

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 917/2014

Date of Institution ... 04.07.2014

Date of Decision ... 05.12.2017

Muhammad Saeed Patwarai S/o Muhammad Umar R/o Mohallah Qazian, Tehsial Pabbi, district Nowshera.

... (Appellant)

VERSUS

1. Assistant Commissioner-II, Nowshera and 3 others.

... (Respondents)

MR. ABID ALI,
Advocate

--- For appellant.

MR. MUHAMMAD JAN,
Deputy District Attorney

--- For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

... MEMBER(Executive)
... MEMBER(Judicial)

JUDGMENT

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

FACTS

2. The brief facts are that the appellant was appointed as Patwari on 25.03.2000. That one Malik Israr ul Haq filed a complaint against the appellant. That inquiry proceedings were initiated against the appellant and upon conclusion major penalty of reduction to lower stage in time scale was imposed on him vide impugned order dated 01.01.2014. That the appellant preferred departmental appeal which was rejected on 17.06.2014, hence, the instant service appeal on 04.07.2014.

ARGUMENTS

3. Learned counsel for the appellant argued that after conducting enquiry major penalty of reduction to initial/lower stage in time scale was imposed on him vide order dated 17.01.2014. Enquiry was not conducted in the mode and manner prescribed in the rules. Statements of witnesses were not recorded nor opportunity of cross examination was afforded to the appellant. Time frame as required under F.R 29 was not mentioned in the impugned order and as such the same is illegal. Reliance was also placed on 2008 PLC (C.S) 921 and 1999 SCMR 2321.

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

CONCLUSION.

5. Careful perusal of record would reveal that enquiry was not conducted in the mode and manner prescribed in the rules. It is a well settled principle that in case major penalty is to be imposed then proper inquiry as prescribed in the rules should be conducted by fully associating the accused civil servant with inquiry proceedings. There are many contradictions in the enquiry report. Statements witnesses were not recorded nor opportunity of cross examination was afforded to the appellant. Time frame as prescribed in F.R 29 was not mentioned in the impugned order dated 17.01.2014, hence, it is illegal. It can be safely said that opportunity of fair trial was denied to him and was condemned unheard.

6. As a sequel to above, the appeal is accepted and the impugned order is set aside. The respondents are directed to conduct de-novo enquiry within a period of 90 days after receipt of this judgment. The issue of back benefits shall be subject to outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
MEMBER

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

ANNOUNCED
05.12.2017

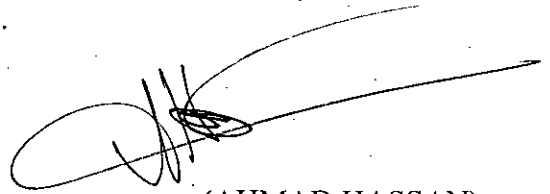
Order

05.12.2017

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

Vide detailed judgment of today of this Tribunal placed on file, the appeal is accepted and the impugned order is set aside. The respondents are directed to conduct de-novo enquiry within a period of 90 days after receipt of this judgment. The issue of back benefits shall be subject to outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.

Announced:
05.12.2017



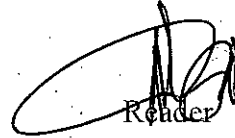
(AHMAD HASSAN)
Member

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
Member

01/11

12.12.2016

Since 12th Decembér, 2016 has been declared as a public holiday an account of 12th Rabi-ul-awal. Case is adjourned to 14.04.2017 before D.B.



Reader

14.04.2017

Counsel for the appellant present. Mr. Muhammad Ibrar, Assistant Secretary and Mr. Abdul Jabbar, ADK 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 04.08.2017 before D.B.



(Ahmad Hassan)
Member



(Muhammad Amin Khan Kundi)
Member

04.08.2017

Counsel for the appellant and Asstt. AG alongwith Mr. Abdul Jabbar, ADK. for the respondents present. During the course of arguments it transpired that certain record is not available on file for which the learned AAG requested to produce the same on the next date. Adjourned. To come up for such record and final hearing before the D.B on ~~5.12~~ 2017.



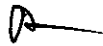
Member



Chairman

05.11.2015


Appellant with counsel Mr. Muhammad Jan, GP for respondents present. Due to paucity of time therefore, arguments could not be heard. To come up for arguments on 17-2-2016


Member


Member

17.02.2016

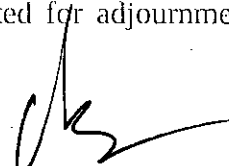
Counsel for the appellant and Mr. Mukhtiar Ali, Supdt. alongwith Mr. Ziaullah, GP for respondents present. The learned Member (Executive) is on official tour to Abbottabad, therefore, Bench is incomplete. To come up for arguments on 1-6-2016


Member

01.06.2016

Counsel for the appellant and Ziaullah, GP for respondents present. Submitted Wakalat Nama and requested for adjournment. To come up for arguments on 28 2016.


Member


Member

21.8.11.2
22.08.2016

Appellant in person and Mr. Ziaullah, GP for respondents present. Appellant requested for adjournment. Request accepted. To come up for arguments on 12.12.2016.


Member


Chairman

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26.03.2015

Appellant in person and Mr. Mukhtiar Ali, Supdt. for respondent No. 4 alongwith Addl: A.G for respondents present. Written statement on behalf of respondent No. 4 submitted while learned Addl: A.G requested for adjournment for submission of written reply on behalf of remaining respondents No. 1 to 3. Last opportunity granted. To come up for written reply/comments on behalf of respondents No. 1 to 3 on 8.5.2015 before S.B.


Chairman

6.

8.05.2015

Appellant with counsel and Mr. Abdul Jabbar, AD alongwith Assistant AG for respondents present. Written reply submitted, copy whereof is handed over to the learned counsel for the appellant for rejoinder. To come up for rejoinder on 29.7.2015.


Member

29.07.2015

Appellant with counsel and Mr. Mukhtiar Ali, Supdt alongwith Addl: AG for the respondents present. Rejoinder submitted on behalf of the appellant, copy whereof is handed over to the respondent-department. Arguments could not be heard as learned Member (Judicial) is on official tour to camp court D.I. Khan, therefore, the case is adjourned to 5-11-2015 for arguments.

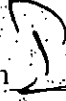

Member


3. 24.09.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 15.01.2014 passed by respondent No.2 vide which the appellant was awarded major penalty of reduction to lower stage and time scale BPS-9. Against the above referred impugned order appellant filed departmental appeal on 07.02.2014 which was also rejected vide order dated 17.06.2014; hence the instant appeal on 04.07.2014.

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 08.12.2014.

4. 24.09.2014

This case be put before the Final Bench  for further proceedings.


Member


Chairman

08.12.2014



No one is present on behalf of the appellant. M/S Zahid Gul, P.S for respondent No. 2 and Mukhtiar Ali, Supdt. for respondent No. 4 with Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for written reply/comments on 26.03.2015.


Reader.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 917/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04/07/2014	<p>The appeal of Mr. Muhammad Saeed presented today by Mr. Samin Ullah Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	8-7-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>24-9-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 917 /2014

Muhammad Saeed Patwari(Appellant)

VERSUS

Assistant Commissioner-II, Nowshera.

And others.....(Respondents)

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Addresses of the parties		8
4.	Copy of complaint	A	9
5.	Copy of statement of appellant	B	10-11
6.	Copy of inquiry report	C	12-13
7.	Copy of show cause notice	D	14
8.	Copy of reply	E	15
9.	Copy of order dated 15/01/2014	F	16
10.	Copy of departmental appeal	G	17-19
11.	Copy of order dated 17/06/2014 of Hon'ble Commissioner Peshawar Division, Peshawar	G	20
12.	Wakalat Nama		21

Appellant

Through

Dated: 01/07/2014

Samin Ullah

Advocate High Court,
Peshawar.

