3. Pension			

National Identity Card No. 129-57-003313.....

Left hand thumb and finger impressions of  
(Non-gazetted) Officer :-

Little Finger

Ring Finger

Middle Finger

Fore Finger

Thumb

Signature of Employee.....

Signature Head of Office.....

Designation.....

Principals Officer  
Mardan SC/RRP  
Wapda Mardan.

"The entries on this page should be renewed or re-attested at least every five years and the signatures of employees and the Head of Office should be dated. Finger Prints need not be taken afresh every five years."

**ATTESTED**







11

1 Name of post	2 Whether substan- tive or officiating and whether permanent or temporary	3 If officiating, into (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	8 Signature of Government - servant
(1605-97-3060)	11/7/95		2284/	✓			
			Pay fixed in EPS-9 vide				Dated 3-8-95
							Superintending Engineer (R-settlement) Ghazi-Barotha Hydropower Project WAPDA, TARBELA, 11/7/95
Dawsongo	Temporary	Temporary	2384/			11/12/95	Dated 11/12/95
1605-97-3060 (B-9)							
Dawsongo No. (1605-97-3060) (B-9)	Temporary	2384/pm	01/12/96 (R/S)				Annual Increment Granted With effect from ..... 1/12/96 (R/S) Letter No. SEC(R)/G.M./R-6/96-1350 Dated ..... 2/12/96
		VERIFIED					
		B.G.A.O. 11/92					Superintending Engineer (Resettlement) Ghazi-Barotha Hydropower Project WAPDA, TARBELA, 2/12/96

ATTESTED

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ATTESTED

15	Reference to any recorded punishment or award, or reward or praise of the Government servant.
14	Signature of the head of the office or other attesting officer
13	Allocation of part of the month of leave on average of leave for which leave is available to another Government servant.
12	Signature of the head of the office or other attesting officer
11	Reason of termination (such as promotion, transfer, dismissal, etc).
10	Date of termination or appointment
9	Signature and position of the officer or other attesting officer in accordance with columns 1 to 8

Annual Increment Granted  
 With effect from 1-12-2000  
 Letter No. 531  
 Dated 10-2-2001

05-97-3069  
 6 ps-9

1-12-2000 (F.N)  
 Regular Rs. 2963/- P.M

Director (Technical)  
 for Chief Engineer (R&E)  
 GBHP Wadda Tarbela  
 12/2

Three of Annual Increment as in 1.12.2000 w.e.f 1.12.2000 to 28-4-2001 Rs. 508/13 per cent for Payment.

Director (Technical)  
 for Chief Engineer (R&E)  
 GBHP Wadda Tarbela  
 23/12/2001

Report made to this  
 Present department i.e  
 Settlement Officer Maskeen  
 court of suits w of  
 28-4-2001 (H) vide  
 O.O. No. 1453 dt 2-5-2001

Director (Technical)  
 for Chief Engineer (R&E)  
 GBHP Wadda Tarbela  
 28/4/2001

11/11/2001 to 28/4/2001  
 10/5/2001

(12)





**OFFICE ORDER**

In pursuance of the decision arrived at in the meeting held on 19/5/2001, provided over by the senior Member Board of Revenue NWFP, Peshawar the winding up Settlement Operation in Swabi District the under mentioned Settlement Patwaris are hereby releaved of their duties w.e.f. 31/5/2001 in accordance with the provision of (appendix E) Chapter-3 of land record .

S. No.	Name of Patwari with Parantage	Seniority Position
1)-	Sarfaraz Khan S/o Sherin Jan	1
2)-	Jamshaid Anwar S/o Abdul Malik	2
20)-	Rizwanullah S/o Abdul Ghafoor	20
<b>29)-</b>	<b>Farman Ali S/o Abdul Khalid</b>	<b>29 Officiating Field Kanungo</b>
33)-	Meher Dil Khan S/o Khaista Khan	33

**Dir:Jamal Nasir  
Deputy Commissioner/  
Settlement Officer, Swabi**

**OFFICE OF THE SETTLEMENT OFFICER, MARDAN AT SWABI.**

No. 425/3 /SO-mardan/E-19. Dated Mardan the \_\_\_/5/2001

Copy forwarded to all concerned.

