

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

**SERVICE APPEAL NO.129/2024**

Javed Ullah S/o Fazal Jan R/o House No. 401, Street No. 64, Islamabad Mohallah I-8/3,  
Islamabad, Senior Supervisor BS-16 Agricultural Engineer, District Malakand.

**APPELLANT**

**Versus**

1. Secretary, Agriculture, Khyber Pakhtunkhwa, Peshawar
2. Director General Agriculture Engineering, Khyber Pakhtunkhwa, GT Road Tarnab Peshawar.
3. Agriculture Engineer District Malakand.

**RESPONDENTS**

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- 1 -

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1. Secretary, Agriculture, Khyber Pakhtunkhwa, Peshawar
2. Director General Agriculture Engineering, Khyber Pakhtunkhwa, GT Road Tarnab Peshawar.
3. Agriculture Engineer District Malakand.

**RESPONDENTS**

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**PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.01, 02 AND 03**

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**PRELIMINARY OBJECTIONS**

1. That the appellant has got no locus standi to file this appeal therefore the appeal is liable to rejection with cost.
2. The appellant has no cause of action and locus standi.
3. The appeal is not maintainable in its present form as it is based on malafide intentions.
4. The appellant is estopped by his own conduct, to bring the present appeal.
5. The instant appeal is bad, due to misjoinder and non-joinder of necessary parties.

**ON FACTS:-**

1. No comments.
2. Pertains to record.
3. No comments.
4. No comments.
5. No comments.
6. Correct to the extent that the appellant was promoted to the post of Senior Supervisor BS-16 in February, 2021 and posted in office of the Agricultural Engineer, Malakand at Batkhela. During February 2022, he submitted an application for 120 days medical leave (**Annexure-A**), which was forwarded to the Director General, Health Services, Khyber Pakhtunkhwa, Peshawar (**Annexure-B**) for verification but the same was not verified till 26.05.2022. He was called for joining his duty vide letters No. 715/AE dated 26.05.2022,

No. 753/AE dated 03.06.2022, No. 921/AE dated 15.07.2022 (**Annexure-C**), but the appellant failed to report for duty. Therefore, the respondent department initiated action as per E&D Rules, 2011 and a proper inquiry committee was constituted (**Annexure-D**).

Several letters were issued to the appellant till 21.09.2022 for joining the inquiry proceedings, but no response was received from the appellant. Finally, the applicant was removed from service on the recommendation of the inquiry committee as per E&D Rules, 2011 (**Annexure-E**).


7. Correct to the extent that the appeal of the appellant was accepted by the Competent Authority, while major penalty was converted into minor penalty by withholding two increments and the period of absence from duty was converted as leave without pay through order dated 12.10.2023 (**Annexure-F**).
8. The para is incorrect and not agreed as the appellant remained absent from duty since long i.e. with effect from 01.06.2022 to 26.10.2023.

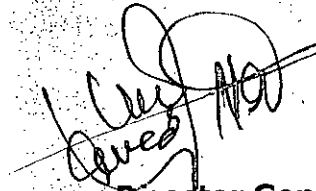
**GROUND.**

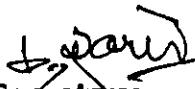
- a. Incorrect and not agreed as mentioned in Para-06, 07 and 08 above of the facts.
- b. Incorrect the respondents department has not violated the fundamental rights as his services were re-instated.
- c. Incorrect and not agreed as mentioned in Para-06, 07 and 08 above of the facts, his major penalty was converted into minor penalty.
- d. Incorrect and not agreed as mentioned in Para-06, 07 and 08 above of the facts.
- e. Incorrect and not agreed as mentioned in Para-06, 07 and 08 above of the facts.
- f. Incorrect and not agreed as mentioned in Para-06, 07 and 08 above of the facts.
- g. Incorrect and not agreed as mentioned in Para-06, 07 and 08 above of the facts. His due rights have been given by the Competent Authority.
- h. Incorrect, The appellant remained absent from duty from 01-06-2022 to 26-10-2023.
- i. Incorrect, as his performance during the period from 01.06.2022 to 26.10.2023 could not be justified.



