

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Muhammad Ali Mazhar
Justice Musarrat Hilali

Civil Petitions No. 4364 & 4391/2024

[Against the judgment dated 25.07.2024 passed by
the learned Balochistan Service Tribunal, Quetta
in Appeals No.304 & 382/2023]

Ellahi Bakhsh Bugti	(In CP.4364/2024)
Behram Khan	(In C.P.4391/2024)
	...Petitioners

Versus

Government of Balochistan, through the	(In C.P.4364/2024)
Chief Secretary Quetta and others.	

The Chief Secretary, Government of	(In C.P.4391/2024)
Balochistan, Quetta and others	
	...Respondents

For the Petitioner(s)	: Mr. Farooq H. Naek, Sr. ASC
	(In both cases)

For the Respondent(s)	: Mr. Tahir Iqbal Khattak,
	Additional Advocate-General,
	Balochistan (in both cases)

Date of Hearing	: 11.03.2026
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Judgment

Muhammad Ali Mazhar, J: Both civil petitions for leave to appeal are directed against the consolidated judgment dated 25.07.2024 passed by the Balochistan Service Tribunal, **(Tribunal)** Quetta in Appeals No.304 & 382/2023.

2. The short and snappy facts of both the Civil Petitions are as under:-

I. Ellahi Bakhsh: C.P.4364/2024 (S.A. No. 304/2023)

According to this petitioner, he was serving as Patwari in the Revenue department. In the past there was no allegation against him. The charge against him was that a Mutation Entry

No.25 on 05.08.2019 was incorporated as Sehat/correction entry in the name of Nawab Mohammad Mir Alli Bugti from the name of Ali Haider Bugti in Halqa Saddar Mouza Joři and Hazara. Subsequently the said entry was cancelled vide Order, dated 10.08.2020, passed by the Collector, District Dera Bugti on the ground that the aforementioned mutation was to be incorporated as gift (Hiba) but it was incorporated as rectification of mutation. The Government Levy on gift mutation was to be calculated as Rs.13,81,282/- but the said Mutation was incorporated as rectification entry on 05.08.2019 whereupon only Rs.200/- was assessed as Government tax and deposited in the treasury. The Inquiry was conducted and despite exonerating in the personal hearing from charges by the Hearing Officer, the petitioner was found guilty and awarded major punishment of dismissal from the service vide letter dated 15.06.2023.

II. Behram Khan: C.P.4391/2024 (S.A. No. 382/2023)

According to this petitioner, he was performing duties as Tehsildar Dera Bugti. The inquiry was ordered to probe into the allegations that the revenue officers grabbed Rs.1,381,282/- from Naib Wali Dad Mukhtiar Khan Túman Bugti in respect of gift mutation of lands but they changed the type of mutation from gift (hiba) to correction of records on 15.08.2019 and deposited only Rs.200/- in the Government treasury. He was not served with any explanation/show cause notice or charge sheet but all of a sudden the order of inquiry was passed. After inquiry, the report was submitted and in the conclusion, the inquiry officer suggested a forensic examination of the signature on challans and mutations, whereas on the other hand, he found the petitioner guilty of charges and recommended the major punishment under the Balochistan Employees' Efficiency and Discipline Act, 2011. Upon finalization, the petitioner was dismissed from service vide letter dated 15.06.2023.

3. The learned counsel for the petitioners argued that so far as the case of Ellahi Bakhsh is concerned, he was not posted in the Mouza where the alleged mutation of entry was recorded. Neither any amount of gift fee/tax was handed over to him nor did he receive any amount. It was further argued that the Personal Hearing Officer exonerated the petitioner despite that he was dismissed from service. It was further contended that during inquiry, no tangible evidence was produced to prove the guilt of the petitioner. Concomitantly, he argued on the side of Behram Khan that the procedure of inquiry as required under the law was not followed. Neither any show cause notice nor any statement of allegations was served but all of a sudden inquiry was constituted. It was further contended that the Report of Inquiry Officer is contradictory, on the one hand he has

suggested for forensic examination of petitioner's signature but on the other hand, without carrying the test, he found the petitioner guilty.

4. The learned Additional Advocate General, Balochistan appeared for the respondents and he argued that the inquiry officer provided equal opportunity of defence to the petitioners and on proving their guilt, he forwarded the recommendations to the competent authority but when we confronted him to the contrary findings of the inquiry officer, he could not respond with any plausible reason as to the contrary findings that why forensic examination was not conducted with regard to the signatures of Behram Khan on challans when he specifically denied his signature? Nevertheless, this assertion was noted by the inquiry officer infinitely but he failed to unearth the truth.