*Attested*  
*6/5*

OFFICE ORDER

As per the decision arrived at in the meeting held on 19/5/2001, presided over by the Senior Member, Board of Revenue, N.W.F.P., Peshawar and winding up Settlement Operation in Swabi District, the under mentioned Settlement Patwaris are hereby relieved of their duties w.e.f. 31/5/2001 in accordance with the provision of ( appendix B ) Chapter-3 of Land Records, National:

S-No.	Name of Patwari with Parentage.	Seniority Position.
1)-	Gurfaraz Khan S/O Sherin Jasi	1
2)-X	Jamshed Anwar S/O Abdul Halik	2
3)-	Amir Hussain S/O Wahid Gul.	3
4)-	Badr Ali No.1 S/O Habibullah Khan	4
5)-	Imdad Ali S/O Sultanuddin	5
6)-	Sher Ali S/O Amir Hussain	6
7)-	Muhammad Tajwar S/O Ghayyuddin	7
8)-	Yousaf Ali S/O Sherin	8
9)-	Muhammad Bilal S/O Abdul Haq	9
10)-	Imdad Khan S/O Habibullah Khan	10
11)-	Durratun Nissa S/O Abdul Halik	11
12)-	Faiz Chaudhry S/O Muhammad Ghaffar	12
13)-	Muhammad-Rahman S/O Mir Rehman	13
14)-	Badr Ali No.2 S/O Yousaf	14
15)-	Muhammad Saif S/O Faiz Khan	15
16)-	Muhammad Khan S/O Faris Khan	16
17)-	Amir Hussain S/O Said Rehman	17
18)-	Amir Ali S/O Mir Hussain	18
19)-	Amir Khan S/O Amir Khan	19
20)-	Muhammad Ullah S/O Abdul Chaudhry	20
21)-	Muhammad-Rahman S/O Sher Ali	21
22)-	S. Zahid Ali Khan S/O Abdul Wali Khan	22

Contd: P/2.

**ATTESTED**

*[Signature]*



16

- P/2.
- 23)- Pir Mazhar Ali Shah S/O Said Anwar Shah.
  - 24)- Khalid Khan S/O Hayat Khan.
  - 25)- Shamsul Arifceen S/O Rafiuddin.
  - 26)- Aurang Zeb S/O Amir Zada.
  - 27)- Hanif rahammad S/O rahammad Gul.
  - 28)- Ahmad Ali Khan S/O Bahadar Khan.
  - \* 29)- Farman Ali S/O Abdul Khalid.
  - 30)- Muhammad Arshad S/O Mir Ghazan.
  - 31)- Hazrat Gnuilan S/O Said Gnuilan.
  - 32)- Taj Ali S/O Muhammad Hezarat.
  - 33)- Meher Dil Khan S/O Knaista Khan.

- 23
- 24
- 25
- 26
- 27
- 28
- 29 Officiating Field Manager.
- 30
- 31
- 32
- 33

(Mr. Nazam ul Haq) Deputy Commissioner/ Settlement Officer, Swabi.

OFFICE OF THE SETTLEMENT OFFICER, MARDAN AT SWABI.