It is therefore prayed that the appeal of appellant may be dismissed being devoid of merits please.

  
**Agricultural Engineer,**  
Malakand at Batkhela  
(Respondent No.3)  
*Eng. Maria Javed*

  
**Director General,**  
Agricultural Engineering,  
Khyber Pakhtunkhwa, Tarnab  
Peshawar  
(Respondent No.2).

  
**Secretary,**  
Government of Khyber Pakhtunkhwa;  
Agriculture, Livestock & Cooperation Department, Peshawar  
(Respondent No.1).  
*Muhammad Javed Maswet*

*Eng. Nasim Javed*

04

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR  
SERVICE APPEAL NO.129/2024**

Javed Ullah S/o. Fazal Jan R/o House No. 401, Street No. 64, Islamabad Mohallah 1-8/3,  
Islamabad, Senior Supervisor HS-16 Agricultural Engineer, District Malakand.

**APPELLANT**

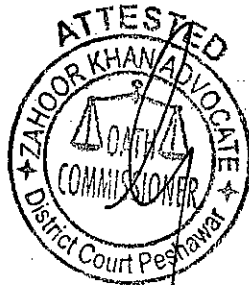
**Versus**

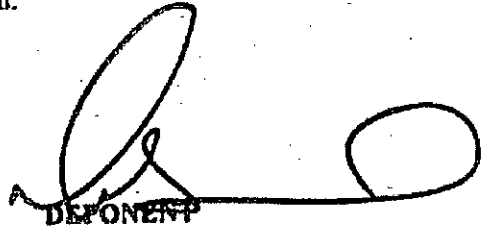
1. Secretary, Agriculture, Khyber Pakhtunkhwa, Peshawar.
2. Director General Agriculture Engineering, Khyber Pakhtunkhwa, GT Road  
Tarnab Peshawar.
3. Agriculture Engineer District Malakand.

**RESPONDENTS**

**AFFIDAVIT**

I, Engr. Maria Javed, Agricultural Engineer, Malakand at Bathhela, do hereby solemnly affirm and declare that the contents of accompanying Para Wise Comments submitted by Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



  
DEPONENT

Name. Engr. Maria Javed  
CNIC No. 13503-6025749-8  
Mobile No. 0331-9343253

Identified by

To:  
The Agricultural Engineer,  
Malakand at Batkhela


Subject: Request for 04 months Medical Leave

With due respect, it is stated that I am not feeling well from last few days. I went for medical diagnosis and according to reports, I am suffering from Ulcerative Colitis. The physician advised me for proper treatment and complete bedrest for 04 months. The medical certificate attached.

It is therefore requested that four months medical leave w.e.f 01-02-2022 to 31-05-2022 may be granted so that I could get my medical checkup properly. I shall be very thankful to you.

Regards,

ATTESTED

  
Agricultural Engineer,  
Malakand at Batkhela

  
Javed Ullah,  
Senior Supervisor



www.agriengineering.kp.gov.pk  
 DIRECTORATE OF AGRICULTURAL ENGINEERING, KHYBER  
 PAKHTUNKHWA, TARNAB, PESHAWAR

G.T.Road, Tarnab Peshawar  
 ☎ & ☎ 091-2964063  
 E-mail daekpktarnab@gmail.com



06

No. 4146 /DAE/Estt:1/606 dated Tarnab, the 09 / 03 /2022

To,

The Director General,  
 Health Services Department,  
 Khyber Pakhtunkhwa Peshawar.

Subject: APPLICATION FOR GRANT OF 120 DAYS MEDICAL LEAVE.

Memo:

Enclosed please find herewith a copy of Agricultural Engineer, Malakand at Batkhela letter No. 186/AAE dated 01.02.2022 along with an application and Medical Certificate issued by District Head Quarter Hospital, Wana in favour of Mr. Javed Ullah, Senior Supervisor for advise of complete bed rest for four months (which is self-explanatory) for information.