5. Heard the arguments. In fact, the role and duty of the Inquiry Officer/Inquiry Committee is commensurate with quasi-judicial proceedings in the departmental inquiries under labour laws or civil servant laws. In both scenarios, the reports and recommendations are produced in Courts/Tribunals to determine its credibility and soundness as ultimate arbiter. An Enquiry Officer/Committee is expected to conduct the enquiry in an impartial and unbiased manner. He should provide reasonable opportunity to the accused to defend the charges. Even in the ex-parte inquiry proceedings, the management/departmental representative should present his case vigilantly and also produce the witnesses and documents in the usual manner. If the accused has participated in the inquiry then instead of conducting inquiry and recording evidence in the "question and answer" pattern, the inquiry officer must have recorded the statement of witnesses in extensure and then provide opportunity to the accused/delinquent to conduct cross examination in defence.

6. The Balochistan Service Tribunals Act, 1974 (**1974 Act**) was promulgated to provide for the establishment of Administrative Tribunals, to be called Service Tribunal, to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants, and for matters connected therewith or ancillary thereto. The powers of Balochistan Service Tribunal are provided under Section 5 of the 1974 Act in which exercise thereof, the Tribunal may, on appeal, confirm, set aside, vary or modify the order appealed against. (2) A Tribunal shall, for the purpose of deciding any appeal, be deemed to be a civil court and shall have the same powers as are vested in such court under the Code of Civil Procedure, 1908 including the powers of (a) enforcing the attendance of any person and examining him on oath; (b) compelling the production of documents; (c) issuing commission for the examination of witnesses and documents. The powers conferred under this Section though are related to its appellate jurisdiction, but as a first fact finding forum, there is no bar or embargo that the Tribunal while dealing and deciding the matters relating to the terms and conditions of service of civil servants, cannot record the evidence in case of dire need and extreme necessity. Even though the exercise of such power of recording evidence or examination on oath depends on case-to-case basis and not in all circumstances as a mandatory requirement but where it requires by the looks of it, then there is no impediment in the interest of justice, rather to foster and achieve the doctrine of finality, the Service Tribunal may also record the evidence.

7. The glimpse of the inquiry reports reflects that the Senior Member Board of Revenue, Balochistan appointed Deputy Commissioner Jaffarabad to conduct an inquiry against the allegations i.e. the revenue officers/officials prudently grabbed Rs.13,81,282/- from Naib Wali Dad Mukhtiar Khan Tuman Bugti in respect of gift mutation of lands in Mouza Jouri & Mouza Hazar Tehsil & District Dera Bugti, but they changed the type of mutation from hiba/gift to correction of records on 15.08.2019

and deposited only Rs. 200/- in the treasury. One of the accused Ellahi Bakhsh Patwari (Petitioner in CPLA No. 4364/2024) submitted his written statement wherein he averred that as per directions of Behram Khan, ex-Tehsildar Dera Bugti, he went to Karachi along with him for signatures and thumb impressions of both Mir Ali Haider Khan Bugti and Mir Ali Bugti for mutation of Sehat Inderaj of both lands situated in Mauza Jouri & Hazara of Tehsil Dera Bugti and later on the entire record was handed over to Mir Gul Patwari of concerned Circle Saddar Dera Bugti without his signature as it was not his circle. While Behram Khan, ex-Tehsildar, Dera Bugti (Petitioner in CPLA No.4391/2024) in his reply stated that he corrected the mutation entry No. 03 of Mouza Jouri & No. 25 of Mouza Hazara of Tehsil Dera Bugti on the application submitted by Mir Ali Haider Khan Bugti by receiving only mutation fee of Rs.200/- which was deposited in the National Bank of Pakistan, (**NBP**) Dera Bugti Branch and no amount of Rs.13,81,282/- was received by him. He further submitted that the copy of challan was fake. According to the findings recorded by the Inquiry Officer, Ellahi Bakhsh Patwari was involved with Behram Khan during the mutation process. He even went to Karachi for signatures and thumb impressions. While for Behram Khan, the findings were recorded that two separate Bank challan forms were filled in and signed by him for depositing mutation fees of Rs.10,34,190/- and Rs.38,60,92/- but both the challan forms were not deposited in the NBP. In the end of the inquiry report, the recommendations were made wherein, on one hand it was suggested that a forensic examination of the signature on challans and mutations be carried out as Behram Khan categorically denied the signature on challan. Since the inquiry officer did not have the facility of forensic examination for verifying the signatures and documents, he further suggested that the Board of Revenue Balochistan may carry out the forensic examination of documents specially the signatures of Behram Khan, ex-Tehsildar Dera Bugti. Despite not being satisfied and confident of the signature on challan and