Cell No. 0302-5935067

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 917 /2014

KWP Peshawar
917
04-7-2014

Muhammad Saeed Patwari S/o Muhammad Umar R/o
Mohallah Qazian, Tehsil Pabbi, District
Nowshera.....(Appellant)

VERSUS

1. Assistant Commissioner-II, Nowshera.
2. Deputy Commissioner, Nowshera.
3. Commissioner Peshawar Division, Peshawar.
4. Government of Khyber Pakhtunkhwa through Senior Member
Board of Revenue.....(Respondents)

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974, AGAINST
ORDER DATED 15/01/2014 OF DEPUTY
COMMISSIONER NOWSEHRA AND
17/06/2014 OF COMMISSIONER PESHAWAR
DAVISON, PESHAWAR, WHEREBY THE
PRESENT APPELLANT WAS AWARDED THE
MAJOR PENALTY OF REDUCTION TO LOWER
STAGE AND TIME SCALE BPS-09 WITHOUT
FOR ANY SPECIFIC PERIOD.

Prayer in Appeal.

KWP Peshawar
917
04-7-2014

On acceptance of this appeal, the order of both the lower Forums may kindly be set aside, be declare null and void, and the appeal of the appellant may kindly be accepted and the appellant may kindly be restore to his own position with all back benefits.

2/11

Respectfully Sheweth:

The appellant submit as under:

1. That the appellant was appointed as Patwari on 25/03/2000.
2. That after appointment the appellant performed his duty at different places of District Nowshera according to the advice satisfaction of his superiors.
3. That during performance his duty at Akka Khel Payan one Malik Israr ul Haq file a complaint against the appellant without any reason and for blackmailing the present appellant. (Copy of complaint is annexure "A").
4. That a show cause notice was issued the present appellant and statement of the appellant was recorded 22/11/2013. (Copy of statement of appellant is annexure "B").
5. That then in the instant case, the Assistant Commissioner Nowshera conducted inquiry on 04/12/2013 in which the present appellant was held responsible of the said illegal act and commission of the offence. (Copy of inquiry report is annexure "C").
6. That then from the office of Deputy Commissioner Nowshera a show cause notice was issued to the present appellant on 31/12/2013. (Copy of show cause notice is attached as annexure "D").

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7. That the present appellant submit the reply of show cause notice on 01/01/2014. (Copy of reply is annexure "E").
 8. That after completing the process of the inquiry, the Deputy Commissioner Nowshera awarded major penalty to the present appellant of reduction to lower stage and time scale BPS-09 on 15/01/2014 without any specific period. (Copy of order dated 15/01/2014 is annexure "F")
 9. That the present appellant file a departmental appeal before respondent No. 3. (Copy of departmental appeal is attached as annexure "G").
 10. That after hearing the Commissioner Peshawar Division, Peshawar, rejected the appeal of the appellant on 17/06/2014 and the order of Deputy Commissioner was maintained. (Copy of order dated 17/06/2014 of Hon'ble Commissioner Peshawar Division, Peshawar is attached as annexure "H").
 11. That the present appellant aggrieved from the order of Hon'ble Deputy Commissioner Nowshera and order of the Hon'ble Commissioner Peshawar Division, Peshawar and from the findings of Assistant Commissioner Nowshera has come to this Hon'ble Tribunal with this appeal amongst the following grounds for set aside the orders of learned Lower Forum:

6 **GROUND S:**

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04/2
- A. That both orders ~~and~~ of respondents No. 2 and 3 are against law, against general rules and against service principals of law, hence untenable in the eyes of law.
 - B. That both orders of learned lower Forum are against the service law and procedure.
 - C. That both orders and judgments of learned Lower Forum are ineffective upon the rights of the present appellant.
 - D. That both order and judgments of learned Lower Forum are of similar nature and liable to be dismissed or set aside.
 - E. That both the learned Lower Forum totally ignored the status of the present appellant and have passed an illegal order and for this main reason both orders and judgments are not maintainable and ^{shibe} set aside.
 - F. That both orders and judgments of Lower Forum are against law and against general principals of law because both learned Lower Forum has not maintained in their judgments the tenure of the said major penalty which awarded to the appellant by respondent No. 1 and for this main and most important reason, both orders and judgments are not maintainable and liable to be dismissed/ set aside.

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- G. That the orders and judgments of learned Lower Forum are the result of misreading and non-reading of record of this case.
- H. That in the instant case the inquiry officer (Additional Assistant Commissioner-II, Nowshera) has neither conducted inquiry properly nor according to law and not according to the procedure.
- I. That no notice was giving by the concerned officer to the present appellant before conducting inquiry and which is very clear from the record of the instant case.
- J. That no opportunity of hearing was giving to present appellant and no opportunity was given to the appellant for his own defence, furthermore, it is very clear from the finding of the inquiry officer and from the record of this case.
- K. That no true facts were recorded at the time of recording of statement of the present appellant.
- L. That the finding of the inquiry officer/ inquiry report is not true nor according to procedure but the inquiry officer recorded/ written himself all the finding of the inquiry report which is very clear from the record of instant case and more clear from the statement of the present appellant.
- M. That both the learned forum totally ignored the status of the present appellant and both the learned Lower Forum ignore of the tenure of services of the appellant and has

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pass an illegal order against appellant and for this main and most important reason both orders of learned Lower Forum are not maintainable and liable to be dismissed/ set aside.


N. That any other ground may taking at the time of arguments, with the kind permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that the judgments and order of both the lower forums may kindly be set aside, may kindly be declare as null void, and the appeal of the appellant may kindly be accepted and the appellant may kindly be restore to his own position with all back benefits.


Appellant

Through

Dated: 01/07/2014


Samir Ullah
Advocate High Court,
Peshawar.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2014

Muhammad Saeed Patwari(Appellant)

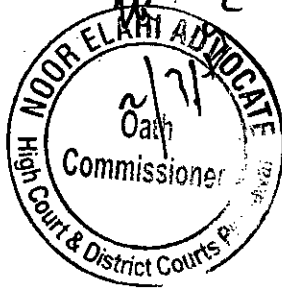
VERSUS

Assistant Commissioner-II, Nowshera.

And others.....(Respondents)

AFFIDAVIT

I, Muhammad Saeed Patwari S/o Muhammad Umar R/o Mohallah Qazian, Tehsil Pabbi, District Nowshera, do hereby solemnly affirm and declare on oath that all the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.




DEPONENT

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

Service Appeal No. _____/2014

Muhammad Saeed Patwari(Appellant)

VERSUS

Assistant Commissioner-II, Nowshera.

And others.....(Respondents)

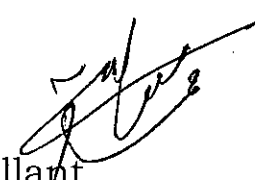
ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Saeed Patwari S/o Muhammad Umar R/o
Mohallah Qazian, Tehsil Pabbi, District Nowshera


RESPONDENTS:

1. Assistant Commissioner-II, Nowshera.
2. Deputy Commissioner, Nowshera.
3. Commissioner Peshawar Division, Peshawar.
4. Government of Khyber Pakhtunkhwa through Senior Member
Board of Revenue.


Appellant

Through

Dated: 01/07/2014


Samin Ullah
Advocate High Court,
Peshawar.