It is therefore, requested to verify the Medical Certificate and report thereof may be furnished to this office to proceed further in the matter as per rules accordingly.

(Enclose as above :)

Director,  
 Agricultural Engineering,  
 Khyber Pakhtunkhwa; Tarnab, Peshawar

No. 4147 /DAE/Estt:1/606 dated Tarnab, the 09 / 03 /2022

Copy of the above is forwarded to the Agricultural Engineer, Malakand at Batkhela with reference to his office letter No. quoted above for information.

Director,  
 Agricultural Engineering,  
 Khyber Pakhtunkhwa; Tarnab, Peshawar

*[Handwritten signature]*

*[Handwritten signature]*  
 9/08/22  
 9/03/22  
 9/3/22  
 ATTENDED  
 Agricultural Engineer,  
 Malakand at Batkhela



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 DIRECTORATE OF AGRICULTURAL ENGINEERING, KHYBER  
 PAKHTUNKHWA, TARNAB, PESHAWAR

☒ G.T. Road, Tarnab Peshawar  
 ☎ & ☎ 091-2964063  
 E-mail daekpktarnab@gmail.com



07

No.            /DAE/Estt:1/606 dated Tarnab, the            /            /2022

The Director General,  
 Health Services Department,  
 Khyber Pakhtunkhwa Peshawar.

Subject: APPLICATION FOR GRANT OF 120 DAYS MEDICAL LEAVE.

Memo:

Your personal attention are invited to this office letter No. 4146/DAE/Estt: 1/606 dated 09.03.2022 on the subject noted, wherein this office asked for verification of Medical Certificate, but the same are still awaited from your end.

It is therefore, once again requested to verify the Medical Certificate and report thereof may be communicated to this office to proceed further in the matter as per rules accordingly.

Director,  
 Agricultural Engineering,  
 Khyber Pakhtunkhwa; Tarnab, Peshawar

No. 7214 /DAE/Estt:1/606 dated Tarnab, the 26/05 /2022

Copy of the above is forwarded to the Agricultural Engineer, Malakand with reference to this office Endst: No. 4147/DAE/Estt: 1/606 dated 09.03.2022 for information.

Director,  
 Agricultural Engineering,  
 Khyber Pakhtunkhwa, Tarnab, Peshawar

ATTESTED

Agricultural Engineer  
 Malakand at Balkhela





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AGRICULTURAL ENGINEER MALAKAND AT BATKHELA  
PHONE & FAX NO. 0932-410426  
Email: - AE.MALAKAND@KP.GOV.PK

3  
33

No. 715 /AE Malakand at Batkhela

Dated the 26 /05/2022

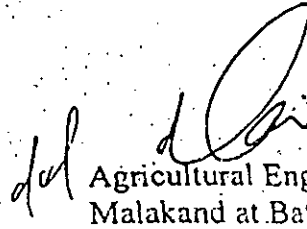
To,

Mr. Javed Ullah, Senior Supervisor,  
Near Zuman Kabari Opposite Wapda Colony,  
Tehsil & District Tang  
Mob# 0344-8992259

Subject: 04 MONTHS MEDICAL LEAVE

Reference: Your application dated 27.01.2022 on the subject noted above.

In this regard, it is to inform that your request for Medical Leave has not been sanctioned by the Competent Authority yet. Hence, you are directed to report for duty with immediate effect, failing which disciplinary action will be initiated against you under E & D Rules.

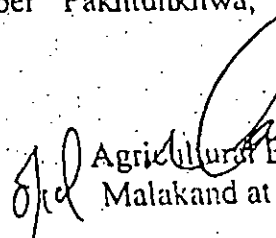
  
Agricultural Engineer,  
Malakand at Batkhela

No. 716 A.E/ Malakand at Batkhela

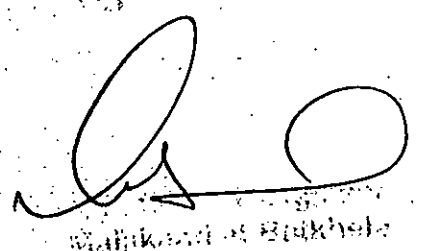
Dated the 28 /05/2022.