referral the matter for forensic examination, the inquiry officer found both the petitioners guilty and recommended the infliction of major penalty. After inquiry, a right of personal hearing was afforded by the Additional Commissioner, Sibi Division, who observed in his report that Elahi Bakhsh, Patwari was not appointed as halqa patwari of said Mouzas, nor he signed anything. He could neither affect nor cause any such mutation and finally concluded that he could not be held responsible and aiming at Behram Khan, it was observed that prima facie, he signed the challans but did not deposit the amount in the government exchequer and grabbed it. Finally, the inquiry officer recommended six punishments simultaneously against him such as Censure; fine of basic pay of one month; ban on holding any position involving financial responsibilities; withholding of promotion for five years; forfeiture of past service of five years and forfeiture of pay and allowances for two months on ground of inefficiency and guilty of corruption under Section 3 (a) & (c) of Balochistan Employees' Efficiency and Discipline Act, 2011 (**BEEDA 2011**)

8. The survey of the impugned judgment rendered by the learned Tribunal depicts that it was only focused on the storyline that the petitioners failed to rebut the allegations or provide any substantial defence; Tehsildar Behram Khan acted beyond his jurisdiction and without the required approval from the District Collector; throughout the proceedings, no documentary evidence or credible defense was presented to prove the innocence; the financial manipulation is clear evidence of misconduct and financial impropriety; the proportionality requires that the punishment ought to reflect the degree of moral culpability associated with the offence for which it is imposed and finally concluded that the entire proceedings were meticulously conducted in strict adherence to the provisions of the BEEDA, 2011; the evidence presented unequivocally established the culpability in the alleged misconduct. Though the appeals were dismissed by the learned Tribunal but nothing was discussed as

to why the forensic test/examination could be disregarded when the Inquiry Officer himself recommended for it which was the mainstay in the case to prove the guilty conscience and self-reproach of the petitioner Behram Khan who denied his signature on challan. The reckless or negligent conduct of not following the litmus test of handwriting verification on challan destroyed the case at departmental level. Had the handwriting on challan been corroborated through forensic examination at the relevant time and on authentication it proved, then no further bewilderment or hesitation could have persisted to prove the guilt without any further defence but the department lost this opportunity during the inquiry proceedings. Even after submitting the report, the competent authority on this specific point could order the *de novo* inquiry before providing an opportunity of personal hearing to find out the real perpetrator. Albeit, the inquiry officer had no means and resources to conduct forensic test, he could adjourn the inquiry for diminutive period and could send the matter to the competent authority for forensic analysis before completion of inquiry and on submission of report, he would be in a better position to find out the actual miscreant who concocted the challan for defrauding and swindling the government money. It is strange that on such a rudimentary point at issue, the impugned judgment is completely silent. No attention was brought forth to the recommendations of the inquiry officer to the Board of Revenue Department for conducting the forensic examination.

9. If we look into the guiding principle for the civil courts, when any question arises with regard to dispute or disagreement to the signature or any other aspect, expert opinion is required for just and proper decision of the lawsuit. The Court in exercise of powers conferred under Article 59 of the Qanun-e-Shahadat, Order 1984, may direct in order to form an opinion upon a point of foreign law, or of science, or art, or bomb disposal or as to identity of hand-writing or finger impressions, or as to authenticity and integrity of electronic documents made by or

through an information system, the opinions upon that point of persons specially skilled in such foreign law, science or art, or bomb disposal or in questions as to identity of hand-writing or finger impressions or as to the functioning, specifications, programming and operations of information systems are considered relevant facts to the lis. In addition thereto, the Court may direct under Article 84 in order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made any signature, writing or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any other purpose. The Court may also direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person. Although in the domestic/departmental inquiries into the allegations of misconduct, issues with regards to the signature and its proof in the usual course of events do not stumble on but in the case at hand, though doubts were created as to the signature on the payment challan and acknowledged to have been raised by the inquiry officer, despite that, it was not even remotely observed by the inquiry officer that though he did not have the facility of forensic, but in his intelligence and good sense, the signature on its ingenuous comparison seems to be the same on the face of it but even no such efforts were made for self-examination.