Annex A

خدمت جناب وزیر اعلیٰ صاحب بہتر مت خیر بختون خواہ پشاور

خدمت جناب چیف سکرٹری صاحب حکومت خیر بختون خواہ پشاور

خدمت جناب سیکرٹری بورڈ آف ریونیو صاحب حکومت خیر بختون خواہ پشاور

خدمت جناب ڈپٹی کمشنر صاحب ضلع نوشہرہ

خدمت جناب تحصیلدار صاحب ضلع نوشہرہ

DC Nonshera to provide factual report why the complainant did not deposit the govt fees

PS/SME/R No. 51.3.2 Date 26/9/2013 G.O. of Khyber Pakhtunkhwa

NBP main city?

عنوان درخواست برائے تحقیقات کرپشن، لکھن انتقال نمبر 36001 اور انتقال نمبر 6800 اور 801-20-09-2013 حلقہ پنوار اضلاع خیبر پختونخواہ

ایضاً

جناب مالی

موردہ گزارش ہے کہ سائل نے رقبہ اراضی ۲ کنال ۲ مرلے اور دوسرا ۲ کنال ۷ مرلے ۷ خیر شالی زمین اراضی حلقہ پنوار اضلاع خیبر پختونخواہ خیبر پختونخواہ پیمانہ حد است ۵۱ بجوال انتقال نمبر 6800 اور

6801 تصدیق شدہ ساموری: 20-09-2013 کو تحصیلدار صاحب نے منظور کیا۔

یہ کہ سائل سے حلقہ پنواری نے فی مرلہ ۱۰۰ روپے ٹیکس کی مد میں لی۔ جس کا کل رقم 450000 روپے بنتا ہے۔

۱۔ 26-09-2013 کو سائل نے تحصیلدار صاحب کے نوٹس میں یہ بات لائی اور تحریری طور پر کمپلٹ کی۔ تحصیلدار کے آفس میں یہ فیصلہ ہوا کہ حلقہ پنواری آپ کو ٹیکس

کے علاوہ ساری رقم واپس کر دیگا۔ کیونکہ جب یہ آپ کو رقم واپس کرے گا۔ اس کے بعد ہم اس کے خلاف کارروائی کریں گے۔

۲۔ سائل نے رقم لینے کی بجائے جو کہ 450000 روپے بنتے تھے۔ ان کو توئی خزانے میں پیش کر کے جمع کرانے پر زور دیا۔ کیونکہ حلقہ پنواری نے سائل سے

100000 روپے فی مرلہ کے حساب سے ٹیکس کی مد میں لی تھی اور کرپشن کی وجہ سے سائل کی اراضی زمین کی مارکیٹ ویلیو گرہنی۔

لیکن تحصیلدار صاحب نے کہا کہ اب ٹیکس نہیں دے گا۔ کیونکہ اب یہ منظور ہو چکی ہے۔ میں پنواری کے خلاف کارروائی کروں گا۔ بس آپ ان سے ٹیکس کے علاوہ تمام رقم وصول کریں۔ چونکہ

تحویلدار مجھے اچھا اور نیکو اور لانا۔ اسلئے تحصیلدار کے کہنے پر تمام کارروائی ان پر چھوڑ دی۔

۳۔ 09/10/2013 کو حلقہ پنواری سید نے مجھے 260000 روپے تحصیلدار کے دباؤ پر واپس لئے۔ نوٹس رقم 450000 میں سے حلقہ پنواری نے لیا کہ 2%

(9000) توئی خزانے میں بذریعہ ٹیکس بنک تنج کی۔ اور باقی 2% یعنی (9000) ڈسٹرکٹ کونسل فنڈ میں تنج کی۔ سائل نے ان کی رسید یا ریکارڈ وغیرہ طلب کرنے پر ان کے

پاس کوئی ٹھوس ثبوت یا جواب نہیں تھا۔ یہ رقم اس بنک میں جمع ہوئی ہے اس کا کوئی اثبوت نہیں ہے۔ یہ رقم انتقال سے کم زرعی زمین پر باقی تھی۔ لہذا پتا ہے کہ حلقہ پنواری

۳ کنال سے کم زرعی زمین پر رقم (کھاتے میں پیسے سے مانگ) ظاہر کر کے توئی خزانے کو ٹیکس کی مد میں فنڈ بن چکا ہے۔ پوچھنے پر پنواری کہتا ہے کہ میں نے ٹیکس کی مد میں خزانے سے

چوری کی ہے آپ کو کوئی نقصان نہیں پہنچائے گا۔ یہ ہمارا کام ہے آپ اس کو ہم پر چھوڑ دے۔ یعنی آج خزانے کو نقصان پہنچا ہوا ان کے پاس کوئی جرم نہیں ہے۔

۴۔ حلقہ پنوار اضلاع خیبر پختونخواہ کی حالت دیکھ کر اپنے ضلع اور گاؤں کے ان پڑھ لوگوں پر زور آئے لگا کر کس قدر یہ لوگ ان لوگوں کو بے ڈانف بنا رہے ہیں۔ یہ کہ ایک

فرد کی قیمت جو کہ حکومت کی طرف سے کوئی نہیں ہے 4000 روپے سے لے کر 10000 تک طلب کیا گیا۔ ہمارے گاؤں کے پنوار خانے کو چند پراپرٹی ڈیلروں نے تبدیل

طور پر قبضہ میں لیا ہوا ہے۔ حلقہ پنواری اکثر اوقات پک اینڈ ڈراپ کے علاوہ ان پراپرٹی ڈیلروں کی ہانڈوں میں گھومتا رہتا ہے۔ پراپرٹی ڈیلروں کے پاس پورے گاؤں کے

ریکارڈ ان حلقہ پنواریوں کے ہجے سے موجود ہے جبکہ اصل ذریعہ راضی کے مالکان ان پڑھ ہونے کی وجہ سے ان کے پاس اپنے اراضی کا ریکارڈ نہیں ہوتا۔ کوئی بھی یہ متعلقہ شخص

روپے دے کر کمیشن ریکارڈ یا جملہ کا پی کر سکتا ہے اور اس کی قیمت صرف 500 روپے ہے۔ اس سے علاوہ غیر متعلقہ اشخاص کے انتقال کے وقت بھی ان سے یہ

ہوتے ہیں۔ نشاندہی کی پنواری نے الگ قیمت لگائی ہوئی ہے اور یہ کام غیر در خواست کے پیسوں کی خاطر کرتے ہیں جس کی وجہ سے حلقہ کے تمام معاملات کا سامنا ہوتا ہے۔

۵۔ یہ کہ تمام ریکارڈ پنواری کے پرائیویٹ مشینوں کے ذریعے غیر متعلقہ لوگ معمولی رقم دے کر حاصل کرتے ہیں اور پنواری نے ان مشینوں کو مکمل اختیار کے علاوہ پنوار خانے کی

چابیوں تک دی ہوئی ہیں۔ حالانکہ حکومت کی طرف سے سختی سے یہ آرڈر ہے کہ کسی بھی پنواری کے پاس کوئی زمین یا غیر متعلقہ شخص وجود نہیں رکھتا۔ تمام ریکارڈ صرف اور صرف پنواری تک

محدود ہونا چاہئے۔

۶۔ یہ کہ 14/10/2013 کو سائل نے دوبارہ تحصیلدار صاحب سے ملاقات کی۔ سائل نے کہا کہ پنواری کو یہاں اپنے دفتر میں بلا کر تاکہ آئے ساتھ ساری باتیں دو

جائیں۔ لیکن پچھلے بار سے اب تک پنوار خانے سے غیر حاضر ہے اور ان کا موبائل نمبر بھی سلسلے بند آ رہا ہے۔