No. 485/51 /SO-Mardan/B-19. Dated Mardan the \_\_\_/5/2001.  
Case forwarded to the :-

- 1)- Commissioner, Mardan Division, Mardan w/r to Director, Land Records, NWFP, Peshawar memo no. 1079-81/DR/Sett: dated 24/5/2001 with the request to take up the case for adjustment of Senior Patwaris of Mardan Distt: relieving the Junior most Patwaris candidates, presently posted in mahal.
- 2)- Secretary, Board of Revenue, NWFP, Peshawar.
- 3)- Director, Land Records, N.W.F.P, Peshawar w/r to his memo: no. 1089-81, DLR/Sett: dated 24/5/2001.
- 4)- Deputy Commissioner, Mardan along with a copy of the minutes of the meeting held on 19/5/2001 with Senior member, Board of Revenue, NWFP, Peshawar.
- 5)- PS to Senior member Board of Revenue, NWFP, Peshawar.
- 6)- District Accounts Officer, Mardan.
- 7)- Accounts Section (Local).

(Signature) Deputy Commissioner/ Settlement Officer, Swabi.

**ATTESTED**

(Signature)

**BOARD OF REVENUE**  
**NORTH WEST FRONTIER PROVINCE.**  
**PESHAWAR DATED THE 16/7/2002**  
**ORDER**

No. Admn: I/182. On the recommendation of the Departmental Selection Committee, continued for Selection of candidate for settlement operation Chitral, Mr. Farman Ali S/o Abdul Khaliq Ex-Settlement Kanungo circle Chenai Swabi resident of Gugar Gari Tehsil Takht Bhai District Mardan is hereby appointed as Naib Tehsildar on contract basis for Settlement Operation in Chitral District with immediate effect.

**Senior Member Board  
Of Revenue, N.W.F.P.**

No. 16771-83/Admn:I/182.  
Copy forwarded to all concerned.

*Attested*  
*19*  
*9.*

10  
C-17-00  
16-7-02  
BOARD OF REVENUE  
NORTH WEST FRONTIER PROVINCE.

PESHAWAR DATED THE 16/7/2002.

O R D E R.

No. /Admn:I/182. On the recommendation of the Departmental Selection Committee, constituted for selection of candidate for Settlement Operation Chitral, Mr. Farman Ali S/O Abdul Khaliq Ex-Settlement Kanungo Circle Chonai, <sup>Juabi,</sup> resident of Guger Gari Tehsil Takht Bhai District Mardan is hereby appointed as Naib Tehsildar on contract basis for Settlement Operation in Chitral District with immediate effect.

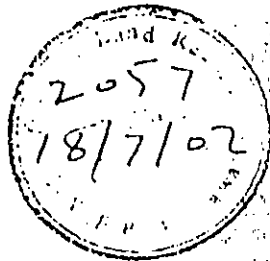
*H.S.H. 17/7/02*  
Senior Member,  
Board of Revenue, N.W.F.P.

No. 16771-03 /Admn:I/182.

Copy to the :-

- 1- Secretary to Governor, N.W.F.P.
- 2- P.S. to Minister for Revenue, N.W.F.P.
- 3- Secretary to Govt. N.W.F.P. Finance Department.
- 4- Director, Land Records, N.W.F.P.
- 5- District Coordination Officer, Chitral and Mardan.
- 6- District Officer(R&E) Chitral and Mardan.
- 7- Settlement Officer, Chitral.
- 8- District Accounts Officer, Chitral and Mardan.
- 9- Official concerned.
- 10- Office order file.

*M. J. Khan*  
Secretary,  
Board of Revenue, N.W.F.P.



ATTESTED  
*[Signature]*

D-18

BEFORE THE SENIOR MEMBER BOARD OF REVENUE KHYBER PAKHTOON  
KHWA PESHAWAR.

Farman Ali Naib Tehsildar Patwar Academy Khyber Pakhtoon  
Khwa Peshawar ..... Appellant

Versus

Board of Revenue Khyber Pakhtoon Khwa Peshawar..Respdt:

*Handwritten:* C.A. / P. H. / 17/11/2001 / 1/6/2001

APPEAL/REPRESENTATION FOR CONDONATION OF BREAK I.E.  
WITH EFFECT FROM 1.11.1984 TILL 11.1.1986, 1/6/2001  
TILL 15.7.2002 (410 days) AND PREVIOUS SERVICE ALREADY  
RENDERED IN THE SETTLEMENT OPERATION FROM 1.11.80 TO  
15.7.2002 BE COUNTED FOR PAY AND PENSION WITH ALL BACK  
BENEFITS.