10. The astuteness of turn of phrase "burden of proof" delineates the role and task of a party which is duty-bound with out-and-out errand to put forward persuasive and unwavering testimony. In the disciplinary proceedings also, the primary burden rests on the employer to prove the misconduct and the matter should be decided on the strength of clear and credible evidence with little room for doubt. The doctrine of presumption of innocence casts the burden on the prosecution to prove its case beyond

reasonable doubt. The scale and extent of probability of guilt may be based on interdependence of evidence. The strict adherence to the rule of evidence and its appreciation always plays a constructive and indispensable role to prove the culpability and violation or lacunas or omissions in the substantial and procedural steps obliterates the entire exercise because the truth is the foundation of justice. When any such disciplinary action is challenged in the Court or Tribunal, it is an onerous duty to examine whether the principle of natural justice and due process was religiously followed or not? Over and above, the employer/department is bound to produce substantial evidence to persuade the Court/Tribunal that the decision was not motivated by any revenge, bias and/or with any prejudiced target. In the misconduct proceedings initiated on the basis of show cause notice and statement of allegations, the stakes of the employee are always much higher than the employer, therefore, before declaring guilty, due diligence should have been made. The purpose of departmental inquiry cannot be taken so cursory and at least bare minimum requirements of natural justice and due process should be followed before finding an employee guilty of misconduct and sending inquiry report/recommendations to the management or competent authority for final decision.

11. Forensic laboratory analysis is meant for the scientific, systematic going-over of physical or digital evidence for pinpointing the root cause and to unearth the fraud/crimes which is now a prominent subject and tool of criminology. In the forensic handwriting examination, the experts delve into handwriting, signatures, and markings to identify authorship or authenticity while matching samples for evaluating characteristics such as letter formation including stroke direction, pen lifts, letter slant, spacing and baseline alignment. According to the excerpt of a research paper **“The Science Behind Forensic Handwriting Examination”**, published on 19 December 2024 (Ref: <https://regulaforensics.com/blog/forensic-handwriting-examination>), the forensic handwriting examiners

(FHEs) focus on the similarity and compatibility rather than the absolute identity of samples under examination. During analysis, they assess both similarities and differences in the visual characteristics of the questioned handwriting and the comparison sample(s). To minimize cognitive and confirmation biases, handwriting examination typically involves five distinct and independent steps. The process begins with the formulation of hypotheses. It is crucial to have at least two competing and non-overlapping hypotheses to ensure that all possibilities are fairly explored. For example: "The questioned text/signature is genuine" versus "The questioned text/signature is not genuine."; "Subject A authored the questioned text/signature" versus "A subject other than A authored the questioned text/signature." The analysed features primarily focus on pictorial characteristics and the dynamics of execution which include following test drive:

How the writing looks? “the style”	How the writing is made? “the technique”
Handwriting and/or signature style	Line quality
Handwriting complexity	Fluidity
Legibility	Pressure
Lateral and vertical expansion	Direction of both linear and rotary strokes
Horizontal and vertical proportions	Starting and ending zones of strokes
Baseline alignments	connections between letters
Shapes and number of strokes made for the construction of individual letters	Punctuation and diacritical marks with regard to both their dynamics of execution and their positioning
Slant and slope	

12. What we have noted is that the learned Tribunal missed out a vital portion of inquiry report wherein the inquiry officer himself created qualms with regard to the denial of signature by the accused on payment challan and his pang of conscience that

he had no such facility of verifying the signature through forensic examination and suggestion to the competent authority for such examination. Had this question mark been considered by the learned Tribunal contextually, maybe some efforts could have been made to resolve the predominant issue or else, the learned Tribunal could have compared the signature on its own, if not deemed to send the signature for forensic verification. However, in all fairness, this crucial question should have been adverted to but it was overlooked for which the petitioner is also equally responsible for not inviting attention of the learned Tribunal.

13. As a result of this discussion, both civil petitions are converted into appeals and allowed. As a consequence thereof, the impugned judgment passed by the learned Tribunal is set aside. The matter is remanded to the Competent Authority/Department with direction to conduct *de novo* inquiry after providing ample opportunity of hearing to the petitioners (in both cases) including forensic examination of the signature and documents as suggested by the inquiry officer to prove guilt of the petitioners within a period of three months and reinstatement of the petitioners shall be subjected to the outcome of the inquiry.

Judge

Judge

Islamabad

11th of March, 2026

Khalid

Approved for reporting.