Copy to:

1. The Director, Agricultural Engineering, Khyber Pakhtunkhwa, Tarnab Peshawar for information, please

  
Agricultural Engineer,  
Malakand at Batkhela

APPROVED

  
Agricultural Engineer,  
Malakand at Batkhela



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AGRICULTURAL ENGINEER MALAKAND BATKHELA  
PHONE & FAX NO. 0932-410426.  
Email: - AE.MALAKAND@KP.GOV.PK

09

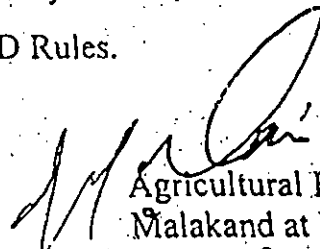
No. 753 A.E/ Malakand at Batkhela Dated the 03/06/2022.

To,  
Mr. Javed Ullah, Senior Supervisor,  
Near Zuman Kabari Opposite Wapda Colony,  
Tehsil & District Tang  
Mob# 0344-8992259

Subject: - ABSENCE FROM DUTY  
Memo: -

Reference this office letter No. 715/A.E Malakand at Batkhela dated 26/05/2022, wherein you were directed to join your duty immediately as your Medical Leave has not been sanctioned by the Competent Authority, however, you have not reported for duty and are still absent.


You are hereby directed to explain the reason for this willful absence. Your reply should reach to this office within Three days' time, otherwise strict disciplinary action will be initiated against you under E & D Rules.

  
Agricultural Engineer,  
Malakand at Batkhela  
Dated the 03/06/2022.


No. 754 A.E/ Malakand at Batkhela

Copy to:

1. The Director, Agricultural Engineering, Khyber Pakhtunkhwa, Tarnab Peshawar for information, please

  
Agricultural Engineer,  
Malakand at Batkhela

ATTACHED

  
Agricultural Engineer,  
Malakand at Batkhela



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[www.twitter.com/aebatkhela](http://www.twitter.com/aebatkhela)

AGRICULTURAL ENGINEER MALAKAND AT BATKHELA

PHONE & FAX NO. 0932-410426.

Email: - [AE.MALAKAND@KP.GOV.PK](mailto:AE.MALAKAND@KP.GOV.PK)

921 /AE Malakand at Batkhela

Dated the 15 /07/2022

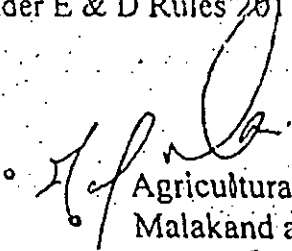
Reminder-III

Mr. Javed Ullah, Senior Supervisor,  
House No. 403, Street No. 64 Mohalla 18-3, Islamabad  
Mob# 0344-8992259

Subject: - ABSENCE FROM DUTY

In continuation to this office letter/explanations vide No. 715, 753, 808, 899 dated 26.05.2022, 03.06.2022, 13.06.2022 & 04.07.2022 respectively wherein you were directed to join your duty immediately as your Medical Leave has not been sanctioned by the Competent Authority, however, you have not reported for duty and are still absent.

You are hereby directed to report for duty without further delay and explain the reason for this willful absence. Your reply should reach to this office within 'Three days' time, otherwise strict disciplinary action will be initiated against you under E & D Rules 2011.