۷۔ تحصیلدار بھی ان کو آفس میں بلانے سے انکار کر رہا ہے۔

لہذا آپ تمام ماحولان سے دوبارہ گزارش ہے کہ حلقہ پنواری اضلاع خیبر پختونخواہ پیمانہ حد است ۵۱ کے لوگوں پر راضی لوگوں کو سولٹی آپ کی ان سے نجات دلوائی جائے۔ اور حلقہ پنواری کے خلاف

کارروائی کر کے جو کہ 450000 روپے ٹیکس کی مد میں نوٹس 90000 روپے جمع کیئے۔ 260000 روپے پنواری نے سائل کو واپس کر کے یہ اس بات کا ثبوت ہے کہ

پنواری نے کرپشن کی ہے۔ لہذا باقی 9000 روپے جس کا کوئی ریکارڈ موجود نہیں ہے وہ کہاں ہیں۔

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بیان کرنا ہوں گا صرف انہی میں سے جو اس بیٹورخانہ انہما خیل باہیاں آیا۔ اور جو ہر انتقال

مئی ۱۹۸۵ء، ۱۹۸۵ء اور ۱۹۸۶ء میں انتقال ہوئے۔ جسکی ہر طرف میں انتقال ۱۹۸۵ء میں ہوئے ہیں۔

نہ اسکی قیمت پر مطلق بیٹورخانہ میں اسکی قیمت اسکی ہر طرف میں ڈائی گن، مگر اسکی قیمت

میں جو بات بھی آئی اسکا بھی علم نہ ہے۔ اور جو دوبارہ بیٹورخانہ میں آکر انتقال ہوئے ہر رقم

۲۱۰۰۰/- روپے ڈائی گن جسکی ہر طرف میں ۵۰ + ۴۹۰۰ = رسید ۵۳ مورخہ ۹/۹/۸۵

N.B.P میں جمع کرائی گئی جسکا پیفارم لف ہذا ہے۔ اسکی علاوہ اسکی اور میں ۲%

۴۹۰۰ روپے تحصیل میں جمع کرائی گئی جسکی تفصیل اصل انتقال میں نمبر ۱۷۸ مبلغ ۲۰۰ روپے

درج ہے۔ جسکی رسید تحصیل میں ہوگی مسائل و موصول کرتے۔

اور اسکی بعد انتقال ۱۹۸۵ء میں ۵۰ + ۴۸۰۰ = رسید ۵۴ مورخہ ۹/۹/۸۵ کو N.B.P میں

جمع کرائی گئی جسکا پیفارم لف ہذا ہے۔ اور اسی طرح اور میں ۲% مبلغ ۴۸۰۰ روپے تحصیل

میں جمع کرائی گئی جسکی تفصیل اصل انتقال ۱۷۸ میں مبلغ ۲۰۰ روپے کی تفصیل موجود ہے۔

جسکی رسید تحصیل میں موجود ہوگی۔ مسائل و موصول کرتے۔ اصل انتقال مذکورہ کا فوٹو اسکی

لف ہذا ہے۔ اب مسائل ۹۰۰۰ روپے کا مطالبہ کرتا ہے۔ چونکہ پیفارم ہذا تفصیل ۴۲۰۰

۴۸۰۰ لیں مکمل ۹۰۰۰ + ۵۰ لیں جنس میں بھی جمع کرائی گئی ہے۔ حالانکہ ایک سو

روپیہ میں نے اپنی جیب سے جنس میں جمع کرائی ہے۔ اور مسائل کہتا ہے۔ بیٹورخانہ

خلق چیک اپنے دفتر سے اچھے ڈھونڈ لینے بیٹورخانہ سے ثابت ہے۔ مسائل کو

یہ معلوم نہ ہے۔ ساتھ کہ بیٹورخانہ مورخہ ۳/۱۱/۲۰۱۳ نمبر 31/PS/DC/NSR/2013-3222

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کو حکم جناب ڈی پی کسٹمر سروس کے حکم پر معطل ہو چکا تھا۔ اور چار 9 صوفے 7/11/2013 کو ملحقہ
بیٹورس اخراجات بالا کو دے چکے ہیں۔ اس لیے میں بیٹورس بیٹورس اخراجات میں باقیات سے غائب
ہوں۔ معطل ہونے کا آڈر کاپی بھی لف لگا ہے۔

اور اس لف لگا سے علاوہ جو میں بیان کر چکے ہیں۔ اس کے علاوہ میں نے سائل سے کسی قسم کا
کوئی مطالبہ نہیں کیا۔ سائل مجھے بلیک میل کرنا چاہتا ہے۔ اسکا اور کوئی مطالبہ نہ ہے۔
جو نئے منتقلات مذکورہ پر میرے ذاتی فرقہ 9 سے 100 ٹیکس میں جمع کرائی ہے۔
اب اسکا میں مطالبہ کرنا چاہتا ہوں کہ میرا 100 روپے بھی واپس کرے۔
باقی درخواست میں جو درج ہے۔ یہ سب جیوں ہے۔ اور غلط ہے۔ اور لوگوں کو بلیک میل
کرنا سائل کا مقصد ہے۔

محمد سعید بیٹورس تحصیل ٹونڈرہ

22/11/2013

441 2013
کے

انگوائٹری پر خلاف سابقہ پٹواری سعید خان پٹواری حلقہ اضلاع خیال پٹیاں

مورخہ 13-11-21 کو کمپلیٹ بر خلاف سعید پٹواری برائے انگوائٹری ملنے پر فروری نوٹسز جاری کیے۔ نوٹسز پر سعید پٹواری، درخواست گزار ملک اسرار الحق نے اپنے بیانات دیکارڈ کیے۔ اور ساتھ فروری اور مطلوبہ ریکارڈ بھی شامل انگوائٹری کیا گیا۔

درخواست گزار نے کمپلیٹ میں بر خلاف سعید پٹواری حرج ذیل الزامات لگائے ہیں:

1. سائل سے پٹواری نے ٹی مرلہ دس ہزار روپے ٹیکس کی حد میں لی جن کا کل رقم 45,000/- روپے بنتا ہے۔
2. مورخہ 03/11/09 کو حلقہ پٹواری سعید خان نے بقعہ 26,000/- تحفیدار صاحب کی دباؤ پر واپس کرے۔ کیونکہ مورخہ 26/09/13 کو سائل نے تحفیدار صاحب کو تحریری کمپلیٹ بر خلاف پٹواری کیا تھا۔ پٹواری حلقہ نے 9,000/- روپے نیشنل بینک میں جمع کئے۔ جن کی رسید موجود ہے۔ لیکن باقی 9,000/- روپے کہاں ہیں۔
3. پٹواری حلقہ اکثر اوقات، ہزاروں ٹویٹوں کی گاڑیوں میں گھومتا ہے۔ اور تمام ریکارڈ پٹواری کے ہائیڈروٹ منشیوں کے ذریعہ ملتے ہیں۔