Respectfully Sheweth:

\* 1.

That appellant was appointed as PTC Teacher  
on 1.11.1980 and served the department  
with devotion as such till 31.10.1984.

That appellant has completed his patwar  
training course with effect from 1.11.1984 till  
16.12.1985.

✓ 3.

That appellant was appointed as Settlement  
Patwari on 12.1.1986 and was allowed annual  
increments and he was promoted to the post  
of Kanungo (BPS-09) on 22.6.1995 on acting  
charge basis and his service were placed  
at the disposal of S.E. Ghazi Barotha Hydro

**ATTESTED**

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Power Project Tarbila. (Copy of svc book is attached  
to Annex A).

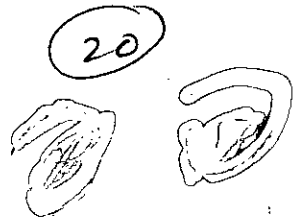
✓ 4. That on 2.5.2001, appellant was repatriated to his parent deptt: and was posted as Kanungo circle Chani Swabi on 5.5.2001 by Settlement Officer, Mardan.

✓ 5. That due to winding up settlement operation Mardan Division Mardan, appellant was relieved from duty and placed at the disposal of D.L.R. NWFP Peshawar vide order 31.5.2001 (Copy of the said order is annexure-A).

✓ 6. That appellant was appointed as N.T. (BPS-14) on the recommendation of Divl: Selection Committee by the DLR/SMBR NWFP vide order dated 16.7.2002 on contract basis (Copy of appointed order is attached as annexure-B).

✓ 7. That appellant filed a writ petition before Honourable Peshawar High Court, Peshawar for regularization of his service in Settlement Operation Chitral, which was accepted vide order/judgement dated 19.4.2006 with the direction that revenue Hirachy to appoint

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the appellant on regular basis (Copy of order/ judgement is attached as annexure-C).

8. That appellant approached before this Hon'ble Court for regularization of his service which was accepted vide order/judgement dated 5.7.2006, and on the basis of said judgement, service of appellant was regularized. (Copy of judgement is attached as annex-D).

9. That appellant approached before the NWFP Service Tribunal for placing of his name in the seniority list of Naib Tehsildars which was accepted vide order/judgement dated 9.10.2007 and on the basis of said judgement, the name of appellant was stood placed at Serial No. 86 of Naib Tehsildars Seniority list issued vide order dated 24.3.2010. (Copy of judgement and seniority list issued vide order dated 24.3.2010 is attached as annexure-E).

10. That similarly placed officials were granted same relief in appeal titled as Arshad Versus

ATTESTED  


P-----4

(21)

DLR etc., and Shafiqur Rehman VS DLR etc and as per reported judgements of Apex Supreme Court of Pakistan SCMR 1996 Page-1185 and No.2003 SCMR-1074, appellant is also entitled for the same benefit/relief.

It is therefore, humbly prayed that on acceptance of this appeal, that break in service of appellant with effect from 1.11.84 to 11.1.86 and 1.6.2001 to 15.7.2002 may please be condoned and previous service of appellant already rendered as Govt. service may please be counted for pay and pensionary benefits accordingly.

Any other relief deemed fit may also be graciously awarded.