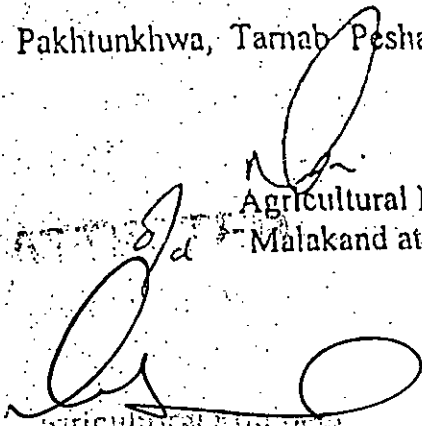
  
Agricultural Engineer,  
Malakand at Batkhela

o. 922 A.E/ Malakand at Batkhela

Dated the 15 /07/2022.

Copy to:

1. The Director, Agricultural Engineering, Khyber Pakhtunkhwa, Tarnab Peshawar for information, please

  
Agricultural Engineer,  
Malakand at Batkhela

Agricultural Engineer,  
Malakand at Batkhela



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DIRECTORATE OF AGRICULTURAL ENGINEERING, KHYBER  
PAKHTUNKHWA, TARNAB, PESHAWAR

G.T.Road, Tarnab Peshawar ☎️ 091-2964063  
E-mail daekpktarnabestt@gmail.com



11

### DISCIPLINARY ACTION

I, Engr. Nazeer Abbas, Director, Agricultural Engineering Khyber Pakhtunkhwa as Competent Authority, am of the opinion that (Mr. Javed Ullah, Senior Supervisor BS-16) office of the Agricultural Engineer, Malakand at Batkhela has rendered himself liable to be proceeded against, as he committed the following acts/ omissions, within the meaning of rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011).

#### STATEMENT OF ALLEGATIONS.

1) *None joining of duty and still absent from duty since long.*

For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry committee consisting of the following Officers is constituted under rule 10(1)(a) of the ibid rules.

1.	Engr. Mansoorullah Khan, Agricultural Engineer, Swat.	Chairman
2.	Engr. Amjad Khan, Agricultural Engineer, Chitral.	Member

1. The Inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused of hearing to the accused, record its finding and make, within thirty days of the receipt of this order, recommendations for punishment or other appropriate action against the accused as per report of Agricultural Engineer, Malakand at Batkhela vide Endst: letter No. 922/AE dated 15.07.2022.
2. The accused and Mr. Fazal Wadood, Assistant in office of the Agricultural Engineer, Malakand at Batkhela being well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry Committee.

SD/-(ENGR: NAZEER ABBAS)  
Director,  
Agricultural Engineering,  
Khyber Pakhtunkhwa, Tarnab, Peshawar

Endst: No. 9983-87/DAE/Estt: 1/606  
Copy forwarded to:

dated Tarnab, the 08/08 2022

1. The Agricultural Engineer, Malakand at Batkhela with reference to his office letter No. quoted above.
2. Engr. Mansoorullah Khan, Agricultural Engineer, Swat;
3. Engr. Amjad Khan, Agricultural Engineer, Chitral;
4. Mr. Fazal Wadood, Assistant in office of the Agricultural Engineer, Malakand at Batkhela;
5. Mr. Javed Ullah, Senior Supervisor office of the Agricultural Engineer, Malakand; for information and necessary action please.

Director,  
Agricultural Engineering,  
Khyber Pakhtunkhwa, Tarnab, Peshawar

*[Signature]*  
Agricultural Engineer  
Malakand at Batkhela



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DIRECTORATE GENERAL OF AGRICULTURAL ENGINEERING,  
KHYBER PAKHTUNKHWA, TARNAB, PESHAWAR

G.T.Road, Tarnab Peshawar

☎ 091-2964063

E-mail daekpktarnabestt@gmail.com



12

OFFICE ORDER.

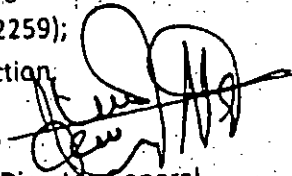
In pursuance of the Government of Khyber Pakhtunkhwa, Agriculture Department letter No. SOE-II(AD) General/AE/23/70 dated 09.05.2023 and recommendation of the inquiry committee, the Competent Authority in exercise of the power conferred upon him under Rule-09 of Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules, 2011, Mr. Javed Ullah, Senior Supervisor BS-16 is hereby removed from his service in office of the Agricultural Engineer, Malakand with immediate effect in the interest of public service.