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پٹواری سعید مورخہ 22/11/13 کو حاضر ہو کر بیان دیا، اور سوالوں کے جوابات دیے۔ اور ساتھ فروری ریکارڈ بھی پیش کیا۔ سوالات کے جوابات اور بیان پٹواری سعید سے واضح ہوئے۔ کہ درخواست گزار سے سعید پٹواری نے ثابت انتقالات 45,000/- روپے لئے ہیں، جن میں 9,000/- نیشنل بینک میں، 9,000/- ڈومیسٹک کونسل میں اور 26,000/- واپس درخواست گزار کو مورخہ 13-10-09 پر دیے۔ چونکہ پٹواری حلقہ کے ساتھ ڈومیسٹک کونسل کے پیسوں کی رسید نہیں ہے۔ اور نہ ہی تفصیل۔ اسی وجہ سے آپ کہہ رہے ہیں۔ کہ درخواست گزار نے 35,000/- روپے لئے ہیں۔ درخواست گزار کا یہ الزام کہ پٹواری حلقہ نے خود سے ٹی مرلہ 10,000/- روپے ٹیکس کی حد میں لئے بالکل غلط ہے۔ کیونکہ انکال باغ 68 کے ذریعے 2 کنال 2 مرلہ (کل 42 مرلہ) اور انتقال باغ 68 کے ذریعے 2 کنال 7 مرلہ 7 سیر شانی (کل 47 مرلہ 7 سیر شانی) کی زمین منتقل ہوئی۔ انگریزی ٹی مرلہ 10,000/- روپے سے 89,000/- روپے بنتے ہیں۔

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درخواست گزار کے دو فون منتقلات خورم 13-09-20 کو منظور ہوئے۔
 منتقلات کی منظوری کے بعد اگر منتقلات پر نظر کی جائے۔ تو وفاق ٹوٹا
 ہے۔ کم ان منتقلات پر ٹیکس کی مد میں کل 18,000/- روپے داخل کئے
 گئے ہیں۔ بقیہ رقم ٹواری نے اپنے ساتھ رکھ کر مال غنیمت سمجھا جن کو
 وہ واپس درخواست گزار کو دینے پر راضی نہ تھا۔ لیکن بعد ٹواری
 کمپینٹ کی تعلیلار صاحبہ کا پاؤں، راضی ہو گیا اور خورم 13/09/09 کو
 باقی رقم 26,000/- روپے درخواست گزار کو دئے۔ جس کو ٹواری سعید
 نے سوال غبار کے جواب میں تسلیم کر لیا ہے۔ کم میں باقی ماندہ رقم (26,000/-)
 درخواست گزار کو کمپینٹ کرنے کے بعد واپس کئے۔

جہاں تک الزام بڑے معلق ہے۔ کم اس بابت یہ کہنا کافی ہے۔
 کہ ٹواری سعید خورم 3 نومبر 2013 سے Suspend ہے۔ اور بیان
 دیتے وقت بھی Suspend تھا لہذا اس کی تفتیش کرنا فی الحال
 ممکن نہیں۔

ان تمام الزامات کی درخواست گزار ملک اسرار الحق اعوان نے
 تصدیق کی۔ اور اس بات کی بھی تصدیق کی کہ ٹائل پر موجود کمپینٹ
 برخلاف سعید ٹواری سعید اس ہے۔

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لہذا تمام بیانات و ریکارڈ جو عجز سے یہ بات واضح ہو رہی ہے کہ
 ٹواری حلقہ خود درخواست گزار نے 45,000/- روپے بابت منتقلات برائے
 ٹیکس دئے تھے۔ جس میں ٹیکس کی رقم 18,000/- روپے کے علاوہ 26,000/-
 روپے دینے پر تیار نہ تھا۔ اور ٹیکس کی رقم بھی ٹواری نے خود داخل کئے
 جو ایک غلط اور غیر قانونی عمل تھا۔ باقی ماندہ رقم کمپینٹ کے بعد واپس
 کرنا اس بات کو مزید تقویت دیتی ہے کہ ٹواری نے درخواست گزار سے
 دھوکہ دیا اور غلط بیانی پر زیادہ رقم لئے تاکہ اپنے لئے خرچہ (رشوت)
 بنا سکے۔ درخواست گزار نے سعید ٹواری کے خلاف دو دفعہ ٹواری کمپینٹ
 کی ہے۔ لیکن کوئی کارروائی اب تک نہ ہوئی ہے۔

ایذا درج بالا وجوہات اور واقعات کو مد نظر رکھتے ہوئے میں
 سعید ٹواری کو Major penalty کی سفارش کرتا ہوں۔

Amirulham
 AAC-II
 Nowshera.
 04/12/13

اسٹیکشنر نو مشورہ

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Office of the
Deputy Commissioner
Nowshera.

(Office Phone#0923-9220099, Fax#0923-9220159, Email: dconsrpk@yahoo.com)

No. 335 /DK/DC/NSR.

31 th December, 2013

SHOW CAUSE NOTICE

I, Zaka Ullah khattak Deputy Commissioner Nowshera, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Muhammad Saeed Patwari Halqa Aza Khel Payyan as follows:

1. That consequent upon the completion of inquiry conducted against you by the Inquiry officer / Additional Assistant Commissioner -II Nowshera for which you were given opportunity of hearing vide summon No. Nil dated 21-11- 2013.

On going through the finding and recommendation of the inquiry officer, the material on record and other connected papers including yours defence before the Inquiry officer. I am satisfied that you have committed the following acts/omissions.

- a. Guilty of misconduct.
- b. Guilty of corruption.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the major penalty by reducing to the initial/ lower stage in time scale under rule 4 (1)(b)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

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

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

5. A copy of the finding of Inquiry Officer is enclosed.

Deputy Commissioner
Nowshera

Recd = 668/1012
31/12/13

10/12/13

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Annex 3 15

جن جنور جناب ڈیٹے کٹیشنر صاحب نوٹشر

مخولے شوکار نوٹس

مخاب عالی:

موربانہ گزارش ہے کہ آج مورخہ 12/11/2013 کو جاری ہونے والا شوکار نوٹس مجھے ملا۔

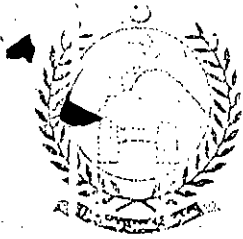
جسکے جواب میں سائل عرض گزار ہوں کہ میں نے کسی سے بھی اور متعلقہ درخواست گزار سے کسی قسم کی اضافی رقم بطور رشوت وصول نہیں کی ہے اور میرے ساتھ اپنی گاڑی نہیں ہے اور نہ میں پرائیوی ڈیلروں کی گاڑیوں میں گھومتا ہوں۔

مخاب عالی:

انٹوائیٹی کے دوران میں نہایت دور Dues اور انتہائی Tension میں تھا۔ کیونکہ اسی دن میرے گھر میں معاملات میں کئی ترقی اور ساتھ ہی انٹوائیٹی ما دیاؤ بھی تھا۔ اس لیے میں نے انٹوائیٹی آفس کے سامنے صرف ہاں میں جوب دیا تھا۔ ہذا استدعا ہے کہ اگر بادل ناخواستہ مجھ سے کوئی غلطی سرزد ہوئی ہو تو اس کیلئے میں معافی و خواست کار ہوں۔ امید ہے کہ آپ سے معاملے مجھے معافی فرمادینگے اور آئندہ کیلئے محتاط رہونگا۔ شکریہ

آلیجا ڈھاو و ناہار ڈھیر سید سید ڈھادی
11/11/2013

Attached
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16 // Office of the
Deputy Commissioner
Nowshera.

Annex 3
R F 3

(Office Phone#0923-9220099, Fax#0923-9220159, Email: dconsrpk@yahoo.com)

15 January, 2014

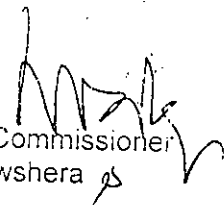
OFFICE ORDER

No. 60-61 /DK/DC/NSR/2014. Whereas an inquiry initiated against Muhammad Saeed (BPS-09) Patwari Halqa Aza Khel Payyan on the complaint of Malik Israr ul Haq Awan received through Board of Revenue, Revenue & Estate Department, Government of Khyber Pakhtunkhwa letter No. Estt:VII/Israr-H/Comp/Nowshera/19360 dated 28-10-2013.