~~Appellant~~  
Farman Ali N/Tehsildar

through

~~Yaqub Khan~~  
( YAQUB KHAN )  
Advocate High Court,  
at Mardan

24/9/2012

Dated: ~~24/9/2012~~

1

ATTESTED

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**IN THE COURT OF SENIOR MEMBER BOARD OF REVENUE  
KHYBER PAKHTUNKHWA, PESHAWAR.**

Departmental Appeal No. ....  
Date of Institution ..... 26.09.2012  
Date of Decision ..... 28.02.2013

Farman Ali, Naib Tehsildar Patwar Academy, Karak, Khyber Pakhtunkhwa (Appellant)

VERSUS

Board of Revenue, Khyber Pakhtunkhwa (Respondent)

**ORDER**

Brief facts of the case are that appellant was appointed as patwari on work charge basis and posted with Land Acquisition Collector, Mardan SCARP, by Project Director Mardan SCARP on 12.10.1986. He was promoted as Felid Kanungo purely on temporary basis and his services were placed at the disposal of Superintending Engineer Ghazi Brotha Hydro Power Project Tarbela on 22.05.1995. He was later on posted as Settlement Kanungo Circle Chani by Settlement Officer, Mardan on 05.05.2001. Thereafter he was appointed as Naib Tehsildar on contract basis on 16.07.2002. His services were regularized as Naib Tehsildar in Settlement Operation, Chitral w.e.f his date of appointment on 17.06.2006 by Board of Revenue Khyber Pakhtunkhwa.

Furthermore, in pursuance of the judgment of Peshawar High Court, his appointment order was modified on regular basis instead of contract basis and ~~was~~ declared entitled to all benefits as that of regular employees vide Senior Member, Board of Revenue order dated 05.07.2006. The appellant seeks condonation of break in service for 410 days. Comments of the Assistant Secretary (Estt.), Board of Revenue also perused. Departmental Appeal is accepted and break in service for 410 days w.e.f 01.11.1984 to 11.01.1986, 01.06.2001 to 15.07.2002 is allowed without pecuniary benefits.

**ATTESTED**

**ANNOUNCED**  
28.02.2013

*Handwritten signature/initials*

*Handwritten signature*  
**(FARUKI REHMANI)**  
**SENIOR MEMBER**  
**BOARD OF REVENUE**



E-23

IN THE COURT OF SENIOR MEMBER BOARD OF REVENUE  
KHYBER PAKHTUNKHWA, PESHAWAR

Departmental Appeal No. ....  
Date of Institution ... 26.09.2012  
Date of Decision ... 28.02.2013

Farman Ali, Naib Tehsildar Patwar Academy, Karak, Khyber Pakhtunkhwa  
.....(Appellant)

VERSUS

Board of Revenue, Khyber Pakhtunkhwa .....(Respondent)

ORDER

On re-examination of appeal and available record attached with the appeal filed by Farman Ali Settlement Naib Tehsildar Chitral, reveals that he was appointed as PTC teacher in Education Department and served there from 01.11.1980 to 31.10.1984. He left the service on his own sweet will and later got Patwar training in the year 1984-85. He was appointed as Patwari on work charged basis in Mardan Scarp (WAPDA) on 12.01.1986. The appellant was appointed as Settlement Naib Tehsildar Chitral vide order dated 16.07.2002 on contract basis which was regularized in compliance Peshawar High Court Judgment in the year 2006.

As the appellant remained employee of Education Department / WAPDA and has never served under the Revenue Department, as such condonation cannot be granted. Furthermore, the appellant has never objected regularization of his service with effect from 16.07.2002 through the judgment of Peshawar High Court which has attained finality.

In view the above, I am of the opinion that the orders for condonation of 410 days break in service to regularize his service in Education Department / WAPDA is beyond my jurisdiction, as such orders dated 28.02.2013 is considered as withdrawn and no effect would be given by any office.

ANNOUNCED  
28.02.2013

*Attested*  
*M*  
*q*

*Fazli Rehmani*  
(FAZLI REHMANI)  
SENIOR MEMBER  
BOARD OF REVENUE

F-24

Before the Chief Secretary KPK Peshawar

Farman Ali Naib Tehsildar Rev: academy KPK  
Peshawar R/o vill: Gujar Garhi Teh: & Distt: Mardan.  
Appellant.

VS

SMBR KPK Peshawar . . . . . Respondent.