SD/ (ENGR: NASEEM JAVED)  
Director General,  
Agricultural Engineering,  
Khyber Pakhtunkhwa Tarnab, Peshawar.

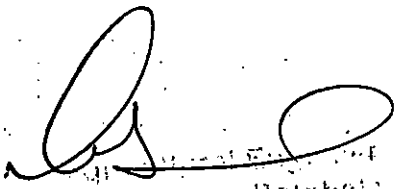
Endst: No. 6974-73 /DGAE/Estt:1/606 dated Tarnab, the 30/05/2023

Copy of the above is forwarded to:-

1. The Section Officer (Establishment), Government of Khyber Pakhtunkhwa, Agriculture Department Peshawar for information.
2. The Agricultural Engineer, Malakand for information and with the direction to recover the expenses of advertisement charges from the above named officer.
3. The District Accounts Officer, Malakand;
4. Mr. Javed Ullah, Senior Supervisor Present Address:- House No. 403, Street No.64, Mohallah I-8/3, Islamabad, Permanent Address:- Zingarha, Post Office Ladha Pamana, Tehsil Ladha, District South Waziristan. (Mobile No. 0344-8992259);  
for information and necessary action.

  
Director General,  
Agricultural Engineering,  
Khyber Pakhtunkhwa Tarnab, Peshawar

ATTACHED

  
Director General,  
Agricultural Engineering,  
Khyber Pakhtunkhwa Tarnab, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE DEPARTMENT

Dated Peshawar, the 12<sup>th</sup> October 2023

13

**NOTIFICATION**

NO. SOE-II(AD)/General/Appeal/Javed/AE/2023) WHEREAS, Mr. Javed Ullah, Ex-Senior Supervisor (BS-16), office of the Agriculture Engineering Malakand was removed from his service under Rule 09 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 by the Director General, Agriculture Engineering, Khyber Pakhtunkhwa Peshawar in pursuance of the recommendations of the Inquiry Committee constituted for the purpose.

2. AND WHEREAS, Mr. Javed Ullah, Ex-Senior Supervisor (BS-16), office of the Agriculture Engineering Malakand has submitted departmental appeal for restoration of his services to the Secretary Agriculture / Appellate Authority under Section 3 read with Section 5 (c) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules 1986.

3. AND WHEREAS, Secretary Agriculture / Appellate Authority has heard the accused in person on 11.09.2023 and considered his appeal for restoration of his services on the grounds that the appellant is resident of South Waziristan and a serious enmity between the accused's family and the banned taliban organization (TTP) broke out due to which his family got displaced and he was not able to get notices from the department nor he could intimate the same to office.

4. NOW THEREFORE, the Competent Authority, after having considered the appeal, evidence on record and personal hearing of the accused official, in exercise of the powers under Rule 17 (2) (c) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 has been pleased to reinstate the official and convert the major penalty of "Removal from Service" into minor penalty of "withholding of two increments" with immediate effect and the intervening period of his absence from duty i.e 01.06.2022 upto his reinstatement shall be treated as leave without pay.

Sd/-  
SECRETARY AGRICULTURE

**Endst. of Even No. & Date.**

Copy forwarded for information and necessary action to:-

1. The Director General, Agriculture Engineering, Khyber Pakhtunkhwa, Peshawar.
2. The Agriculture Engineer, Malakand.
3. The District Account Officer, Malakand.
4. P.S to Secretary Agriculture Department, Khyber Pakhtunkhwa.
5. P.A to Deputy Secretary (Admn), Agriculture Department, Khyber Pakhtunkhwa.
6. Mr. Javed Ullah, Senior Supervisor (BS-16), office of the Agriculture Engineer Malakand.
7. Master file.

ATTACHED

SECTION OFFICER (E-II)