And whereas Inquiry Officer/ Additional Assistant Commissioner -II Nowshera reported that the complaint is based on fact and recommended major penalty to the accused patwari.

Whereas the undersigned issued show cause notice to the above named patwari on 31-12-2013, regarding imposition of major penalty and the reply found not satisfactory submitted by him on 1-1-2014.

Now therefore, I Zaka Ullah Khatak Deputy Commissioner Nowshera, being competent authority, in exercise of powers conferred upon me under section 4(1)(b) (i) of Government of Khyber Pakhtunkhwa Servants (Efficiency and Discipline) Rules, 2011 agrees with inquiry officer and direct by reducing to the initial /lower stage in time scale (BPS-09) of patwari Muhammad Saeed with immediate effect.


Deputy Commissioner
Nowshera

Even No & date:

Copy forwarded to:-

- 1- The Additional Deputy Commissioner Nowshera.
- 2- The Assistant Commissioner Nowshera.
- 3- The Assistant Secretary (Establishment), Board of Revenue, Khyber Pakhtunkhwa Peshawar w/r to his memo No. Estt:VII/Israr-H/Comp/Nowshera/19360 dated 28-10-2013.
- 4- The Additional Assistant Commissioner -II / Inquiry Officer Nowshera
- 5- The Accounts Officer, Deputy Commissioner Office Nowshera for necessary action with regard of reducing to the initial /lower stage in time scale (BPS-09) accused official.
- 6- The Tehsildar Nowshera.
- 7- Official Concerned (Muhammad Saeed Patwari Halqa AZA Khel Payyan).


Deputy Commissioner
Nowshera

To,

The Worthy Commissioner
Peshawar Division, Peshawar

Subject: - DEPARTMENTAL APPEAL/REPRESENTATION AGAINST THE ORDER DATED 15-01-2014 PASSED BY DEPUTY COMMISSIONER NOWSHERA VIDE WHICH THE APPELLANT WAS AWARDED MAJOR PENALTY OF REDUCTION IN TIME SCALE TO INITIAL/LOWER STAGE

Respected Sir,

The Applicant request and submits as under:-

With utmost respect I submit my grievance viz-a-viz the allegations levelled against me by one Malik Israr.

- 1) That the allegations levelled against the Appellant were very much irrational, unreasonable and reflect the mala-fide of the said person. The learned Inquiry Officer had also disagreed in respect of all allegations of demand of fee/tax, as 10 thousand per marla and the same has been discarded.
- 2) That despite the clear-cut observations of Inquiry Officer in respect of the allegations of demand of 10 thousand payment of tax for per marla of the purchased property, then the rest of the allegations fall to the ground automatically as there is a famous saying (Falsa in UNO Falsa in Omni bus) and the respected Deputy Commissioner Nowshera overlooked the inquiry report.

Malik Israr
L. P. S.

17
Annex "G"

- 3) That the findings of the inquiry officer in respect of the payment of Rs 45 thousand to the Appellant is not supported and substantiated by any material or statement, in fact the actual Government tax was received and deposited the rest of the allegations are totally concocted and manipulated, but the said exaggerated allegations were given unnecessary importance, which not only dis-carriage the public functionary but also make them unsafe in the performance of their duties.
- 4) That the other allegations against the Appellant was regarding his absence from office but the explanation stated before the inquiry officer not only convinced him, but it was observed that since the Appellant was under suspension and no inquiry was carried out in respect of that allegations, hence the recommendation of inquiry officer is not based on true fact and figure and have been misread and have draw incorrect conclusion.
- 5) That the reply and explanation of the Appellant was not given due weight; rather exaggerated twisted and budged figure of complainant were given undue importance.
- 6) That the Appellant has un-blemished service record and the allegations against him are concocted and engineered.
- 7) That the respected Deputy Commissioner, Nowshera competent authority considered the recommendation of the inquiry officer without looking into the material and application of judicial mind.

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- 19
- 8) That pick and choose has been made by the Inquiry Officer, in forming his opinion while making the recommendation and the competent authority also considered the recommendation without application of judicial mind to the material.
 - 9) That no proper inquiry was conducted by the Inquiry Officer and the whole process was carried out in utter haste.
 - 10) That the Appellant has long service career and the complainant is settling his score with Appellant to compel the Appellant to subjugate the illegal demand.
 - 11) That true version of the Appellant was not recorded by the inquiring officer and the same prejudice the Appellant.

It is, therefore, most humbly prayed that on acceptance of this department appeal, the order of learned Deputy Commissioner Nowshera dated 15-01-2014 be set aside and the Appellant be relegated to pre 15th January, 2014 position.

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Miz

Yours sincerely,

(MUHAMMAD SAEED)
S/O Muhammad Umar
Mohallah Qazian
Tehsil and District
Nowshera
CNIC # 17201-2232744-1

Dated:-07-02-2014

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IN THE COURT OF
COMMISSIONER PESHAWAR DIVISION
PESHAWAR

APPEAL NO: 19/2013

DATE OF INSTITUTION: 07.02.2014

DATE OF DECISION: 17.06.2014

Muhammad Saeed Patwari s/o Muhammad Umar Mohallah Qazian Tehsil & District Nowshera.....(Appellant)

VERSUS

Deputy Commissioner Nowshera..... (Respondent)

ORDER

My this order will dispose off the instant departmental appeal of the appellant against the Deputy Commissioner Nowshera order bearing No. 60-67/DK/DC/NSR/2014 dated 15.01.2014, whereby he was awarded major penalty of reducing him to the initial/lower stage in time scale(BPS-09).

Brief facts of the case are that the Deputy Commissioner Nowshera appointed Addl: Assistant Commissioner-II Nowshera as Enquiry Officer to enquire into the allegations leveled by the complainant Malik Israr-ul-Haq against the appellant in his complaint of charging extra amount of Rs. 26000/. The Enquiry Officer conducted enquiry, whereby the appellant was found guilty of taking Rs. 45000/- in cash and not Rs. 35000 from the complainant, out of which he deposited Rs. 9000/ in National Bank on account of taxes (receipt available) and Rs. 9000/- as District Council fees (receipt are not available with the appellant), while the remaining amount of Rs. 26000/- was retained by the appellant, which he later-on returned to the complainant after a complaint was made before Tehsildar. The Enquiry Officer recommended the appellant for major penalty. The Deputy Commissioner Nowshera agreed with the recommendation of the Enquiry Officer and vide impugned order dated 15.01.2014 awarded him major penalty of reduction to lower stage in time scale BPS-09.

Appellant present and heard. Comments received from Deputy Commissioner Nowshera also perused.

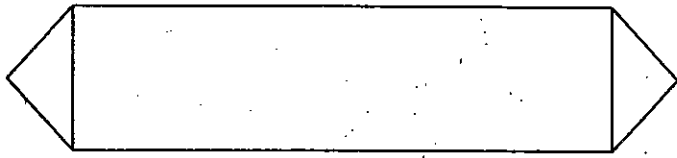
Perusal of the record reveals that the allegation of charging extra amount by the appellant from the complainant for execution of his mutation has been proved, as the appellant himself admitted this fact in para-4 of cross questions of Enquiry Officer that he took Rs. 35000/- in cash from the complainant and returned Rs. 26000/- after filing a complaint before Tehsildar against him. Moreover, the appellant was required to have asked the complainant to deposit the tax amount himself instead of taking cash amount from the complainant, thus also violated the Government's reforms initiative programs of rooting out corruption from the revenue department

Keeping in view the above, facts, I see no reasons to interfere in the impugned order of the Deputy Commissioner Nowshera dated 15.01.2014 which is thus upheld. The appeal in hand stands rejected being not maintainable. File to GRR.