Representation / D/Appeal against order / Judgment  
of Respondent dated 28/2/2013, whereby Departmental  
Appeal of appellant was accepted but on the same  
day same order is withdrawn by respdt: vide  
order / Judgment dated 28/2/2013, ~~in~~ in the absence  
of appellant, which is illegal, against law and facts.

Respectfully Sheweth:

1. That appellant was appointed as a Settlement  
Patwari for settlement operation Mardan vide  
order dated 12/1/86 and was promoted as Kanungo  
(BPS-9) on acting charge basis and was adjusted  
in Ghazi Brotha Project on deputation.

**ATTESTED**

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2. That on 2/5/2001, appellant was reattached to his Parent department and was posted as Kanungo circle Chani Swab vide order dated 5/5/2001 by S. O. Mardan.
3. That due to winding up settlement operation Mardan, appellant was relieved from duty and placed by S. O. Mardan on the disposal of DHR KPK Peshawar vide order dated 31/5/2001.
4. That appellant was appointed as a S/NT (BPS-14) on the proper recommendation of DPC meeting by chairmanship of SMBR KPK Peshawar after completion of all codal formality vide order dated 16/7/2002 on regular basis.
5. That appellant filed an appeal before SMBR KPK Peshawar, which was partially accepted with direction that break in service of appellant is condoned but without pay vide order/Judgment dated 28/2/2013. Copy of order/Judgment dated 28/2/2013 is attached.
6. That feeling aggrieved, appellant approached before the Svc Tribunal KPK Peshawar through svc appeal on 19/3/2013, in which respdt. has filed their reply dated 26/6/2014, in which they filed withdrawal order of Judgment dated 28/2/2013 on the same day in absence of appellant, which is illegal, against-law & facts.

ATTESTED

M  
of.

on the following grounds:-

(copy of order/judgment is attached)

Grounds:-

- A: That Learned S.M.B.R. KPK Peshawar has passed order/judgment dated 28/2/2013 in the court capacity as a Judgment and said court can not withdraw his own order/judgment.
- B. That appellant filed an application for grant of attested copy of Judgment dated 28/2/2013 on 5/3/2013, which was properly allowed by worthy S.M.B.R.
- C. That said order/judgment has forwarded for implementation by worthy S.M.B.R. to Asstt. Secretary BOR KPK, who properly received vide letter dated 18/3/2013 and was implemented with recording entry in the svc Book of appellant and granted arrears of pay on the same Judgment. (copy of letter and svc Book is attached)

It is therefore, humbly requested that withdrawan order/judgment of S.M.B.R. KPK Pesh dated 28/2/2013 may please be set aside and restored order/judgment dated 28/2/2013 (accepted order) with all back benefit

Appellant:-  
Farman Ali  
S/N/T Mardan

Dated 1/7/2014

G-26

**Before the Service Tribunal KPK Peshawar**

Appeal No. 570 /2013

Farman Ali, Naib Tehsildar Revenue Academy, Khyber Pakhtunkhwa,  
Peshawar R/o Village Gujar Garhi, Tehsil and District Mardan.

..... Appellant

**VERSUS**

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Board of Revenue Khyber Pakhtunkhwa, Peshawar.

..... Respondents

**APPEAL AGAIST ORDER /JUDGMENT OF  
RESPONDENT NO.1 DATED 28/02/2013,  
WHEREBY DEPARTMENTAL APPEAL OF  
APPELLANT IS PARTIALLY DISMISSED, WHICH  
IS ILLEGAL, AGAINST LAW AND FACTS.**

**Respectfully Sheweth:-**

1. That appellant was appointed as Settlement Patwari on 12/01/1986 and was allowed annual increments and he was promoted to the post of Kanungo (BPS-04) on 22/06/1995 on acting charge basis and his services were placed at the disposal of S.E. Ghazi Barotha Hydro Power Project Tarbela.

**(Copy of Service Book is attached as Annexure "A")**

2. That on 02/05/2001, appellant was repatriated to his parent department and was posted as Kanungo Circle Chani Swabi on 05/05/2001 by Settlement Officer, Mardan.

**ATTESTED**

*[Handwritten signature]*

(27) - (A)

3. That due to winding up Settlement Operation Mardan Division Mardan, appellant was relieved from duty and placed at the disposal of D.L.R. NWFP Peshawar vide order 31/05/2001.

**(Copy of order dated 31/05/2001 is attached as Annex "B")**

4. That appellant was appointed as a S.N.T. (BPS-14) on the recommendation of Selection Committee by the SMBR Khyber Pakhtunkhwa, vide order dated 16/07/2002 on contract basis but later on, his services were regularized vide order dated 5/7/2006.

**(Copy of order is attached as Annex "C")**

5. That appellant filed an appeal before the respondent No.1 (SMBR Khyber Pakhtunkhwa, Peshawar) which is partially accepted but partially dismissed vide order/judgment dated 28/02/2013.

**(Copy of appeal and order dated 28/02/2013 is attached as annexure "D").**

6. That appellant is entitled for pay protection and back benefit of the service already rendered by appellant in Settlement Operation Mardan on the following grounds: -

**GROUND:**

A. That as per judgment of Superior Court (reported judgment 2008 PLC (CS) 482) coupled with judgments of this Hon'able Tribunal dated 03/05/2010 titled as Momen Khan vs. Chief Secretary etc., whereby it was held that appellants are entitled for pay

**ATTESTED**

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protection and pensionary benefits of service already rendered in another department.

- B. Because as per earlier precedents, pension has been granted to identically settlement patwaries and appellant is also entitled for the same.
- C. Because pay protection is the right of appellant as per law and it can not be refused by respondents, much so when other identical settlement patwaries were granted the pay protection and seniority of settlement operation, pension as their services were also taken on against regular revenue posts in Mardan.
- D. Because the break in service has already condoned and previous service already counted for pensionary benefit and kept continued the service of appellant from 1<sup>st</sup> appointment till update, thus appellant is entitled for pay protection and back benefit on the basis of previous service already rendered in settlement operation Mardan.
- E. Because as per law, appellant is a regular civil servant and it was due to respondent that posts were abolished by respondent due to winding up settlement operation Mardan.
- F. Because identical appeal has been accepted by respondent (i.e. Commissioner Mardan).
- G. Because other similarly placed patwaries were granted to the same benefit in appeal titled as Hilal Said VS DOR Mardan, Imtiaz Ali VS DOR Mardan and as per reported judgment of Apex

ATTESTED

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Supreme Court of Pakistan, SCMR 1996 page 1185, appellant is also entitled for the same benefit/relief.

H. That as per notification No: 12-1/2011 dated 04/06/2011 of KPK Finance Department has classified that pay protection will be admissible to the employee who are subsequent appointment in Govt: service from one department to another department through proper channel of said previous service.

**(Copy of notification is attached as Annexure-E)**

It is therefore, humbly prayed that on acceptance of this appeal, order/Judgment of ~~Commissioner Mardan~~ <sup>SMBR KPK Peshawar</sup> dated 28/2/2013 may please be modified to the extent that appellant may please be granted pay protection, seniority, back benefit of regular service of appellant already rendered in settlement operation Mardan with all back benefits. Any other relief deemed fit may also be graciously awarded.

Appellant

Dated: 19 / 3 /2013

Through Counsel: Yaqub Khan Advocate  
Peshawar High Court Peshawar

**AFFIDAVIT**

I, undersigned declare on Oath that contents of the appeal are true and correct to the best of my knowledge and belief.

Dated: 19 / 3 /2013.