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Annex 5 20
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7/2014

بعدالت جناب خیر بختوں خواہ سروکس ٹریول پشاور



مورخہ 2 جولائی 2014ء منجانب عدالت
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام بساورد کیلئے طیبی اللہ اید و کیمٹیا پانی کو طرف پر
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت اس وقت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ بلا اپنے جج صاحب
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ استقامت مقدمہ کے
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

پشاور
2014

المرقوم 2014-7-2 ماہ جولائی

العدد گواہ کے لئے منظور ہے۔
مقام بساورد

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 917/2014.

Muhammad Saeed Patwari Tehsil Pabbi District Nowshera.

VERSUS

Senior Member, Board of Revenue, Khyber Pakhtunkhwa, and others.

COMMENTS ON BEHALF OF RESPONDENTS NO.4.

Preliminary objection.

1. The appeal is not competent in its present form.
2. That appellant has got no cause of action.
3. That appeal is bad due to mis-joinder/ non-joinder of necessary parties.
4. That appellant is estopped by his own conduct.

That appellant has not come to the Tribunal with clean hands.


ON FACTS.

1. Pertains to record.
2. Pertains to record.
3. Relates to respondent No.2.
4. Relates to respondent No.2.
5. Correct to the extent that enquiry was conducted by the Assistant Commissioner, Nowshera whereby the appellant was held responsible of illegal act and commission of the offence (Annexure-A).
6. Relates to respondent No.2.
7. Relates to respondent No.2.
8. Incorrect. The penalty was imposed upon the appellant on the basis of recommendation of the Enquiry Officer strictly in accordance with law and rules.
9. Relates to respondent No.3.
10. Relates to respondent No.3.
11. The Appellant has got no cause of action to file instant appeal.

GROUNDS.

- A. Incorrect. The order of the respondent, No.2 & 3 are according to law.
- B. As replied above.
- C. Incorrect. No discrimination has been done and the appellant was treated according to law.
- D. Incorrect. All the proceedings have been carried out in accordance with law.
- E. As in para 'D' above.
- F. Incorrect. The penalty was imposed upon the appellant on the basis of recommendation of Enquiry Officer strictly in accordance with law.
- G. Incorrect. The order is according to law.
- H. Incorrect. The Enquiry Officer has followed the law and procedure on the subject.
- I. Relates to respondent No.2.
- J. Relates to respondent No.2.
- K. Relates to respondent No.2.
- L. Incorrect. That the findings of the Inquiry Officer is true and according to laid down procedure.
- M. Incorrect. The order passed by the Respondent No.2&3 are according to law.
- N. The replying respondent seeks permission of this honorable Tribunal to raise additional grounds at the time of arguments.

It is requested that the appeal may be dismissed with cost.


Respondent No.4.

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No:- _____ 2014.

Mohammad Saeed Patwari S/o Muhammad Umar

R/o: Moh: Qazian Tehsil Pabbi District Nowshera.

(Appellant)

V E R S U S

1-Assistant Commissioner-II, Nowshera.

2-Deputy Commissioner, Nowshera.

3-Commissioner Peshawar Division Peshawar.

4-Government of Khyber Pakhtunkhwa through Senior Member, Board of Revenue.

(Respondents)

**PARAWISE JOINT REPLY ON BEHALF OF
RESPONDENTS NO 01 TO 04**

Respectfully Sheweth:-

It is submitted as under:-

PRELIMINARY OBJECTIONS:-

- 1- That the appeal in hand is not maintainable in the eyes of law.
- 2- That the appeal of the appellant is based on conjectures.
- 3- That the appeal of the appellant is based on malafide.
- 4- That the appeal of the appellant is against the law and facts.
- 5- That the instant appeal is barred by law.

ON FACTS:-

- 1- Para No 1 is correct.
- 2- Para No 2 needs no reply.
- 3- Para No 3 is incorrect. The complaint made by the complainant Israr ul Haq is based on true facts and circumstances and he is fully involved in misusing his official authority and corruptly

nant Malik
appellant is
ption.

C....P/2

- 4- Para No 4, that statement made by the appellant pertaining to show cause notice is baseless, only to save his own skin from proved charges. Moreover, the entire proceeding has been conducted strictly in accordance with law.
- 5- Para No 5 is correct. Inquiry was conducted according to the law and rules and finding based on true facts of the relevant record which all goes against the appellant.
- 6- Para No 6 is correct. Show cause notice was issued according to the law.
- 7- Para No 7 is correct. Reply made by the complainant was baseless, and no cogent reply was brought on record in support of his innocence.
- 8- In reply to Para No 8 the order passed / penalty imposed by the Deputy Commissioner Nowshera is perfectly right and in accordance with the Khyber Pakhtunkhwa Servants (Efficiency and Discipline) Rule, 2011 Rule 4 (I)(b)(i).
- 9- Para No 9 is correct.
- 10- Para No 10 is correct. The Departmental Appeal of the appellant was rightly dismissed by the Commissioner Peshawar Division, Peshawar and maintained the order of Deputy Commissioner, Nowshera.
- 11- Para No 11 the appellant has got no cause of action to file instant appeal.

REPLY ON GROUNDS:-

- A- Para A is incorrect. Both the orders are based on true facts and according to law.
- B- Para B is incorrect.
- C- Para C is incorrect, as both the orders are passed by the competent authorities.
- D- Para D is incorrect. As replied above.
- E- Para E is incorrect. Both the orders are passed in accordance with law rules hence maintainable in the eye of law.
- F. Para F is incorrect. Both the orders and judgments are passed by competent authorities as per Rule 4 (1) (b) (i) of Khyber Pakhtunkhwa Servants (Efficiency and Discipline) Rules '2011.
- G. Para G is incorrect. Both the orders and judgments are made on the basis of relevant record.

- H. Para H is incorrect. All the legal formalities under the law and procedure were fulfilled.
- I. Para I is incorrect, Appellant was properly intimated through summon and acknowledge by the Appellant. (Annexure -A)
- J- Para J is incorrect. Full opportunity was given to the appellant. Appellant recorded his statement and submitted answers to the questions put by the inquiry officer – Appellant in his statement and answers has confessed his guilt. (Annexure -B).
- K- Para K is incorrect. As replied above.
- L- Para L is incorrect. Inquiry was conducted according to law and procedure.
- M- Para M is incorrect. Both the orders and judgments are passed according to law and procedure by the competent Authorities as provided by Rule 4. (1)(b)(i) of Khyber Pakhtunkhwa Servants (Efficiency and Discipline) Rules'2011.
- N- In reply Para N that the respondents seek permission to raise Additional grounds at the time of arguments.


IT IS THEREFORE, MOST HUMBLY REQUESTED THAT THE APPEAL OF THE APPELLANT MAY KINDLY BE REJECTED AND THE ORDER PASSED BY COMMISSIONER PESHAWAR DIVISION, PESHAWAR AND DEPUTY COMMISSIONER, NOWSHERA BE MAINTAINED.

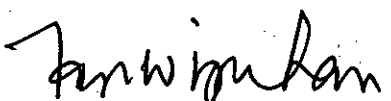
RESPONDENTS


***Senior Member Board of Revenue
Khyber Pukhtunkhwa***

***SENIOR MEMBER
Board of Revenue
Khyber Pakhtunkhwa***


Deputy Commissioner, Nowshera


***Commissioner Peshawar Division
Peshawar***


***Additional Assistant Commissioner
II Nowshera.***

Dated: 07-05-2015.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service appeal No. 917/2014

Muhammad Saeed Phatwari.....Petitioner

Vs

Assistant Commissioner 2 Nowshera etc.....Respondent

REJOINDER ON BEHALF OF APPELLANT ON
PARA WISE JOINT REPLY ON BEHALF OF
RESPONDENT NO. 1 TO 4

Respectfully Sheweth,

Appellant submit as under:-

Preliminary objection on reply of respondent no. 1 to 4:

1. That the appeal in hand is maintainable in the eye of law.
2. That the instant appeal is within time.
3. That the appeal in hand is correct in its present form.
4. That the appeal of the appellant is according to law, according to general rules and according to the general principal of law.
5. That the respondent has not come to this Hon'ble Tribunal with clean hands.
6. That the respondent concealed all facts of the case from this Hon'ble Court.

- 2/11
7. That the order dated 15-01-2014 and 17-06-2014 of respondent are against, against the general rules and against general principal of law.
 8. That the order of respondent is against principal of natural justice.
 9. That the respondent totally ignored the status of the present appellant and totally ignored the duration of the service of the appellant and were announced illegal and unlawful order against the appellant furthermore the order of respondent are summarily nature nor maintainable in the eye of law and both order are liable for dismissal because the respondent has not mention any duration of the penalty which they awarded to the present appellant.
 10. That the present appellant has come to this Hon'ble Tribunal with clean hands and have a good strong and prima facie case against the respondent.

ON FACTS:

- a. Para No. 1 of the reply of respondent no. 1 to 4 needs no comments.
- b. Para No. 2 of the reply of respondent needs no comments.
- c. Para No. 3 of the appeal is correct while Para no. 3 of the reply is incorrect hence denied from its status.
- d. Para no. 4 of the reply is incorrect furthermore the entire proceeding of the inquiry has not conducted according to law and according to the General Principal of law.
- e. Para No. 5 of the reply is incorrect furthermore the inquiry was not conducted according to law and according to the General principal of law furthermore that no opportunity

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M.

would be given to the present appellant for his wound
offence.

- f. Para No. 6 of the reply need no comments, the detail comments would be given on above Paras.
- g. Para No. 7 of the reply of respondent no. 1 to 4 needs no comments furthermore the order respondents in against General Rule.
- h. That in respect of Para no. 8 of the reply respondent no. 1 to 4 status by this rejoinder that the order of respondent are not maintainable and both orders of respondent are against principal of natural justice because both the lower forum has don't mention any duration of the penalty which they awarded to the present appellant and for this main and most important reason both order against law, against General rule and against General principal of law.
- i. That para No. 9 of the reply need no comments.
- j. That in respect of Para No. 10 of the reply the present appellant status before this Hon'ble Tribunal by this rejoinder. That both orders of respondent are against law and are against principal of Natural Justice.
- k. That in respect of Para no. 11 of the reply that the present appellant has got cause of action to file the instant appeal furthermore the present appellant has a good strong and prima facie case against respondent.

GROUNDS:

- i. Para A of the reply is incorrect both orders of respondent are against law and against general rules of law.
- ii. Para B of the appeal is correct one why Para No. B of the reply of respondent is incorrect.

- iii. Para C of the reply is incorrect both orders of respondent are in effective upon the rights of the present appellant.
- iv. Para No. D of the appeal is correct one while the para No. D of the reply is incorrect in its present form.
- v. Para No. E of the appeal is correct one while the Para No. E of the reply of respondent is incorrect both orders of respondent are against law and against principal of law and for this main reason both order lower forum are not maintainable in eye of law.
- vi. Para No. F of the appeal is correct while Para No. F of the reply is incorrect and the detail of reply would given on above mention paras.
- vii. Para No. G of the appeal is correct while Para No. G of the reply is incorrect in its present form.
- viii. Para No. H of the appeal is correct while Para no. H of the reply of respondent is incorrect.
- ix. Para No. I of the appeal is correct while Para No. I of the reply is incorrect in its present form furthermore that inquiry was not conducted according to law, according to the General Rule and it's Principal.
- x. Para No. J of the appeal is correct while the Para No. J of the reply is incorrect furthermore that at the time of inquiry no opportunity would be given to the preset appellant for his wound offence.
- xi. Para No. K of the appeal is correct one while Para No. K of reply is incorrect in its present form.
- xii. Para No. L of the appeal is correct while Para No. L of the reply of the respondent is not correct in its present form.

xiii. Para No. M of the appeal is correct in its present form while Para No. M of the reply of respondent No. 1 to 4 is incorrect in its present form furthermore both orders of respondent dated 15-01-2014 and 17-06-2014 are against law, against General rule and against the Principal of Justice.

xiv. That in respect of Para No. N the present appellant status before this Hon'ble Tribunal that any ground an objection would be arise upon the reply of respondent No. 1 to 4 at the time of arguments with kind permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that acceptance of this rejoinder and acceptance of the instant appeal both orders of respondent may kindly be set aside and may kindly be declared as null and void and the present appellant may kindly be restored on its won possession.

Appellant
Muhammad Saeed Phatwari

Through
Samin Ullah
Advocate High Court
Peshawar

Dated: 29/07/2015

AFFIDAVIT:

I, Muhammad Saeed Phatwari S/o Muhammad Umer R/o Mohallah Qazian Tehsil Pabbi District Nowshera do hereby solemnly affirm and declare on oath that all the contents of the rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent

The Honble Chairman of LCR Service
Tribunal Bikaner
Appeal No- 917/2014
Muhammad Saad Patwa

S.M.B.R.




914
18-11-14

Date of hearing - 8/12/2014
Application for permission
to deposit the security
fees.

Respectfully she with
1- That the above title case is
pending before this Honble
Tribunal (Bench No. 1) for 8/12/2014.
2- That the applicant deposit
the security fees with the
kind permission of your
Honor.

It is the de facto most
humbly pray that on acceptance
of this application, the applicant
may kindly be allowed to deposit the
security fees. sam. which
Advocate High Court Bikaner

17/12/2014

			54290
ایڈوکیٹ / دستخط بارکول ابار ایسوسی ایشن رابطہ نمبر: 0302 9876861		پشاور بار ایسوسی ایشن، خیبر پختونخواہ	

بعدالت جناب: چیف جسٹس کورٹ سروس سٹریٹ صاحب (KPK) حیدرآباد

	
منجانب:	دعویٰ:
موضوع:	موضوع:
جرم:	جرم:
تھانہ:	تھانہ:

بابت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پر وی و جواب دہی کاروائی متعلقہ
 ان مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کاسل اختیار ہوگا۔ نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریر حالت و فیصلہ برطاعت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز ضرورت کے بعد چر دی بناؤ گزی کی طرف یا اجیل کی برآمدگی اور منسوخ، نیز
 دائر کرنے اجیل نظر جانی و پیر وی کرنے کا اختیار ہوگا اور ضرورت کے وقت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سامنے ہر ذائقہ منظور و قبول ہوگا دوران مقدمہ
 میں جو خرچہ ہر جہان اتوائے مقدمہ کے حساب سے ہوگا وہ وکیل موصوف کو قبول کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیر وی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 1-6-2016

بند _____ واہ شد _____ بند _____

مقام _____ کے لئے منظور ہے _____

نوٹ: اس کاپی میں کوئی تبدیلی نہیں ہونی چاہئے

محمد سعید خان

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2620 /ST

Dated 07/12/2017


To

The Deputy Commissioner,
Government of Khyber Pakhtunkhwa,
Nowshera.

Subject: **JUDGEMENT/ ORDER IN APPEAL NO. 917/14, MR. MUHAMMAD SAEED.**

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

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