Deponent \_\_\_\_\_

**ATTESTED**

*[Handwritten signature]*

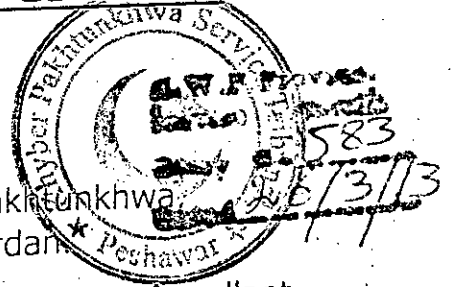


H-30(1)

**Before the Service Tribunal KPK Peshawar**

Appeal No. 570 /2013

Farman Ali, Naib Tehsildar Revenue Academy, Khyber Pakhtunkhwa,  
Peshawar R/o Village Gujar Garhi, Tehsil and District Mardan.



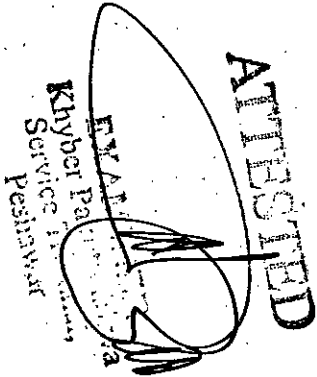
..... Appellant

**VERSUS**

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Board of Revenue Khyber Pakhtunkhwa, Peshawar.

..... Respondents

**APPEAL AGAINST ORDER /JUDGMENT OF  
RESPONDENT NO.1 DATED 28/02/2013,  
WHEREBY DEPARTMENTAL APPEAL OF  
APPELLANT IS PARTIALLY DISMISSED, WHICH  
IS ILLEGAL, AGAINST LAW AND FACTS.**



**Respectfully Sheweth:-**

1. That appellant was appointed as Settlement Patwari on 12/01/1986 and was allowed annual increments and he was promoted to the post of Kanungo (BPS-09) on 22/06/1995 on acting charge basis and his services were placed at the disposal of S.E. Ghazi Barotha Hydro Power Project Tarbela.

**(Copy of Service Book is attached as Annexure "A")**

2. That on 02/05/2001, appellant was repatriated to his parent department and was posted as Kanungo Circle Chani Swabi on 05/05/2001 by Settlement Officer, Mardan.

*Attested*  
*M.A.*

2-6/3/13



VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar  
OF 2014

Farman Ali (APPELLANT)  
(PLAINTIFF)  
(PETITIONER)


VERSUS

SMBR (RESPONDENT)  
(DEFENDANT)

I/We Farman Ali  
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. 29 / 10 / 2014

  
CLIENT

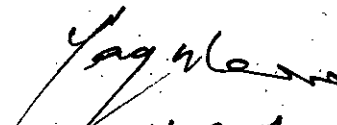
  
ACCEPTED  
**NOOR MOHAMMAD KHATTAK**  
(ADVOCATE)

OFFICE:

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

Phone: 091-2211391

Mobile No.0345-9383141

  
Yaqoob Khan Advocate

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**

**Service Tribunal. No: 1336/2014**

Farman Ali, Settlement Naib Tehsildar Revenue Academy Karak  
Khyber Pakhtunkhwa .....Appellant

**VERSUS**

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

**PRELIMINARY OBJECTIONS.**

1. The appeal is not competent in its present form.
2. The appeal is badly time barred.
3. That appellant has got no cause of action.
4. That appeal is bad due to mis-joinder/ non-joinder of necessary parties.
5. That appellant is estopped by his own conduct.
6. That appellant has not come to the Tribunal with clean hands.

**ON FACTS.**

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Pertains to record.
5. Incorrect. Departmental appeal of the appellant was accepted by the then Senior Member Board of Revenue, however, on re-examination of record the order was withdrawn by the then Senior Member Board of Revenue, as the appellant had not served in the Revenue Department for the period condoned by the Senior Member Board of Revenue.
6. Incorrect. Withdrawal order dated 28.2.2013 was communicated to the appellant upon receipt of which he has filed the instant appeal.